LEGISLATIVE GENERAL COUNSEL
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₵ 02-08-22 11:39 AM ₵

S.B. 43
2nd Sub. (Salmon)

Senator Curtis S. Bramble proposes the following substitute bill:

OCCUPATIONAL AND PROFESSIONAL LICENSING MODIFICATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions related to licensed professions.

Highlighted Provisions:

This bill:

- changes the name of the Division of Occupational and Professional Licensing (division);
- defines terms;
- amends defined terms;
- modifies licensing board duties;
- amends license application requirements;
- modifies the division's authority to grant a license by endorsement;
- removes good moral character provisions for certain licensed professions;
- amends the definition of "practice of environmental health science";
- modifies provisions related to speech-language pathology and audiology;
- amends provisions related to unprofessional conduct for certain professions;
- modifies the division's citation authority for certain unprofessional conduct for the construction trades;

26 ▸ modifies provisions related to armored car company and contract security company
27 license qualifications;
28 ▸ amends provisions related to chiropractic physician license qualifications;
29 ▸ defines as unprofessional conduct the following actions by a chiropractic physician:
30 • making a false entry under certain circumstances;
31 • sharing professional fees with a person who is not licensed; or
32 • paying a person for a patient referral;
33 ▸ removes the sunset date for provisions relating to online curriculum for a licensed
34 cosmetology related program;
35 ▸ extends the sunset date for the Recreational Therapy Practice Act;
36 ▸ prohibits a health care provider from purchasing or acquiring a debt or lien under
37 certain circumstances;
38 ▸ prohibits an individual from having a financial interest in a health care provider that
39 purchases or acquires a debt or a lien under certain circumstances;
40 ▸ prohibits a kickback or bribe for a referral for a good or service that relates to an
41 insurance claim or claim for damages;
42 ▸ creates a criminal penalty for certain prohibited activities; and
43 ▸ makes technical and conforming changes.
44 **Money Appropriated in this Bill:**
45 None
46 **Other Special Clauses:**
47 This bill provides revisor instructions.
48 **Utah Code Sections Affected:**
49 AMENDS:
50 **13-1-2**, as last amended by Laws of Utah 2021, Chapter 345
51 **13-23-2**, as last amended by Laws of Utah 2021, Chapter 266
52 **15A-1-102**, as last amended by Laws of Utah 2020, Chapter 43
53 **15A-3-402**, as last amended by Laws of Utah 2020, Chapter 441
54 **17-21-18.5**, as last amended by Laws of Utah 2019, Chapter 302
55 **17-22-30**, as last amended by Laws of Utah 2021, Chapter 148
56 **17-23-17**, as last amended by Laws of Utah 2016, Chapter 303

57 **26-2-2**, as last amended by Laws of Utah 2020, Chapter 251
58 **26-4-10.5**, as enacted by Laws of Utah 2016, Chapter 104
59 **26-6-27**, as last amended by Laws of Utah 2021, Chapter 345
60 **26-7-13**, as enacted by Laws of Utah 2020, Chapter 201
61 **26-8a-310**, as last amended by Laws of Utah 2021, Chapters 237 and 262
62 **26-15-3**, as last amended by Laws of Utah 2011, Chapter 14
63 **26-21-22**, as enacted by Laws of Utah 1998, Chapter 288
64 **26-21-26**, as last amended by Laws of Utah 2016, Chapter 99
65 **26-21-204**, as last amended by Laws of Utah 2021, Chapter 262
66 **26-49-205**, as enacted by Laws of Utah 2008, Chapter 242
67 **26-55-105**, as enacted by Laws of Utah 2016, Chapter 208 and last amended by
68 Coordination Clause, Laws of Utah 2016, Chapter 202
69 **26-55-108**, as last amended by Laws of Utah 2018, Chapter 38
70 **26-60-104**, as enacted by Laws of Utah 2017, Chapter 241
71 **26-61-202**, as last amended by Laws of Utah 2020, Chapter 12
72 **26-61a-103**, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350
73 **26-61a-106**, as last amended by Laws of Utah 2021, Chapters 337 and 350
74 **26-61a-303**, as last amended by Laws of Utah 2021, Chapters 84 and 345
75 **26-61a-401**, as last amended by Laws of Utah 2021, Chapter 337
76 **26-61a-403**, as last amended by Laws of Utah 2021, Chapters 337 and 350
77 **26-61a-501**, as last amended by Laws of Utah 2021, Chapters 337 and 350
78 **26-61a-503**, as last amended by Laws of Utah 2021, Chapter 337
79 **26-61a-506**, as last amended by Laws of Utah 2020, Chapter 12
80 **26-61a-605**, as last amended by Laws of Utah 2021, Chapter 350
81 **26-61a-606**, as last amended by Laws of Utah 2021, Chapter 350
82 **26-64-102**, as enacted by Laws of Utah 2018, Chapter 295
83 **26A-1-113**, as last amended by Laws of Utah 2011, Chapter 14
84 **26A-1-114**, as last amended by Laws of Utah 2021, Chapter 437
85 **26A-1-126**, as last amended by Laws of Utah 2013, Chapter 44
86 **31A-22-642**, as last amended by Laws of Utah 2019, Chapter 332
87 **32B-4-305**, as last amended by Laws of Utah 2021, Chapter 260

88 **34-38-13**, as last amended by Laws of Utah 2004, Chapter 152
89 **35A-6-105**, as last amended by Laws of Utah 2021, Chapters 282 and 301
90 **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
91 **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
92 **38-1a-102**, as last amended by Laws of Utah 2019, Chapter 250
93 **38-1b-102**, as last amended by Laws of Utah 2016, Chapter 350
94 **38-11-102**, as last amended by Laws of Utah 2020, Chapters 154 and 339
95 **38-11-103**, as last amended by Laws of Utah 1995, Chapter 172
96 **41-6a-502**, as last amended by Laws of Utah 2020, Chapter 177
97 **41-6a-502.5**, as last amended by Laws of Utah 2021, Chapter 79
98 **53-2a-1205**, as enacted by Laws of Utah 2014, Chapter 376
99 **53-10-114**, as enacted by Laws of Utah 1998, Chapter 101
100 **53B-24-304**, as renumbered and amended by Laws of Utah 2013, Chapter 28
101 **53F-2-305**, as last amended by Laws of Utah 2020, Chapters 308 and 408
102 **53F-2-405**, as last amended by Laws of Utah 2020, Chapters 308 and 408
103 **58-1-102**, as last amended by Laws of Utah 2016, Chapter 127
104 **58-1-103**, as renumbered and amended by Laws of Utah 1993, Chapter 297
105 **58-1-202**, as last amended by Laws of Utah 2018, Chapter 129
106 **58-1-301**, as last amended by Laws of Utah 2019, Chapter 133
107 **58-1-302**, as last amended by Laws of Utah 2020, Chapter 339
108 **58-3a-302**, as last amended by Laws of Utah 2020, Chapter 339
109 **58-9-302**, as last amended by Laws of Utah 2018, Chapter 326
110 **58-16a-302**, as last amended by Laws of Utah 2020, Chapter 339
111 **58-17b-504**, as last amended by Laws of Utah 2020, Chapter 339
112 **58-20b-102**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
113 **58-22-102**, as last amended by Laws of Utah 2020, Chapter 339
114 **58-28-304**, as last amended by Laws of Utah 2020, Chapter 339
115 **58-28-503**, as last amended by Laws of Utah 2018, Chapter 318
116 **58-31b-303**, as last amended by Laws of Utah 2006, Chapter 291
117 **58-31b-503**, as last amended by Laws of Utah 2020, Chapter 339
118 **58-37-2**, as last amended by Laws of Utah 2020, Chapter 12

119 **58-37-6**, as last amended by Laws of Utah 2021, Chapters 23, 165, and 262
120 **58-37-8**, as last amended by Laws of Utah 2021, Chapter 236
121 **58-37c-5**, as repealed and reenacted by Laws of Utah 1992, Chapter 155
122 **58-37c-6**, as last amended by Laws of Utah 2008, Chapter 382
123 **58-37c-21**, as last amended by Laws of Utah 1999, Chapter 21
124 **58-37d-9**, as last amended by Laws of Utah 1999, Chapter 21
125 **58-38a-201**, as last amended by Laws of Utah 2020, Chapter 26
126 **58-41-4**, as last amended by Laws of Utah 2019, Chapter 349
127 **58-44a-302**, as last amended by Laws of Utah 2016, Chapter 238
128 **58-44a-402**, as last amended by Laws of Utah 2018, Chapter 318
129 **58-55-102**, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
130 **58-55-302**, as last amended by Laws of Utah 2020, Chapter 339
131 **58-55-502**, as last amended by Laws of Utah 2011, Chapters 170 and 413
132 **58-55-503**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
133 **58-56-2**, as enacted by Laws of Utah 1989, Chapter 269
134 **58-57-14**, as last amended by Laws of Utah 2008, Chapter 382
135 **58-61-704**, as last amended by Laws of Utah 2020, Chapter 339
136 **58-63-102**, as last amended by Laws of Utah 2017, Chapter 197
137 **58-63-302**, as last amended by Laws of Utah 2020, Chapter 339
138 **58-67-503**, as last amended by Laws of Utah 2020, Chapter 339
139 **58-68-503**, as last amended by Laws of Utah 2020, Chapter 339
140 **58-71-402**, as last amended by Laws of Utah 2008, Chapter 382
141 **58-73-302**, as last amended by Laws of Utah 2020, Chapter 339
142 **58-73-501**, as last amended by Laws of Utah 1998, Chapter 26
143 **58-83-102**, as enacted by Laws of Utah 2010, Chapter 180
144 **58-83-302**, as enacted by Laws of Utah 2010, Chapter 180
145 **58-83-401**, as last amended by Laws of Utah 2011, Chapter 367
146 **58-83-502**, as last amended by Laws of Utah 2020, Chapter 25
147 **58-87-103**, as renumbered and amended by Laws of Utah 2017, Chapter 225
148 **59-10-1111**, as enacted by Laws of Utah 2016, Chapter 407
149 **62A-3-202**, as last amended by Laws of Utah 2018, Chapter 60

150 **62A-3-305**, as last amended by Laws of Utah 2021, Chapter 419
151 **62A-3-311.1**, as last amended by Laws of Utah 2017, Chapter 195
152 **62A-3-312**, as last amended by Laws of Utah 2017, Chapter 176
153 **62A-4a-411**, as last amended by Laws of Utah 2021, Chapter 419
154 **62A-4a-603**, as last amended by Laws of Utah 2020, Chapter 250
155 **62A-15-103**, as last amended by Laws of Utah 2021, Chapters 231 and 277
156 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
157 and 382
158 **63I-1-258**, as last amended by Laws of Utah 2021, Chapter 32
159 **63J-1-602.1**, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
160 **63N-1b-301**, as renumbered and amended by Laws of Utah 2021, Chapter 282
161 **78B-3-403**, as last amended by Laws of Utah 2019, Chapter 349
162 ENACTS:
163 **76-10-3201**, Utah Code Annotated 1953
164 **76-10-3202**, Utah Code Annotated 1953
165 RENUMBERS AND AMENDS:
166 **58-15-101**, (Renumbered from 58-15-2, as last amended by Laws of Utah 2016,
167 Chapter 238)
168 **58-15-201**, (Renumbered from 58-15-3, as last amended by Laws of Utah 2011,
169 Chapter 366)
170 **58-15-301**, (Renumbered from 58-15-4, as last amended by Laws of Utah 2009,
171 Chapter 183)
172 **58-15-302**, (Renumbered from 58-15-4.5, as enacted by Laws of Utah 1993, Chapter
173 297)
174 **58-15-303**, (Renumbered from 58-15-11, as last amended by Laws of Utah 2020,
175 Chapter 339)
176 **58-15-401**, (Renumbered from 58-15-12, as enacted by Laws of Utah 1993, Chapter
177 297)
178 **58-15-501**, (Renumbered from 58-15-10, as repealed and reenacted by Laws of Utah
179 1993, Chapter 297)
180 REPEALS:

181 **58-1-101**, as renumbered and amended by Laws of Utah 1993, Chapter 297
182 **58-5a-305**, as last amended by Laws of Utah 1996, Chapter 232
183 **58-15-1**, as enacted by Laws of Utah 1985, Chapter 49
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185 *Be it enacted by the Legislature of the state of Utah:*
186 Section 1. Section **13-1-2** is amended to read:
187 **13-1-2. Creation and functions of department -- Divisions created -- Fees --**
188 **Commerce Service Account.**
189 (1) (a) There is created the Department of Commerce.
190 (b) The department shall:
191 (i) execute and administer state laws regulating business activities and occupations
192 affecting the public interest; and
193 (ii) ensure that any training or certification required of a public official or public
194 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
195 22, State Training and Certification Requirements, if the training or certification is required:
196 (A) under this title;
197 (B) by the department; or
198 (C) by an agency or division within the department.
199 (2) Within the department the following divisions are created:
200 (a) the Division of [~~Occupational and~~] Professional Licensing;
201 (b) the Division of Real Estate;
202 (c) the Division of Securities;
203 (d) the Division of Public Utilities;
204 (e) the Division of Consumer Protection; and
205 (f) the Division of Corporations and Commercial Code.
206 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
207 fees assessed for services provided by the department by following the procedures and
208 requirements of Section 63J-1-504.
209 (b) The department shall submit each fee established in this manner to the Legislature
210 for [~~its~~] the Legislature's approval as part of the department's annual appropriations request.
211 (c) (i) There is created a restricted account within the General Fund known as the

212 "Commerce Service Account."
213 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by
214 each division and by the department.
215 (iii) The undesignated account balance may not exceed $1,000,000 at the end of each
216 fiscal year.
217 (iv) At the end of each fiscal year, the director of the Division of Finance shall transfer
218 into the General Fund any undesignated funds in the account that exceed the amount necessary
219 to maintain the undesignated account balance at $1,000,000.
220 (d) The department may not charge or collect a fee or expend money from the
221 restricted account without approval by the Legislature.
222 (4) (a) As used in this Subsection (4):
223 (i) "Business entity" means a sole proprietorship, partnership, limited partnership,
224 limited liability company, corporation, or other entity or association used to carry on a business
225 for profit.
226 (ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in
227 Subsection (4)(c).
228 (iii) "Renewal fee" means a fee that the Division of Corporations and Commercial
229 Code, established in Section 13-1a-1, is authorized or required to charge a business entity in
230 connection with the business entity's periodic renewal of [~~its~~] the business entity's status with
231 the Division of Corporations and Commercial Code.
232 (iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the
233 establishment and maintenance of the single sign-on business portal.
234 (v) "Single sign-on business portal" means the same as that term is defined in Section
235 63A-16-802.
236 (b) (i) The schedule of fees adopted by the department under Subsection (3) shall
237 include a single sign-on fee, not to exceed $5, as part of a renewal fee.
238 (ii) The department shall deposit all single sign-on fee revenue into the fund.
239 (c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.
240 (ii) The fund consists of:
241 (A) money that the department collects from the single sign-on fee; and
242 (B) money that the Legislature appropriates to the fund.

243 (d) The department shall use the money in the fund to pay for costs:
244 (i) to design, create, operate, and maintain the single sign-on business portal; and
245 (ii) incurred by:
246 (A) the Department of Technology Services, created in Section 63A-16-103; or
247 (B) a third-party vendor working under a contract with the Department of Technology
248 Services.
249 (e) The department shall report on fund revenues and expenditures to the Public
250 Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any
251 other time requested by the committee.
252 Section 2. Section **13-23-2** is amended to read:
253 **13-23-2. Definitions.**
254 As used in this chapter:
255 (1) "Business enterprise" means a sole proprietorship, partnership, association, joint
256 venture, corporation, limited liability company, or other entity used in carrying on a business.
257 (2) "Consumer" means a purchaser of health spa services for consideration.
258 (3) "Consumer's primary location" means the health spa facility that a health spa
259 designates in a contract for health spa services as the health spa facility the consumer will
260 primarily use for health spa services.
261 (4) "Division" means the Division of Consumer Protection.
262 (5) (a) "Health spa" means a business enterprise that provides access to a facility:
263 (i) for a charge or a fee; and
264 (ii) for the development or preservation of physical fitness or well-being, through
265 exercise, weight control, or athletics.
266 (b) "Health spa" does not include:
267 (i) a licensed physician who operates a facility at which the physician engages in the
268 practice of medicine;
269 (ii) a hospital, intermediate care facility, or skilled nursing care facility;
270 (iii) a public or private school, college, or university;
271 (iv) the state or a political subdivision of the state;
272 (v) the United States or a political subdivision of the United States;
273 (vi) a person offering instruction if the person does not:

274 (A) utilize an employee or independent contractor; or
275 (B) grant a consumer the use of a facility containing exercise equipment;
276 (vii) a business enterprise, the primary operation of which is to teach self-defense or a
277 martial art, including kickboxing, judo, or karate;
278 (viii) a business enterprise, the primary operation of which is to teach or allow an
279 individual to develop a specific skill rather than develop or preserve physical fitness, including
280 gymnastics, tennis, rock climbing, or a winter sport;
281 (ix) a business enterprise, the primary operation of which is to teach or allow an
282 individual to practice yoga or Pilates;
283 (x) a private employer who owns and operates a facility exclusively for the benefit of
284 the employer's employees, retirees, or family members, if the operation of the facility:
285 (A) is only incidental to the overall function and purpose of the employer's business;
286 and
287 (B) is offered on a nonprofit basis;
288 (xi) an individual providing professional services within the scope of the individual's
289 license with the Division of [~~Occupational and~~] Professional Licensing;
290 (xii) a country club;
291 (xiii) a nonprofit religious, ethnic, or community organization;
292 (xiv) a residential weight reduction center;
293 (xv) a business enterprise that only offers virtual services;
294 (xvi) a business enterprise that only offers a credit for a service that a separate business
295 enterprise offers;
296 (xvii) the owner of a lodging establishment, as defined in Section 29-2-102, if the
297 owner only provides access to the lodging establishment's facility to:
298 (A) a guest, as defined in Section 29-2-102; or
299 (B) an operator or employee of the lodging establishment;
300 (xviii) an association, declarant, owner, lessor, or developer of a residential housing
301 complex, planned community, or development, if at least 80% of the individuals accessing the
302 facility reside in the housing complex, planned community, or development; or
303 (xix) a person offering a personal training service exclusively as an employee or
304 independent contractor of a health spa.

305 (6) "Health spa facility" means a facility to which a business entity provides access:
306 (a) for a charge or a fee; and
307 (b) for the development or preservation of physical fitness or well-being, through
308 exercise, weight control, or athletics.
309 (7) (a) "Health spa service" means instruction, a service, a privilege, or a right that a
310 health spa offers for sale.
311 (b) "Health spa service" includes a personal training service.
312 (8) "Personal training service" means the personalized instruction, training,
313 supervision, or monitoring of an individual's physical fitness or well-being, through exercise,
314 weight control, or athletics.
315 Section 3. Section **15A-1-102** is amended to read:
316 **15A-1-102. Definitions.**
317 As used in this title:
318 (1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.
319 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
320 created in Section 58-1-103, except as provided in:
321 (a) Part 4, State Fire Code Administration Act; and
322 (b) Chapter 5, State Fire Code Act.
323 (3) "State Construction Code" means the State Construction Code adopted by:
324 (a) Chapter 2, Adoption of State Construction Code;
325 (b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as
326 Part of State Construction Code;
327 (c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;
328 (d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code;
329 and
330 (e) Chapter 6, Additional Construction Requirements.
331 (4) "State Fire Code" means the State Fire Code adopted by Chapter 5, State Fire Code
332 Act.
333 (5) "Utah Code" means the Utah Code Annotated (1953), as amended.
334 Section 4. Section **15A-3-402** is amended to read:
335 **15A-3-402. Amendments to Chapters 1 through 5 of IMC.**

336 (1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:
337 "h. 1. A nail salon shall provide each manicure station where a nail technician files or
338 shapes an acrylic nail, as defined by rule by the Division of [~~Occupational and~~] Professional
339 Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
340 with:
341 a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and
342 an activated carbon filter that is capable of filtering and recirculating air to inside space at a
343 rate not less than 50 cfm per station; or
344 b. a source capture system capable of exhausting not less than 50 cfm per station.
345 c. A nail salon that complies with Note h. la or h. lb is not required to comply with the
346 labeling, listing, or testing requirements described in International Mechanical Code sections
347 301.7 or 301.8.
348 2. For a source capture system described in paragraph 1, the source capture system
349 inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.
350 3. Where one or more exhausting source capture systems described in paragraph 1
351 operate continuously during occupancy, the source capture system exhaust rate shall be
352 permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.
353 4. The requirements of this note apply to:
354 a. an existing nail salon that remodels the nail salon after July 1, 2017;
355 b. a new nail salon that begins construction after July 1, 2017; and
356 c. all nail salons beginning on July 1, 2020."
357 (2) In IMC, Section 502.20 is deleted and rewritten as follows:
358 "502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide
359 each manicure station with a source capture system in accordance with Table 403.3.1.1, note h.
360 For a manicure table that does not have factory-installed source capture system inlets for
361 recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for
362 recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and
363 vertically from the point of any acrylic chemical application.
364 Exception: Section 502.20 applies to a manicure station in:
365 a. an existing nail salon that remodels the nail salon after July 1, 2017;
366 b. a new nail salon that begins construction after July 1, 2017; and

367 c. all nail salons beginning on July 1, 2020."
368 Section 5. Section **17-21-18.5** is amended to read:
369 **17-21-18.5. Fees of county recorder.**
370 (1) The county recorder shall receive the following fees:
371 (a) for recording any instrument, not otherwise provided for, other than bonds of public
372 officers, $40;
373 (b) for recording any instrument, including those provided for under Title 70A,
374 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
375 for, $40, and if an instrument contains more than 10 descriptions, $2 for each additional
376 description;
377 (c) for recording mining location notices and affidavits of labor affecting mining
378 claims, $40; and
379 (d) for an affidavit or proof of labor which contains more than 10 mining claims, $2 for
380 each additional mining claim.
381 (2) (a) Each county recorder shall record the mining rules of the several mining
382 districts in each county without fee.
383 (b) Certified copies of these records shall be received in all tribunals and before all
384 officers of this state as prima facie evidence of the rules.
385 (3) The county recorder shall receive the following fees:
386 (a) for copies of any record or document, a reasonable fee as determined by the county
387 legislative body;
388 (b) for each certificate under seal, $5;
389 (c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;
390 (d) for taking and certifying acknowledgments, including seal, $5 for one name and $2
391 for each additional name;
392 (e) for recording any license issued by the Division of [~~Occupational and~~] Professional
393 Licensing, $40; and
394 (f) for recording a federal tax lien, $40, and for the discharge of the lien, $40.
395 (4) A county recorder may not charge more than one recording fee for each instrument,
396 regardless of whether the instrument bears multiple descriptive titles or includes one or more
397 attachments as part of the instrument.

398 (5) By January 1, 2022, each county shall accept and provide for electronic recording
399 of instruments.
400 (6) The county may determine and collect a fee for all services not enumerated in this
401 section.
402 (7) A county recorder may not be required to collect a fee for services that are
403 unrelated to the county recorder's office.
404 Section 6. Section **17-22-30** is amended to read:
405 **17-22-30. Prohibition on providing copy of booking photograph -- Statement**
406 **required -- Criminal liability for false statement -- Remedy for failure to remove or**
407 **delete.**
408 (1) As used in this section:
409 (a) "Booking photograph" means a photograph or image of an individual that is
410 generated:
411 (i) for identification purposes; and
412 (ii) when the individual is booked into a county jail.
413 (b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or
414 website that requires the payment of a fee or other consideration in order to remove or delete a
415 booking photograph from the publication or website.
416 (2) A sheriff may not provide a copy of a booking photograph in any format to a person
417 requesting a copy of the booking photograph if:
418 (a) the booking photograph will be placed in a publish-for-pay publication or posted to
419 a publish-for-pay website; or
420 (b) the booking photograph is a protected record under Subsection
421 63G-2-305[~~(82)~~](81).
422 (3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at
423 the time of making the request, submit a statement signed by the person affirming that the
424 booking photograph will not be placed in a publish-for-pay publication or posted to a
425 publish-for-pay website.
426 (b) A person who submits a false statement under Subsection (3)(a) is subject to
427 criminal liability as provided in Section 76-8-504.
428 (4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a

429 publish-for-pay website shall remove and destroy a booking photograph of an individual who
430 submits a request for removal and destruction within 30 calendar days after the day on which
431 the individual makes the request.
432 (b) A publish-for-pay publication or publish-for-pay website described in Subsection
433 (4)(a) may not condition removal or destruction of the booking photograph on the payment of a
434 fee in an amount greater than $50.
435 (c) If the publish-for-pay publication or publish-for-pay website described in
436 Subsection (4)(a) does not remove and destroy the booking photograph in accordance with
437 Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:
438 (i) all costs, including reasonable attorney fees, resulting from any legal action the
439 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
440 website to remove and destroy the booking photograph; and
441 (ii) a civil penalty of $50 per day for each day after the 30-day deadline described in
442 Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the
443 publish-for-pay publication or on the publish-for-pay website.
444 (5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and
445 destroy a booking photograph of an individual who submits a request for removal and
446 destruction within seven calendar days after the day on which the individual makes the request
447 if:
448 (i) the booking photograph relates to a criminal charge:
449 (A) on which the individual was acquitted or not prosecuted; or
450 (B) that was expunged, vacated, or pardoned; and
451 (ii) the individual submits, in relation to the request, evidence of a disposition
452 described in Subsection (5)(a)(i).
453 (b) If the publish-for-pay publication or publish-for-pay website described in
454 Subsection (5)(a) does not remove and destroy the booking photograph in accordance with
455 Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:
456 (i) all costs, including reasonable attorney fees, resulting from any legal action that the
457 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
458 website to remove and destroy the booking photograph; and
459 (ii) a civil penalty of $100 per day for each day after the seven-day deadline described

460 in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the
461 publish-for-pay publication or on the publish-for-pay website.
462 (c) An act of a publish-for-pay publication or publish-for-pay website described in
463 Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on
464 the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.
465 Section 7. Section **17-23-17** is amended to read:
466 **17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking**
467 **of monuments -- Record of corner changes -- Penalties.**
468 (1) As used in this section:
469 (a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this
470 state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land
471 Surveyors Licensing Act.
472 (b) (i) "Township" means a term used in the context of identifying a geographic area in
473 common surveyor practice.
474 (ii) "Township" does not mean a metro township as that term is defined in Section
475 10-2a-403.
476 (2) (a) (i) Each land surveyor making a boundary survey of lands within this state to
477 establish or reestablish a boundary line or to obtain data for constructing a map or plat showing
478 a boundary line shall file a map of the survey that meets the requirements of this section with
479 the county surveyor or designated office within 90 days of the establishment or reestablishment
480 of a boundary.
481 (ii) A land surveyor who fails to file a map of the survey as required by Subsection
482 (2)(a)(i) is guilty of an infraction.
483 (iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a
484 separate violation.
485 (b) The county surveyor or designated office shall file and index the map of the survey.
486 (c) The map shall be a public record in the office of the county surveyor or designated
487 office.
488 (3) This type of map shall show:
489 (a) the location of survey by quarter section and township and range;
490 (b) the date of survey;

491 (c) the scale of drawing and north point;
492 (d) the distance and course of all lines traced or established, giving the basis of bearing
493 and the distance and course to two or more section corners or quarter corners, including
494 township and range, or to identified monuments within a recorded subdivision;
495 (e) all measured bearings, angles, and distances separately indicated from those of
496 record;
497 (f) a written boundary description of property surveyed;
498 (g) all monuments set and their relation to older monuments found;
499 (h) a detailed description of monuments found and monuments set, indicated
500 separately;
501 (i) the surveyor's seal or stamp; and
502 (j) the surveyor's business name and address.
503 (4) (a) The map shall contain a written narrative that explains and identifies:
504 (i) the purpose of the survey;
505 (ii) the basis on which the lines were established; and
506 (iii) the found monuments and deed elements that controlled the established or
507 reestablished lines.
508 (b) If the narrative is a separate document, it shall contain:
509 (i) the location of the survey by quarter section and by township and range;
510 (ii) the date of the survey;
511 (iii) the surveyor's stamp or seal; and
512 (iv) the surveyor's business name and address.
513 (c) The map and narrative shall be referenced to each other if they are separate
514 documents.
515 (5) The map and narrative shall be created on material of a permanent nature on stable
516 base reproducible material in the sizes required by the county surveyor.
517 (6) (a) Any monument set by a licensed professional land surveyor to mark or reference
518 a point on a property or land line shall be durably and visibly marked or tagged with the
519 registered business name or the letters "L.S." followed by the registration number of the
520 surveyor in charge.
521 (b) If the monument is set by a licensed land surveyor who is a public officer, it shall

522 be marked with the official title of the office.
523 (7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the
524 section corner or quarter-section corner, or their accessories, the surveyor shall complete and
525 submit to the county surveyor or designated office a record of the changes made.
526 (b) The record shall be submitted within 45 days of the corner visits and shall include
527 the surveyor's seal, business name, and address.
528 (8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the
529 license of any land surveyor who fails to comply with the requirements of this section,
530 according to the procedures set forth in Title 58, Chapter 1, Division of [~~Occupational and~~]
531 Professional Licensing Act.
532 (9) Each federal or state agency, board, or commission, local district, special service
533 district, or municipal corporation that makes a boundary survey of lands within this state shall
534 comply with this section.
535 Section 8. Section **26-2-2** is amended to read:
536 **26-2-2. Definitions.**
537 As used in this chapter:
538 (1) "Adoption document" means an adoption-related document filed with the office, a
539 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
540 in support of a supplementary birth certificate.
541 (2) "Certified nurse midwife" means an individual who:
542 (a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a,
543 Nurse Midwife Practice Act; and
544 (b) has completed an education program regarding the completion of a certificate of
545 death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah
546 Administrative Rulemaking Act.
547 [~~(2)~~] (3) "Custodial funeral service director" means a funeral service director who:
548 (a) is employed by a licensed funeral establishment; and
549 (b) has custody of a dead body.
550 [~~(3)~~] (4) "Dead body" or "decedent" means a human body or parts of the human body
551 from the condition of which it reasonably may be concluded that death occurred.
552 [~~(4)~~] (5) "Dead fetus" means a product of human conception, other than those

553 circumstances described in Subsection 76-7-301(1):
554 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
555 period began to the date of delivery; and
556 (b) that was not born alive.
557 [~~(5)~~] (6) "Declarant father" means a male who claims to be the genetic father of a child,
558 and, along with the biological mother, signs a voluntary declaration of paternity to establish the
559 child's paternity.
560 [~~(6)~~] (7) "Dispositioner" means:
561 (a) a person designated in a written instrument, under Subsection 58-9-602(1), as
562 having the right and duty to control the disposition of the decedent, if the person voluntarily
563 acts as the dispositioner; or
564 (b) the next of kin of the decedent, if:
565 (i) (A) a person has not been designated as described in Subsection [~~(6)~~] (7)(a); or
566 (B) the person described in Subsection [~~(6)~~] (7)(a) is unable or unwilling to exercise
567 the right and duty described in Subsection [~~(6)~~] (7)(a); and
568 (ii) the next of kin voluntarily acts as the dispositioner.
569 [~~(7)~~] (8) "Fetal remains" means:
570 (a) an aborted fetus as that term is defined in Section 26-21-33; or
571 (b) a miscarried fetus as that term is defined in Section 26-21-34.
572 [~~(8)~~] (9) "File" means the submission of a completed certificate or other similar
573 document, record, or report as provided under this chapter for registration by the state registrar
574 or a local registrar.
575 [~~(9)~~] (10) "Funeral service director" means the same as that term is defined in Section
576 58-9-102.
577 [~~(10)~~] (11) "Health care facility" means the same as that term is defined in Section
578 26-21-2.
579 [~~(11)~~] (12) "Health care professional" means a physician, physician assistant, [~~or~~] nurse
580 practitioner, or certified nurse midwife.
581 [~~(12)~~] (13) "Licensed funeral establishment" means:
582 (a) if located in Utah, a funeral service establishment, as that term is defined in Section
583 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

584 (b) if located in a state, district, or territory of the United States other than Utah, a
585 funeral service establishment that complies with the licensing laws of the jurisdiction where the
586 establishment is located.
587 [~~(13)~~] (14) "Live birth" means the birth of a child who shows evidence of life after the
588 child is entirely outside of the mother.
589 [~~(14)~~] (15) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).
590 [~~(15)~~] (16) "Nurse practitioner" means an individual who:
591 (a) is licensed to practice as an advanced practice registered nurse under Title 58,
592 Chapter 31b, Nurse Practice Act; and
593 (b) has completed an education program regarding the completion of a certificate of
594 death developed by the department by administrative rule made in accordance with Title 63G,
595 Chapter 3, Utah Administrative Rulemaking Act.
596 [~~(16)~~] (17) "Office" means the Office of Vital Records and Statistics within the
597 Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.
598 [~~(17)~~] (18) "Physician" means a person licensed to practice as a physician or osteopath
599 in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,
600 Utah Osteopathic Medical Practice Act.
601 [~~(18)~~] (19) "Physician assistant" means an individual who:
602 (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah
603 Physician Assistant Act; and
604 (b) has completed an education program regarding the completion of a certificate of
605 death developed by the department by administrative rule made in accordance with Title 63G,
606 Chapter 3, Utah Administrative Rulemaking Act.
607 [~~(19)~~] (20) "Presumed father" means the father of a child conceived or born during a
608 marriage as defined in Section 30-1-17.2.
609 [~~(20)~~] (21) "Registration" or "register" means acceptance by the local or state registrar
610 of a certificate and incorporation of the certificate into the permanent records of the state.
611 [~~(21)~~] (22) "State registrar" means the state registrar of vital records appointed under
612 Subsection 26-2-3(2)(e).
613 [~~(22)~~] (23) "Vital records" means:
614 (a) registered certificates or reports of birth, death, fetal death, marriage, divorce,

615 dissolution of marriage, or annulment;
616 (b) amendments to any of the registered certificates or reports described in Subsection
617 [~~(22)~~] (23)(a);
618 (c) an adoption document; and
619 (d) other similar documents.
620 [~~(23)~~] (24) "Vital statistics" means the data derived from registered certificates and
621 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
622 dissolution of marriage, or annulment.
623 Section 9. Section **26-4-10.5** is amended to read:
624 **26-4-10.5. Medical examiner to report death caused by prescribed controlled**
625 **substance poisoning or overdose.**
626 (1) If a medical examiner determines that the death of a person who is 12 years [~~of age~~]
627 old or older at the time of death resulted from poisoning or overdose involving a prescribed
628 controlled substance, the medical examiner shall, within three business days after the day on
629 which the medical examiner determines the cause of death, send a written report to the
630 Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, that
631 includes:
632 (a) the decedent's name;
633 (b) each drug or other substance found in the decedent's system that may have
634 contributed to the poisoning or overdose, if known; and
635 (c) the name of each person the medical examiner has reason to believe may have
636 prescribed a controlled substance described in Subsection (1)(b) to the decedent.
637 (2) This section does not create a new cause of action.
638 Section 10. Section **26-6-27** is amended to read:
639 **26-6-27. Information regarding communicable or reportable diseases**
640 **confidentiality -- Exceptions.**
641 (1) Information collected pursuant to this chapter in the possession of the department
642 or local health departments relating to an individual who has or is suspected of having a disease
643 designated by the department as a communicable or reportable disease under this chapter shall
644 be held by the department and local health departments as strictly confidential. The department
645 and local health departments may not release or make public that information upon subpoena,

646 search warrant, discovery proceedings, or otherwise, except as provided by this section.
647 (2) The information described in Subsection (1) may be released by the department or
648 local health departments only in accordance with the requirements of this chapter and as
649 follows:
650 (a) specific medical or epidemiological information may be released with the written
651 consent of the individual identified in that information or, if that individual is deceased, his
652 next-of-kin;
653 (b) specific medical or epidemiological information may be released to medical
654 personnel or peace officers in a medical emergency, as determined by the department in
655 accordance with guidelines it has established, only to the extent necessary to protect the health
656 or life of the individual identified in the information, or of the attending medical personnel or
657 law enforcement or public safety officers;
658 (c) specific medical or epidemiological information may be released to authorized
659 personnel within the department, local health departments, public health authorities, official
660 health agencies in other states, the United States Public Health Service, the Centers for Disease
661 Control and Prevention (CDC), or when necessary to continue patient services or to undertake
662 public health efforts to interrupt the transmission of disease;
663 (d) if the individual identified in the information is under the age of 18, the information
664 may be released to the Division of Child and Family Services within the Department of Human
665 Services in accordance with Section 62A-4a-403. If that information is required in a court
666 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against
667 the Person, the information shall be disclosed in camera and sealed by the court upon
668 conclusion of the proceedings;
669 (e) specific medical or epidemiological information may be released to authorized
670 personnel in the department or in local health departments, and to the courts, to carry out the
671 provisions of this title, and rules adopted by the department in accordance with this title;
672 (f) specific medical or epidemiological information may be released to blood banks,
673 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
674 communicable diseases. The department may, by rule, designate the diseases about which
675 information may be disclosed under this subsection, and may choose to release the name of an
676 infected individual to those organizations without disclosing the specific disease;

677 (g) specific medical or epidemiological information may be released in such a way that
678 no individual is identifiable;
679 (h) specific medical or epidemiological information may be released to a "health care
680 provider" as defined in Section 78B-3-403, health care personnel, and public health personnel
681 who have a legitimate need to have access to the information in order to assist the patient, or to
682 protect the health of others closely associated with the patient;
683 (i) specific medical or epidemiological information regarding a health care provider, as
684 defined in Section 78B-3-403, may be released to the department, the appropriate local health
685 department, and the Division of [~~Occupational and~~] Professional Licensing within the
686 Department of Commerce, if the identified health care provider is endangering the safety or life
687 of any individual by his continued practice of health care;
688 (j) specific medical or epidemiological information may be released in accordance with
689 Section 26-6-31 if an individual is not identifiable; and
690 (k) specific medical or epidemiological information may be released to a state agency
691 as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4)
692 if the state agency agrees to act in accordance with the requirements in this chapter.
693 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
694 intended only to aid health care providers in their treatment and containment of infectious
695 disease.
696 Section 11. Section **26-7-13** is amended to read:
697 **26-7-13. Opioid and Overdose Fatality Review Committee.**
698 (1) As used in this section:
699 (a) "Committee" means the Opioid and Overdose Fatality Review Committee created
700 in this section.
701 (b) "Opioid overdose death" means a death primarily caused by opioids or another
702 substance that closely resembles an opioid.
703 (2) The department shall establish the Opioid and Overdose Fatality Review
704 Committee.
705 (3) (a) The committee shall consist of:
706 (i) the attorney general, or the attorney general's designee;
707 (ii) a state, county, or municipal law enforcement officer;

708 (iii) the manager of the department's Violence Injury Program, or the manager's
709 designee;
710 (iv) an emergency medical services provider;
711 (v) a representative from the Office of the Medical Examiner;
712 (vi) a representative from the Division of Substance Abuse and Mental Health;
713 (vii) a representative from the Office of Vital Records;
714 (viii) a representative from the Office of Health Care Statistics;
715 (ix) a representative from the Division of [~~Occupational and~~] Professional Licensing;
716 (x) a healthcare professional who specializes in the prevention, diagnosis, and
717 treatment of substance use disorders;
718 (xi) a representative from a state or local jail or detention center;
719 (xii) a representative from the Department of Corrections;
720 (xiii) a representative from Juvenile Justice Services;
721 (xiv) a representative from the Department of Public Safety;
722 (xv) a representative from the Commission on Criminal and Juvenile Justice;
723 (xvi) a physician from a Utah-based medical center; and
724 (xvii) a physician from a nonprofit vertically integrated health care organization.
725 (b) The president of the Senate may appoint one member of the Senate, and the speaker
726 of the House of Representatives may appoint one member of the House of Representatives, to
727 serve on the committee.
728 (4) The executive director of the department shall appoint a committee coordinator.
729 (5) (a) The department shall give the committee access to all reports, records, and other
730 documents that are relevant to the committee's responsibilities under Subsection (6) including
731 reports, records, or documents that are private, controlled, or protected under Title 63G,
732 Chapter 2, Government Records Access and Management Act.
733 (b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same
734 restrictions on disclosure of a report, record, or other document received under Subsection
735 (5)(a) as the department.
736 (6) The committee shall:
737 (a) conduct a multidisciplinary review of available information regarding a decedent of
738 an opioid overdose death, which shall include:

739 (i) consideration of the decedent's points of contact with health care systems, social
740 services systems, criminal justice systems, and other systems; and
741 (ii) identification of specific factors that put the decedent at risk for opioid overdose;
742 (b) promote cooperation and coordination among government entities involved in
743 opioid misuse, abuse, or overdose prevention;
744 (c) develop an understanding of the causes and incidence of opioid overdose deaths in
745 the state;
746 (d) make recommendations for changes to law or policy that may prevent opioid
747 overdose deaths;
748 (e) inform public health and public safety entities of emerging trends in opioid
749 overdose deaths;
750 (f) monitor overdose trends on non-opioid overdose deaths; and
751 (g) review non-opioid overdose deaths in the manner described in Subsection (6)(a),
752 when the committee determines that there are a substantial number of overdose deaths in the
753 state caused by the use of a non-opioid.
754 (7) A committee may interview or request information from a staff member, a
755 provider, or any other person who may have knowledge or expertise that is relevant to the
756 review of an opioid overdose death.
757 (8) A majority vote of committee members present constitutes the action of the
758 committee.
759 (9) The committee may meet up to eight times each year.
760 (10) When an individual case is discussed in a committee meeting under Subsection
761 (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections
762 52-4-204 through 52-4-206.
763 Section 12. Section **26-8a-310** is amended to read:
764 **26-8a-310. Background clearance for emergency medical service personnel.**
765 (1) Subject to Section 26-8a-310.5, the department shall determine whether to grant
766 background clearance for an individual seeking licensure or certification under Section
767 26-8a-302 from whom the department receives:
768 (a) the individual's social security number, fingerprints, and other personal
769 identification information specified by the department under Subsection (4); and

770 (b) any fees established by the department under Subsection (10).
771 (2) The department shall determine whether to deny or revoke background clearance
772 for individuals for whom the department has previously granted background clearance.
773 (3) The department shall determine whether to grant, deny, or revoke background
774 clearance for an individual based on an initial and ongoing evaluation of information the
775 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
776 initial criminal background check of state, regional, and national databases using the
777 individual's fingerprints.
778 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
779 Administrative Rulemaking Act, that specify:
780 (a) the criteria the department will use under Subsection (3) to determine whether to
781 grant, deny, or revoke background clearance; and
782 (b) the other personal identification information an individual seeking licensure or
783 certification under Section 26-8a-302 must submit under Subsection (1).
784 (5) To determine whether to grant, deny, or revoke background clearance, the
785 department may access and evaluate any of the following:
786 (a) Department of Public Safety arrest, conviction, and disposition records described in
787 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
788 information in state, regional, and national records files;
789 (b) adjudications by a juvenile court of committing an act that if committed by an adult
790 would be a felony or misdemeanor, if:
791 (i) the applicant is under 28 years old; or
792 (ii) the applicant:
793 (A) is over 28 years old; and
794 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
795 abeyance or diversion agreement for a felony or misdemeanor;
796 (c) juvenile court arrest, adjudication, and disposition records, other than those under
797 Subsection (5)(b), as allowed under Section 78A-6-209;
798 (d) child abuse or neglect findings described in Section 80-3-404;
799 (e) the Department of Human Services' Division of Child and Family Services
800 Licensing Information System described in Section 62A-4a-1006;

801 (f) the Department of Human Services' Division of Aging and Adult Services database
802 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;
803 (g) Division of [~~Occupational and~~] Professional Licensing records of licensing and
804 certification under Title 58, Occupations and Professions;
805 (h) records in other federal criminal background databases available to the state; and
806 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
807 pending diversion agreements, or dispositions.
808 (6) Except for the Department of Public Safety, an agency may not charge the
809 department for information accessed under Subsection (5).
810 (7) When evaluating information under Subsection (3), the department shall classify a
811 crime committed in another state according to the closest matching crime under Utah law,
812 regardless of how the crime is classified in the state where the crime was committed.
813 (8) The department shall adopt measures to protect the security of information the
814 department accesses under Subsection (5), which shall include limiting access by department
815 employees to those responsible for acquiring, evaluating, or otherwise processing the
816 information.
817 (9) The department may disclose personal identification information the department
818 receives under Subsection (1) to the Department of Human Services to verify that the subject of
819 the information is not identified as a perpetrator or offender in the information sources
820 described in Subsections (5)(d) through (f).
821 (10) The department may charge fees, in accordance with Section 63J-1-504, to pay
822 for:
823 (a) the cost of obtaining, storing, and evaluating information needed under Subsection
824 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
825 background clearance; and
826 (b) other department costs related to granting, denying, or revoking background
827 clearance.
828 (11) The Criminal Investigations and Technical Services Division within the
829 Department of Public Safety shall:
830 (a) retain, separate from other division records, personal information under Subsection
831 (1), including any fingerprints sent to it by the Department of Health; and

832 (b) notify the Department of Health upon receiving notice that an individual for whom
833 personal information has been retained is the subject of:
834 (i) a warrant for arrest;
835 (ii) an arrest;
836 (iii) a conviction, including a plea in abeyance; or
837 (iv) a pending diversion agreement.
838 (12) The department shall use the Direct Access Clearance System database created
839 under Section 26-21-209 to manage information about the background clearance status of each
840 individual for whom the department is required to make a determination under Subsection (1).
841 (13) Clearance granted for an individual licensed or certified under Section 26-8a-302
842 is valid until two years after the day on which the individual is no longer licensed or certified in
843 Utah as emergency medical service personnel.
844 Section 13. Section **26-15-3** is amended to read:
845 **26-15-3. Department to advise regarding the plumbing code.**
846 (1) The department shall advise the Division of [~~Occupational and~~] Professional
847 Licensing and the Uniform Building Code Commission with respect to the adoption of a state
848 construction code under Section 15A-1-204, including providing recommendations as to:
849 (a) a specific edition of a plumbing code issued by a nationally recognized code
850 authority; and
851 (b) any amendments to a nationally recognized code.
852 (2) The department may enforce the plumbing code adopted under Section 15A-1-204.
853 (3) Section 58-56-9 does not apply to health inspectors acting under this section.
854 Section 14. Section **26-21-22** is amended to read:
855 **26-21-22. Reporting of disciplinary information -- Immunity from liability.**
856 A health care facility licensed under this chapter which reports disciplinary information
857 on a licensed nurse to the Division of [~~Occupational and~~] Professional Licensing within the
858 Department of Commerce as required by Section 58-31b-702 is entitled to the immunity from
859 liability provided by that section.
860 Section 15. Section **26-21-26** is amended to read:
861 **26-21-26. General acute hospital to report prescribed controlled substance**
862 **poisoning or overdose.**

863 (1) If a person who is 12 years [~~of age~~] old or older is admitted to a general acute
864 hospital for poisoning or overdose involving a prescribed controlled substance, the general
865 acute hospital shall, within three business days after the day on which the person is admitted,
866 send a written report to the Division of [~~Occupational and~~] Professional Licensing, created in
867 Section 58-1-103, that includes:
868 (a) the patient's name and date of birth;
869 (b) each drug or other substance found in the person's system that may have
870 contributed to the poisoning or overdose, if known;
871 (c) the name of each person who the general acute hospital has reason to believe may
872 have prescribed a controlled substance described in Subsection (1)(b) to the person, if known;
873 and
874 (d) the name of the hospital and the date of admission.
875 (2) Nothing in this section may be construed as creating a new cause of action.
876 Section 16. Section **26-21-204** is amended to read:
877 **26-21-204. Clearance.**
878 (1) The department shall determine whether to grant clearance for each applicant for
879 whom it receives:
880 (a) the personal identification information specified by the department under
881 Subsection 26-21-204(4)(b); and
882 (b) any fees established by the department under Subsection 26-21-204(9).
883 (2) The department shall establish a procedure for obtaining and evaluating relevant
884 information concerning covered individuals, including fingerprinting the applicant and
885 submitting the prints to the Criminal Investigations and Technical Services Division of the
886 Department of Public Safety for checking against applicable state, regional, and national
887 criminal records files.
888 (3) The department may review the following sources to determine whether an
889 individual should be granted or retain clearance, which may include:
890 (a) Department of Public Safety arrest, conviction, and disposition records described in
891 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
892 information in state, regional, and national records files;
893 (b) juvenile court arrest, adjudication, and disposition records, as allowed under

894 Section 78A-6-209;
895 (c) federal criminal background databases available to the state;
896 (d) the Department of Human Services' Division of Child and Family Services
897 Licensing Information System described in Section 62A-4a-1006;
898 (e) child abuse or neglect findings described in Section 80-3-404;
899 (f) the Department of Human Services' Division of Aging and Adult Services
900 vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;
901 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;
902 (h) licensing and certification records of individuals licensed or certified by the
903 Division of [~~Occupational and~~] Professional Licensing under Title 58, Occupations and
904 Professions; and
905 (i) the List of Excluded Individuals and Entities database maintained by the United
906 States Department of Health and Human Services' Office of Inspector General.
907 (4) The department shall adopt rules that:
908 (a) specify the criteria the department will use to determine whether an individual is
909 granted or retains clearance:
910 (i) based on an initial evaluation and ongoing review of information under Subsection
911 (3); and
912 (ii) including consideration of the relationship the following may have to patient and
913 resident protection:
914 (A) warrants for arrest;
915 (B) arrests;
916 (C) convictions, including pleas in abeyance;
917 (D) pending diversion agreements;
918 (E) adjudications by a juvenile court under Section 80-6-701 if the individual is over
919 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance
920 or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old;
921 and
922 (F) any other findings under Subsection (3); and
923 (b) specify the personal identification information that must be submitted by an
924 individual or covered body with an application for clearance, including:

925 (i) the applicant's Social Security number; and
926 (ii) fingerprints.
927 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed
928 in another state according to the closest matching crime under Utah law, regardless of how the
929 crime is classified in the state where the crime was committed.
930 (6) The Department of Public Safety, the Administrative Office of the Courts, the
931 Department of Human Services, the Division of [~~Occupational and~~] Professional Licensing,
932 and any other state agency or political subdivision of the state:
933 (a) shall allow the department to review the information the department may review
934 under Subsection (3); and
935 (b) except for the Department of Public Safety, may not charge the department for
936 access to the information.
937 (7) The department shall adopt measures to protect the security of the information it
938 reviews under Subsection (3) and strictly limit access to the information to department
939 employees responsible for processing an application for clearance.
940 (8) The department may disclose personal identification information specified under
941 Subsection (4)(b) to the Department of Human Services to verify that the subject of the
942 information is not identified as a perpetrator or offender in the information sources described in
943 Subsections (3)(d) through (f).
944 (9) The department may establish fees, in accordance with Section 63J-1-504, for an
945 application for clearance, which may include:
946 (a) the cost of obtaining and reviewing information under Subsection (3);
947 (b) a portion of the cost of creating and maintaining the Direct Access Clearance
948 System database under Section 26-21-209; and
949 (c) other department costs related to the processing of the application and the ongoing
950 review of information pursuant to Subsection (4)(a) to determine whether clearance should be
951 retained.
952 Section 17. Section **26-49-205** is amended to read:
953 **26-49-205. Provision of volunteer health or veterinary services -- Administrative**
954 **sanctions -- Authority of Division of Professional Licensing.**
955 (1) Subject to Subsections (2) and (3), a volunteer health practitioner shall comply with

956 the scope of practice for a similarly licensed practitioner established by the licensing
957 provisions, practice acts, or other Utah laws.
958 (2) Except as otherwise provided in Subsection (3), this chapter does not authorize a
959 volunteer health practitioner to provide services that are outside the volunteer health
960 practitioner's scope of practice, even if a similarly licensed practitioner in Utah would be
961 permitted to provide the services.
962 (3) (a) In accordance with this section and Section 58-1-405, the Division of
963 [~~Occupational and~~] Professional Licensing may issue an order modifying or restricting the
964 health or veterinary services that volunteer health practitioners may provide pursuant to this
965 chapter.
966 (b) An order under this subsection takes effect immediately, without prior notice or
967 comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative
968 Rulemaking Act, or a directive within the meaning of Title 63G, Chapter 4, Administrative
969 Procedures Act.
970 (4) A host entity may restrict the health or veterinary services that a volunteer health
971 practitioner may provide under this chapter.
972 (5) (a) A volunteer health practitioner does not engage in unauthorized practice unless
973 the volunteer health practitioner has reason to know of any limitation, modification, or
974 restriction under this chapter, Title 58, Chapter 1, Division of [~~Occupational and~~] Professional
975 Licensing Act, or that a similarly licensed practitioner in Utah would not be permitted to
976 provide the services.
977 (b) A volunteer health practitioner has reason to know of a limitation, modification, or
978 restriction, or that a similarly licensed practitioner in Utah would not be permitted to provide a
979 service, if:
980 (i) the volunteer health practitioner knows the limitation, modification, or restriction
981 exists or that a similarly licensed practitioner in Utah would not be permitted to provide the
982 service; or
983 (ii) from all the facts and circumstances known to the volunteer health practitioner at
984 the relevant time, a reasonable person would conclude that:
985 (A) the limitation, modification, or restriction exists; or
986 (B) a similarly licensed practitioner in Utah would not be permitted to provide the

987 service.
988 (6) In addition to the authority granted by law of Utah other than this chapter to
989 regulate the conduct of volunteer health practitioners, the Division of [~~Occupational and~~]
990 Professional Licensing Act or other disciplinary authority in Utah:
991 (a) may impose administrative sanctions upon a volunteer health practitioner licensed
992 in Utah for conduct outside of Utah in response to an out-of-state emergency;
993 (b) may impose administrative sanctions upon a volunteer health practitioner not
994 licensed in Utah for conduct in Utah in response to an in-state emergency; and
995 (c) shall report any administrative sanctions imposed upon a volunteer health
996 practitioner licensed in another state to the appropriate licensing board or other disciplinary
997 authority in any other state in which the volunteer health practitioner is known to be licensed.
998 (7) In determining whether or not to impose administrative sanctions under Subsection
999 (6), the Division of [~~Occupational and~~] Professional Licensing Act or other disciplinary
1000 authority shall consider the circumstances in which the conduct took place, including:
1001 (a) any exigent circumstances; and
1002 (b) the volunteer health practitioner's scope of practice, education, training, experience,
1003 and specialized skill.
1004 Section 18. Section **26-55-105** is amended to read:
1005 **26-55-105. Standing prescription drug orders for an opiate antagonist.**
1006 (1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed
1007 under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may
1008 dispense the opiate antagonist:
1009 (a) pursuant to a standing prescription drug order made in accordance with Subsection
1010 (2); and
1011 (b) without any other prescription drug order from a person licensed to prescribe an
1012 opiate antagonist.
1013 (2) A physician who is licensed to prescribe an opiate antagonist, including a physician
1014 acting in the physician's capacity as an employee of the department, or a medical director of a
1015 local health department, as defined in Section 26A-1-102, may issue a standing prescription
1016 drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in
1017 accordance with a protocol that:

1018 (a) limits dispensing of the opiate antagonist to:
1019 (i) an individual who is at increased risk of experiencing an opiate-related drug
1020 overdose event;
1021 (ii) a family member of, friend of, or other person, including a person described in
1022 Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an
1023 individual who is at increased risk of experiencing an opiate-related drug overdose event; or
1024 (iii) an overdose outreach provider for:
1025 (A) furnishing to an individual who is at increased risk of experiencing an
1026 opiate-related drug overdose event, or to a family member of, friend of, or other individual who
1027 is in a position to assist an individual who is at increased risk of experiencing an opiate-related
1028 drug overdose event, as provided in Section 26-55-106; or
1029 (B) administering to an individual experiencing an opiate-related drug overdose event;
1030 (b) requires the physician to specify the persons, by professional license number,
1031 authorized to dispense the opiate antagonist;
1032 (c) requires the physician to review at least annually the dispensing practices of those
1033 authorized by the physician to dispense the opiate antagonist;
1034 (d) requires those authorized by the physician to dispense the opiate antagonist to make
1035 and retain a record of each person to whom the opiate antagonist is dispensed, which shall
1036 include:
1037 (i) the name of the person;
1038 (ii) the drug dispensed; and
1039 (iii) other relevant information; and
1040 (e) is approved by the Division of [~~Occupational and~~] Professional Licensing within
1041 the Department of Commerce by administrative rule made in accordance with Title 63G,
1042 Chapter 3, Utah Administrative Rulemaking Act.
1043 Section 19. Section **26-55-108** is amended to read:
1044 **26-55-108. Coprescription guidelines.**
1045 (1) As used in this section:
1046 (a) "Controlled substance prescriber" means the same as that term is defined in Section
1047 58-37-6.5.
1048 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a

1049 prescription for an opiate.
1050 (2) The department shall, in consultation with the Physicians Licensing Board created
1051 in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in
1052 Section 58-68-201, and the [~~Department of Occupational and~~] Division of Professional
1053 Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G,
1054 Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled
1055 substance prescribers to coprescribe an opiate antagonist to a patient.
1056 Section 20. Section **26-60-104** is amended to read:
1057 **26-60-104. Enforcement.**
1058 (1) The Division of [~~Occupational and~~] Professional Licensing created in Section
1059 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers
1060 licensed under Title 58, Occupations and Professions.
1061 (2) The department is authorized to enforce the provisions of Section 26-60-103 as it
1062 relates to providers licensed under this title.
1063 (3) The Department of Human Services created in Section 62A-1-102 is authorized to
1064 enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 62A,
1065 Chapter 2, Licensure of Programs and Facilities.
1066 Section 21. Section **26-61-202** is amended to read:
1067 **26-61-202. Cannabinoid Product Board -- Duties.**
1068 (1) The board shall review any available scientific research related to the human use of
1069 cannabis, a cannabinoid product, or an expanded cannabinoid product that:
1070 (a) was conducted under a study approved by an IRB;
1071 (b) was conducted or approved by the federal government; or
1072 (c) (i) was conducted in another country; and
1073 (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability
1074 and significance to merit the board's review.
1075 (2) Based on the research described in Subsection (1), the board shall evaluate the
1076 safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products,
1077 including:
1078 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded
1079 cannabinoid products;

1080 (b) cannabis and cannabinoid dosage amounts and medical dosage forms;
1081 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
1082 with other treatments; and
1083 (d) contraindications, adverse reactions, and potential side effects from use of cannabis,
1084 cannabinoid products, and expanded cannabinoid products.
1085 (3) Based on the board's evaluation under Subsection (2), the board shall develop
1086 guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid
1087 product that include:
1088 (a) a list of medical conditions, if any, that the board determines are appropriate for
1089 treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded
1090 cannabinoid product;
1091 (b) a list of contraindications, side effects, and adverse reactions that are associated
1092 with use of cannabis, cannabinoid products, or expanded cannabinoid products;
1093 (c) a list of potential drug-drug interactions between medications that the United States
1094 Food and Drug Administration has approved and cannabis, cannabinoid products, and
1095 expanded cannabinoid products; and
1096 (d) any other guideline the board determines appropriate.
1097 (4) The board shall submit the guidelines described in Subsection (3) to the director of
1098 the Division of [~~Occupational and~~] Professional Licensing.
1099 (5) Guidelines that the board develops under this section may not limit the availability
1100 of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4,
1101 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
1102 Cannabis Act.
1103 Section 22. Section **26-61a-103** is amended to read:
1104 **26-61a-103. Electronic verification system.**
1105 (1) The Department of Agriculture and Food, the department, the Department of Public
1106 Safety, and the Division of Technology Services shall:
1107 (a) enter into a memorandum of understanding in order to determine the function and
1108 operation of the state electronic verification system in accordance with Subsection (2);
1109 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1110 Procurement Code, to develop a request for proposals for a third-party provider to develop and

1111 maintain the state electronic verification system in coordination with the Division of
1112 Technology Services; and
1113 (c) select a third-party provider who:
1114 (i) meets the requirements contained in the request for proposals issued under
1115 Subsection (1)(b); and
1116 (ii) may not have any commercial or ownership interest in a cannabis production
1117 establishment or a medical cannabis pharmacy.
1118 (2) The Department of Agriculture and Food, the department, the Department of Public
1119 Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020,
1120 the state electronic verification system described in Subsection (1):
1121 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
1122 medical cannabis guardian card, provided that the card may not become active until:
1123 (i) the relevant qualified medical provider completes the associated medical cannabis
1124 recommendation; or
1125 (ii) for a medical cannabis card related to a limited medical provider's recommendation,
1126 the medical cannabis pharmacy completes the recording described in Subsection (2)(d);
1127 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1128 cannabis guardian card in accordance with Section 26-61a-201;
1129 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1130 acting on behalf of the qualified medical provider, to:
1131 (i) access dispensing and card status information regarding a patient:
1132 (A) with whom the qualified medical provider has a provider-patient relationship; and
1133 (B) for whom the qualified medical provider has recommended or is considering
1134 recommending a medical cannabis card;
1135 (ii) electronically recommend, after an initial face-to-face visit with a patient described
1136 in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a
1137 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
1138 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1139 medical cannabis guardian cardholder:
1140 (A) using telehealth services, for the qualified medical provider who originally
1141 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

1142 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1143 did not originally recommend the medical cannabis treatment during a face-to-face visit; and
1144 (iv) notate a determination of physical difficulty or undue hardship, described in
1145 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
1146 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
1147 verification system is functionally capable of facility medical cannabis pharmacy recording,
1148 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in
1149 accordance with Subsection 26-61a-501(11)(a), to record:
1150 (i) a patient's recommendation from a limited medical provider, including any
1151 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
1152 and
1153 (ii) a limited medical provider's renewal of the provider's previous recommendation;
1154 (e) connects with:
1155 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1156 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1157 medicinal dosage form, or a medical cannabis device, including:
1158 (A) the time and date of each purchase;
1159 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1160 purchased;
1161 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1162 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1163 device; and
1164 (D) the personally identifiable information of the medical cannabis cardholder who
1165 made the purchase; and
1166 (ii) any commercially available inventory control system that a cannabis production
1167 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1168 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1169 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1170 track and confirm compliance;
1171 (f) provides access to:
1172 (i) the department to the extent necessary to carry out the department's functions and

1173 responsibilities under this chapter;
1174 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1175 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1176 41a, Cannabis Production Establishments; and
1177 (iii) the Division of [~~Occupational and~~] Professional Licensing to the extent necessary
1178 to carry out the functions and responsibilities related to the participation of the following in the
1179 recommendation and dispensing of medical cannabis:
1180 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
1181 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
1182 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1183 Practice Act;
1184 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1185 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
1186 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1187 Act;
1188 (g) provides access to and interaction with the state central patient portal;
1189 (h) communicates dispensing information from a record that a medical cannabis
1190 pharmacy submits to the state electronic verification system under Subsection
1191 26-61a-502(6)(a)(ii) to the controlled substance database;
1192 (i) provides access to state or local law enforcement:
1193 (i) during a law enforcement encounter, without a warrant, using the individual's driver
1194 license or state ID, only for the purpose of determining if the individual subject to the law
1195 enforcement encounter has a valid medical cannabis card; or
1196 (ii) after obtaining a warrant; and
1197 (j) creates a record each time a person accesses the system that identifies the person
1198 who accesses the system and the individual whose records the person accesses.
1199 (3) (a) Beginning on the earlier of September 1, 2021, or the date on which the
1200 electronic verification system is functionally capable of allowing employee access under this
1201 Subsection (3), an employee of a qualified medical provider may access the electronic
1202 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
1203 medical provider if:

1204 (i) the qualified medical provider has designated the employee as an individual
1205 authorized to access the electronic verification system on behalf of the qualified medical
1206 provider;
1207 (ii) the qualified medical provider provides written notice to the department of the
1208 employee's identity and the designation described in Subsection (3)(a)(i); and
1209 (iii) the department grants to the employee access to the electronic verification system.
1210 (b) An employee of a business that employs a qualified medical provider may access
1211 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1212 qualified medical provider if:
1213 (i) the qualified medical provider has designated the employee as an individual
1214 authorized to access the electronic verification system on behalf of the qualified medical
1215 provider;
1216 (ii) the qualified medical provider and the employing business jointly provide written
1217 notice to the department of the employee's identity and the designation described in Subsection
1218 (3)(b)(i); and
1219 (iii) the department grants to the employee access to the electronic verification system.
1220 (4) (a) As used in this Subsection (4), "prescribing provider" means:
1221 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
1222 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1223 Practice Act;
1224 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1225 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
1226 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1227 Assistant Act.
1228 (b) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1229 verification system is functionally capable of allowing provider access under this Subsection
1230 (4), a prescribing provider may access information in the electronic verification system
1231 regarding a patient the prescribing provider treats.
1232 (5) The department may release limited data that the system collects for the purpose of:
1233 (a) conducting medical and other department approved research;
1234 (b) providing the report required by Section 26-61a-703; and

1235 (c) other official department purposes.
1236 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1237 Administrative Rulemaking Act, to establish:
1238 (a) the limitations on access to the data in the state electronic verification system as
1239 described in this section; and
1240 (b) standards and procedures to ensure accurate identification of an individual
1241 requesting information or receiving information in this section.
1242 (7) (a) Any person who knowingly and intentionally releases any information in the
1243 state electronic verification system in violation of this section is guilty of a third degree felony.
1244 (b) Any person who negligently or recklessly releases any information in the state
1245 electronic verification system in violation of this section is guilty of a class C misdemeanor.
1246 (8) (a) Any person who obtains or attempts to obtain information from the state
1247 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
1248 (b) Any person who obtains or attempts to obtain information from the state electronic
1249 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1250 degree felony.
1251 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1252 intentionally use, release, publish, or otherwise make available to any other person information
1253 obtained from the state electronic verification system for any purpose other than a purpose
1254 specified in this section.
1255 (b) Each separate violation of this Subsection (9) is:
1256 (i) a third degree felony; and
1257 (ii) subject to a civil penalty not to exceed $5,000.
1258 (c) The department shall determine a civil violation of this Subsection (9) in
1259 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
1260 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1261 General Fund.
1262 (e) This Subsection (9) does not prohibit a person who obtains information from the
1263 state electronic verification system under Subsection (2)(a), (c), or (f) from:
1264 (i) including the information in the person's medical chart or file for access by a person
1265 authorized to review the medical chart or file;

1266 (ii) providing the information to a person in accordance with the requirements of the
1267 Health Insurance Portability and Accountability Act of 1996; or
1268 (iii) discussing or sharing that information about the patient with the patient.
1269 Section 23. Section **26-61a-106** is amended to read:
1270 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1271 **Treatment recommendation -- Limited medical provider.**
1272 (1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a
1273 medical cannabis treatment unless the department registers the individual as a qualified
1274 medical provider in accordance with this section.
1275 (ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist
1276 licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a
1277 medical cannabis treatment except within the course and scope of a practice of podiatry, as that
1278 term is defined in Section 58-5a-102.
1279 (b) Beginning on the earlier of September 1, 2021, or the date on which the department
1280 gives notice that the electronic verification system is functionally capable as described in
1281 Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications may
1282 recommend a medical cannabis treatment as a limited medical provider without registering
1283 under Subsection (1)(a) if:
1284 (i) the individual recommends the use of medical cannabis to the patient through an
1285 order described in Subsection (1)(c) after:
1286 (A) a face-to-face visit for an initial recommendation or the renewal of a
1287 recommendation for a patient for whom the limited medical provider did not make the patient's
1288 original recommendation; or
1289 (B) a visit using telehealth services for a renewal of a recommendation for a patient for
1290 whom the limited medical provider made the patient's original recommendation; and
1291 (ii) the individual's recommendation or renewal would not cause the total number of
1292 the individual's patients who have a valid medical cannabis patient card or provisional patient
1293 card resulting from the individual's recommendation to exceed 15.
1294 (c) The individual described in Subsection (1)(b) shall communicate the individual's
1295 recommendation through an order for the medical cannabis pharmacy to record the individual's
1296 recommendation or renewal in the state electronic verification system under the individual's

1297 recommendation that:
1298 (i) (A) that the individual or the individual's employee sends electronically to a medical
1299 cannabis pharmacy; or
1300 (B) that the individual gives to the patient in writing for the patient to deliver to a
1301 medical cannabis pharmacy; and
1302 (ii) may include:
1303 (A) directions of use or dosing guidelines; and
1304 (B) an indication of a need for a caregiver in accordance with Subsection
1305 26-61a-201(3)(c).
1306 (d) If the limited medical provider gives the patient a written recommendation to
1307 deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical
1308 provider shall ensure that the document includes all of the information that is included on a
1309 prescription the provider would issue for a controlled substance, including:
1310 (i) the date of issuance;
1311 (ii) the provider's name, address and contact information, controlled substance license
1312 information, and signature; and
1313 (iii) the patient's name, address and contact information, age, and diagnosed qualifying
1314 condition.
1315 (e) In considering making a recommendation as a limited medical provider, an
1316 individual may consult information that the department makes available on the department's
1317 website for recommending providers.
1318 (2) (a) The department shall, within 15 days after the day on which the department
1319 receives an application from an individual, register and issue a qualified medical provider
1320 registration card to the individual if the individual:
1321 (i) provides to the department the individual's name and address;
1322 (ii) provides to the department a report detailing the individual's completion of the
1323 applicable continuing education requirement described in Subsection (3);
1324 (iii) provides to the department evidence that the individual meets the recommending
1325 qualifications;
1326 (iv) for an applicant on or after November 1, 2021, provides to the department the
1327 information described in Subsection (10)(a); and

1328 (v) pays the department a fee in an amount that:
1329 (A) the department sets, in accordance with Section 63J-1-504; and
1330 (B) does not exceed $300 for an initial registration.
1331 (b) The department may not register an individual as a qualified medical provider if the
1332 individual is:
1333 (i) a pharmacy medical provider; or
1334 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1335 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.
1336 (3) (a) An individual shall complete the continuing education described in this
1337 Subsection (3) in the following amounts:
1338 (i) for an individual as a condition precedent to registration, four hours; and
1339 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1340 every two years.
1341 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:
1342 (i) complete continuing education:
1343 (A) regarding the topics described in Subsection (3)(d); and
1344 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1345 continuing education provider that the department recognizes as offering continuing education
1346 appropriate for the recommendation of cannabis to patients; and
1347 (ii) make a continuing education report to the department in accordance with a process
1348 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1349 Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~]
1350 Professional Licensing and:
1351 (A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing
1352 Act, the Podiatric Physician Board;
1353 (B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1354 Nurse Practice Act, the Board of Nursing;
1355 (C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1356 Practice Act, the Physicians Licensing Board;
1357 (D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1358 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;

1359 and
1360 (E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1361 Assistant Act, the Physician Assistant Licensing Board.
1362 (c) The department may, in consultation with the Division of [~~Occupational and~~]
1363 Professional Licensing, develop the continuing education described in this Subsection (3).
1364 (d) The continuing education described in this Subsection (3) may discuss:
1365 (i) the provisions of this chapter;
1366 (ii) general information about medical cannabis under federal and state law;
1367 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1368 including risks and benefits;
1369 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1370 patient in pain management, risk management, potential addiction, or palliative care; and
1371 (v) best practices for recommending the form and dosage of medical cannabis products
1372 based on the qualifying condition underlying a medical cannabis recommendation.
1373 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
1374 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's
1375 patients at the same time, as determined by the number of medical cannabis cards under the
1376 qualified medical provider's name in the state electronic verification system.
1377 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
1378 600 of the qualified medical provider's patients at any given time, as determined by the number
1379 of medical cannabis cards under the qualified medical provider's name in the state electronic
1380 verification system, if:
1381 (i) the appropriate American medical board has certified the qualified medical provider
1382 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1383 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1384 psychiatry; or
1385 (ii) a licensed business employs or contracts with the qualified medical provider for the
1386 specific purpose of providing hospice and palliative care.
1387 (5) A recommending medical provider may recommend medical cannabis to an
1388 individual under this chapter only in the course of a provider-patient relationship after the
1389 recommending medical provider has completed and documented in the patient's medical record

1390 a thorough assessment of the patient's condition and medical history based on the appropriate
1391 standard of care for the patient's condition.
1392 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
1393 individual recommends medical cannabis treatment in accordance with this chapter.
1394 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1395 website, by a qualified medical provider, does not constitute advertising:
1396 (i) a green cross;
1397 (ii) a qualifying condition that the individual treats;
1398 (iii) the individual's registration as a qualified medical provider; or
1399 (iv) a scientific study regarding medical cannabis use.
1400 (7) (a) A qualified medical provider registration card expires two years after the day on
1401 which the department issues the card.
1402 (b) The department shall renew a qualified medical provider's registration card if the
1403 provider:
1404 (i) applies for renewal;
1405 (ii) is eligible for a qualified medical provider registration card under this section,
1406 including maintaining an unrestricted license under the recommending qualifications;
1407 (iii) certifies to the department in a renewal application that the information in
1408 Subsection (2)(a) is accurate or updates the information;
1409 (iv) submits a report detailing the completion of the continuing education requirement
1410 described in Subsection (3); and
1411 (v) pays the department a fee in an amount that:
1412 (A) the department sets, in accordance with Section 63J-1-504; and
1413 (B) does not exceed $50 for a registration renewal.
1414 (8) The department may revoke the registration of a qualified medical provider who
1415 fails to maintain compliance with the requirements of this section.
1416 (9) A recommending medical provider may not receive any compensation or benefit for
1417 the qualified medical provider's medical cannabis treatment recommendation from:
1418 (a) a cannabis production establishment or an owner, officer, director, board member,
1419 employee, or agent of a cannabis production establishment;
1420 (b) a medical cannabis pharmacy or an owner, officer, director, board member,

1421 employee, or agent of a medical cannabis pharmacy; or
1422 (c) a recommending medical provider or pharmacy medical provider.
1423 (10) (a) On or before November 1, 2021, a qualified medical provider shall report to
1424 the department, in a manner designated by the department:
1425 (i) if applicable, that the qualified medical provider or the entity that employs the
1426 qualified medical provider represents online or on printed material that the qualified medical
1427 provider is a qualified medical provider or offers medical cannabis recommendations to
1428 patients; and
1429 (ii) the fee amount that the qualified medical provider or the entity that employs the
1430 qualified medical provider charges a patient for a medical cannabis recommendation, either as
1431 an actual cash rate or, if the provider or entity bills insurance, an average cash rate.
1432 (b) The department shall:
1433 (i) ensure that the following information related to qualified medical providers and
1434 entities described in Subsection (10)(a)(i) is available on the department's website or on the
1435 health care price transparency tool under Subsection (10)(b)(ii):
1436 (A) the name of the qualified medical provider and, if applicable, the name of the
1437 entity that employs the qualified medical provider;
1438 (B) the address of the qualified medical provider's office or, if applicable, the entity
1439 that employs the qualified medical provider; and
1440 (C) the fee amount described in Subsection (10)(a)(ii); and
1441 (ii) share data collected under this Subsection (10) with the state auditor for use in the
1442 health care price transparency tool described in Section 67-3-11.
1443 Section 24. Section **26-61a-303** is amended to read:
1444 **26-61a-303. Renewal.**
1445 (1) The department shall renew a license under this part every year if, at the time of
1446 renewal:
1447 (a) the licensee meets the requirements of Section 26-61a-301;
1448 (b) the licensee pays the department a license renewal fee in an amount that, subject to
1449 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
1450 (c) if the medical cannabis pharmacy changes the operating plan described in Section
1451 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the

1452 department approves the new operating plan.
1453 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
1454 pharmacy's license, the department shall publish notice of an available license:
1455 (i) in a newspaper of general circulation for the geographic area in which the medical
1456 cannabis pharmacy license is available; or
1457 (ii) on the Utah Public Notice Website established in Section 63A-16-601.
1458 (b) The department may establish criteria, in collaboration with the Division of
1459 [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with
1460 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
1461 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.
1462 Section 25. Section **26-61a-401** is amended to read:
1463 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**
1464 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1465 cannabis pharmacy unless the department registers the individual as a medical cannabis
1466 pharmacy agent.
1467 (2) A recommending medical provider may not act as a medical cannabis pharmacy
1468 agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or
1469 have the power to direct or cause the management or control of a medical cannabis pharmacy.
1470 (3) (a) The department shall, within 15 days after the day on which the department
1471 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1472 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1473 registration card to the prospective agent if the medical cannabis pharmacy:
1474 (i) provides to the department:
1475 (A) the prospective agent's name and address;
1476 (B) the name and location of the licensed medical cannabis pharmacy where the
1477 prospective agent seeks to act as the medical cannabis pharmacy agent; and
1478 (C) the submission required under Subsection (3)(b); and
1479 (ii) pays a fee to the department in an amount that, subject to Subsection
1480 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
1481 (b) Except for an applicant reapplying for a medical cannabis pharmacy agent
1482 registration card within less than one year after the expiration of the applicant's previous

1483 medical cannabis pharmacy agent registration card, each prospective agent described in
1484 Subsection (3)(a) shall:
1485 (i) submit to the department:
1486 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
1487 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1488 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1489 Generation Identification System's Rap Back Service; and
1490 (ii) consent to a fingerprint background check by:
1491 (A) the Bureau of Criminal Identification; and
1492 (B) the Federal Bureau of Investigation.
1493 (c) The Bureau of Criminal Identification shall:
1494 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
1495 the applicable state, regional, and national criminal records databases, including the Federal
1496 Bureau of Investigation Next Generation Identification System;
1497 (ii) report the results of the background check to the department;
1498 (iii) maintain a separate file of fingerprints that prospective agents submit under
1499 Subsection (3)(b) for search by future submissions to the local and regional criminal records
1500 databases, including latent prints;
1501 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1502 Generation Identification System's Rap Back Service for search by future submissions to
1503 national criminal records databases, including the Next Generation Identification System and
1504 latent prints; and
1505 (v) establish a privacy risk mitigation strategy to ensure that the department only
1506 receives notifications for an individual with whom the department maintains an authorizing
1507 relationship.
1508 (d) The department shall:
1509 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an
1510 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1511 Bureau of Criminal Identification or another authorized agency provides under this section; and
1512 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal
1513 Identification.

1514 (4) The department shall designate, on an individual's medical cannabis pharmacy
1515 agent registration card the name of the medical cannabis pharmacy where the individual is
1516 registered as an agent.
1517 (5) A medical cannabis pharmacy agent shall comply with a certification standard that
1518 the department develops in collaboration with the Division of [~~Occupational and~~] Professional
1519 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1520 designates by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1521 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1522 Administrative Rulemaking Act.
1523 (6) The department shall ensure that the certification standard described in Subsection
1524 (5) includes training in:
1525 (a) Utah medical cannabis law; and
1526 (b) medical cannabis pharmacy best practices.
1527 (7) The department may revoke the medical cannabis pharmacy agent registration card
1528 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
1529 who:
1530 (a) violates the requirements of this chapter; or
1531 (b) is convicted under state or federal law of:
1532 (i) a felony; or
1533 (ii) after December 3, 2018, a misdemeanor for drug distribution.
1534 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1535 day on which the department issues or renews the card.
1536 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
1537 agent:
1538 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1539 section;
1540 (ii) certifies to the department in a renewal application that the information in
1541 Subsection (3)(a) is accurate or updates the information; and
1542 (iii) pays to the department a renewal fee in an amount that:
1543 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1544 Section 63J-1-504; and

1545 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1546 comparison to the original application process.
1547 Section 26. Section **26-61a-403** is amended to read:
1548 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**
1549 (1) (a) A medical cannabis pharmacy:
1550 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
1551 Practice Act, as a pharmacy medical provider;
1552 (ii) may employ a physician who has the authority to write a prescription and is
1553 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1554 Osteopathic Medical Practice Act, as a pharmacy medical provider;
1555 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
1556 works onsite during all business hours; and
1557 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
1558 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
1559 cannabis pharmacy.
1560 (b) An individual may not serve as a pharmacy medical provider unless the department
1561 registers the individual as a pharmacy medical provider in accordance with Subsection (2).
1562 (2) (a) The department shall, within 15 days after the day on which the department
1563 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
1564 medical provider, register and issue a pharmacy medical provider registration card to the
1565 prospective pharmacy medical provider if the medical cannabis pharmacy:
1566 (i) provides to the department:
1567 (A) the prospective pharmacy medical provider's name and address;
1568 (B) the name and location of the licensed medical cannabis pharmacy where the
1569 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
1570 (C) a report detailing the completion of the continuing education requirement described
1571 in Subsection (3); and
1572 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
1573 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
1574 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
1575 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1576 (ii) pays a fee to the department in an amount that, subject to Subsection
1577 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
1578 (b) The department may not register a recommending medical provider or a state
1579 central patient portal medical provider as a pharmacy medical provider.
1580 (3) (a) A pharmacy medical provider shall complete the continuing education described
1581 in this Subsection (3) in the following amounts:
1582 (i) as a condition precedent to registration, four hours; and
1583 (ii) as a condition precedent to renewal of the registration, four hours every two years.
1584 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
1585 (i) complete continuing education:
1586 (A) regarding the topics described in Subsection (3)(d); and
1587 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1588 continuing education provider that the department recognizes as offering continuing education
1589 appropriate for the medical cannabis pharmacy practice; and
1590 (ii) make a continuing education report to the department in accordance with a process
1591 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1592 Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~]
1593 Professional Licensing and:
1594 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
1595 Pharmacy Practice Act, the Board of Pharmacy;
1596 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
1597 Practice Act, the Physicians Licensing Board; and
1598 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
1599 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.
1600 (c) The department may, in consultation with the Division of [~~Occupational and~~]
1601 Professional Licensing, develop the continuing education described in this Subsection (3).
1602 (d) The continuing education described in this Subsection (3) may discuss:
1603 (i) the provisions of this chapter;
1604 (ii) general information about medical cannabis under federal and state law;
1605 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1606 including risks and benefits;

1607 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1608 patient in pain management, risk management, potential addiction, and palliative care; or
1609 (v) best practices for recommending the form and dosage of a medical cannabis
1610 product based on the qualifying condition underlying a medical cannabis recommendation.
1611 (4) (a) A pharmacy medical provider registration card expires two years after the day
1612 on which the department issues or renews the card.
1613 (b) A pharmacy medical provider may renew the provider's registration card if the
1614 provider:
1615 (i) is eligible for a pharmacy medical provider registration card under this section;
1616 (ii) certifies to the department in a renewal application that the information in
1617 Subsection (2)(a) is accurate or updates the information;
1618 (iii) submits a report detailing the completion of the continuing education requirement
1619 described in Subsection (3); and
1620 (iv) pays to the department a renewal fee in an amount that:
1621 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1622 Section 63J-1-504; and
1623 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1624 comparison to the original application process.
1625 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the
1626 individual dispenses medical cannabis.
1627 (b) For purposes of this Subsection (5), the communication of the following, through a
1628 website, by a pharmacy medical provider, does not constitute advertising:
1629 (i) a green cross;
1630 (ii) the individual's registration as a pharmacy medical provider; or
1631 (iii) a scientific study regarding medical cannabis use.
1632 Section 27. Section **26-61a-501** is amended to read:
1633 **26-61a-501. Operating requirements -- General.**
1634 (1) (a) A medical cannabis pharmacy shall operate:
1635 (i) at the physical address provided to the department under Section 26-61a-301; and
1636 (ii) in accordance with the operating plan provided to the department under Section
1637 26-61a-301 and, if applicable, 26-61a-304.

1638 (b) A medical cannabis pharmacy shall notify the department before a change in the
1639 medical cannabis pharmacy's physical address or operating plan.
1640 (2) An individual may not enter a medical cannabis pharmacy unless the individual:
1641 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and
1642 (b) except as provided in Subsection (5):
1643 (i) possesses a valid:
1644 (A) medical cannabis pharmacy agent registration card;
1645 (B) pharmacy medical provider registration card; or
1646 (C) medical cannabis card;
1647 (ii) is an employee of the department or the Department of Agriculture and Food
1648 performing an inspection under Section 26-61a-504; or
1649 (iii) is another individual as the department provides.
1650 (3) A medical cannabis pharmacy may not employ an individual who is younger than
1651 21 years old.
1652 (4) A medical cannabis pharmacy may not employ an individual who has been
1653 convicted of a felony under state or federal law.
1654 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an
1655 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
1656 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
1657 the individual at all times while the individual is at the medical cannabis pharmacy and
1658 maintains a record of the individual's access.
1659 (6) A medical cannabis pharmacy shall operate in a facility that has:
1660 (a) a single, secure public entrance;
1661 (b) a security system with a backup power source that:
1662 (i) detects and records entry into the medical cannabis pharmacy; and
1663 (ii) provides notice of an unauthorized entry to law enforcement when the medical
1664 cannabis pharmacy is closed; and
1665 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
1666 cannabis product.
1667 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1668 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection

1669 26-61a-502(2).
1670 (8) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
1671 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
1672 or premises of the medical cannabis pharmacy.
1673 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
1674 first indicating on the cannabis or cannabis product label the name of the medical cannabis
1675 pharmacy.
1676 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
1677 following information regarding each recommendation underlying a transaction:
1678 (i) the recommending medical provider's name, address, and telephone number;
1679 (ii) the patient's name and address;
1680 (iii) the date of issuance;
1681 (iv) directions of use and dosing guidelines or an indication that the recommending
1682 medical provider did not recommend specific directions of use or dosing guidelines; and
1683 (v) if the patient did not complete the transaction, the name of the medical cannabis
1684 cardholder who completed the transaction.
1685 (b) (i) Except as provided in Subsection (10)(b)(iii), a medical cannabis pharmacy may
1686 not sell medical cannabis unless the medical cannabis has a label securely affixed to the
1687 container indicating the following minimum information:
1688 (A) the name, address, and telephone number of the medical cannabis pharmacy;
1689 (B) the unique identification number that the medical cannabis pharmacy assigns;
1690 (C) the date of the sale;
1691 (D) the name of the patient;
1692 (E) the name of the recommending medical provider who recommended the medical
1693 cannabis treatment;
1694 (F) directions for use and cautionary statements, if any;
1695 (G) the amount dispensed and the cannabinoid content;
1696 (H) the suggested use date;
1697 (I) for unprocessed cannabis flower, the legal use termination date; and
1698 (J) any other requirements that the department determines, in consultation with the
1699 Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy.

1700 (ii) A medical cannabis pharmacy is exempt from the following labeling requirements
1701 if the information is already provided on the product label that a cannabis production
1702 establishment affixes:
1703 (A) Subsection (10)(b)(i)(B) regarding a unique identification number;
1704 (B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;
1705 (C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and
1706 (D) Subsection (10)(b)(i)(H) regarding a suggested use date.
1707 (iii) A medical cannabis pharmacy may sell medical cannabis to another medical
1708 cannabis pharmacy without a label described in Subsection (10)(b)(i).
1709 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
1710 (a) upon receipt of an order from a limited medical provider in accordance with
1711 Subsections 26-61a-106(1)(b) and (c):
1712 (i) for a written order, contact the limited medical provider or the limited medical
1713 provider's office to verify the validity of the recommendation; and
1714 (ii) for a written order that the pharmacy medical provider or medical cannabis
1715 pharmacy agent verifies under Subsection (11)(a)(i) or an electronic order, enter the limited
1716 medical provider's recommendation or renewal, including any associated directions of use,
1717 dosing guidelines, or caregiver indication, in the state electronic verification system;
1718 (b) in processing an order for a holder of a conditional medical cannabis card described
1719 in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the
1720 pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending
1721 medical provider or the recommending medical provider's office to verify the validity of the
1722 recommendation before processing the cardholder's order;
1723 (c) unless the medical cannabis cardholder has had a consultation under Subsection
1724 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase
1725 of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
1726 pharmacy medical provider; and
1727 (d) provide a telephone number or website by which the cardholder may contact a
1728 pharmacy medical provider for counseling.
1729 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
1730 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a

1731 medical cannabis device, or medical cannabis product in a locked box or other secure
1732 receptacle within the medical cannabis pharmacy.
1733 (b) A medical cannabis pharmacy with a disposal program described in Subsection
1734 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
1735 can access deposited medical cannabis or medical cannabis products.
1736 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
1737 medical cannabis products by:
1738 (i) rendering the deposited medical cannabis or medical cannabis products unusable
1739 and unrecognizable before transporting deposited medical cannabis or medical cannabis
1740 products from the medical cannabis pharmacy; and
1741 (ii) disposing of the deposited medical cannabis or medical cannabis products in
1742 accordance with:
1743 (A) federal and state law, rules, and regulations related to hazardous waste;
1744 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
1745 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
1746 (D) other regulations that the department makes in accordance with Title 63G, Chapter
1747 3, Utah Administrative Rulemaking Act.
1748 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1749 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
1750 by a medical cannabis pharmacy.
1751 Section 28. Section **26-61a-503** is amended to read:
1752 **26-61a-503. Partial filling.**
1753 (1) As used in this section, "partially fill" means to provide less than the full amount of
1754 cannabis or cannabis product that the recommending medical provider recommends, if the
1755 recommending medical provider recommended specific dosing parameters.
1756 (2) A pharmacy medical provider may partially fill a recommendation for a medical
1757 cannabis treatment at the request of the recommending medical provider who issued the
1758 medical cannabis treatment recommendation or the medical cannabis cardholder.
1759 (3) The department shall make rules, in collaboration with the Division of
1760 [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with
1761 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date,

1762 quantity supplied, and quantity remaining of a partially filled medical cannabis treatment
1763 recommendation.
1764 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a
1765 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
1766 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical
1767 cannabis treatment recommendation if:
1768 (a) the pharmacy medical provider determined dosing parameters for the partial fill
1769 under Subsection 26-61a-502(4) or (5); and
1770 (b) the medical cannabis cardholder reports that:
1771 (i) the partial fill did not substantially affect the qualifying condition underlying the
1772 medical cannabis recommendation; or
1773 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise
1774 unable to successfully use the partial fill.
1775 Section 29. Section **26-61a-506** is amended to read:
1776 **26-61a-506. Medical cannabis transportation.**
1777 (1) Only the following individuals may transport medical cannabis under this chapter:
1778 (a) a registered medical cannabis pharmacy agent;
1779 (b) a registered medical cannabis courier agent;
1780 (c) a registered pharmacy medical provider; or
1781 (d) a medical cannabis cardholder who is transporting a medical cannabis treatment
1782 that the cardholder is authorized to transport.
1783 (2) Except for an individual with a valid medical cannabis card under this chapter who
1784 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
1785 individual described in Subsection (1) shall possess a transportation manifest that:
1786 (a) includes a unique identifier that links the cannabis or cannabis product to a relevant
1787 inventory control system;
1788 (b) includes origin and destination information for the medical cannabis that the
1789 individual is transporting; and
1790 (c) identifies the departure and arrival times and locations of the individual
1791 transporting the medical cannabis.
1792 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may

1793 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1794 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1795 Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that
1796 the medical cannabis remains safe for human consumption.
1797 (b) The transportation described in Subsection (1)(a) is limited to transportation
1798 between a medical cannabis pharmacy and:
1799 (i) another medical cannabis pharmacy; or
1800 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.
1801 (4) (a) It is unlawful for an individual described in Subsection (1) to make a transport
1802 described in this section with a manifest that does not meet the requirements of this section.
1803 (b) Except as provided in Subsection (4)(d), an individual who violates Subsection
1804 (4)(a) is:
1805 (i) guilty of an infraction; and
1806 (ii) subject to a $100 fine.
1807 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
1808 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1809 underlying the violation described in Subsection (4)(b).
1810 (d) If the individual described in Subsection (4)(a) is transporting more medical
1811 cannabis than the manifest identifies, except for a de minimis administrative error:
1812 (i) this chapter does not apply; and
1813 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
1814 Substances Act.
1815 (5) An individual other than an individual described in Subsection (1) may transport a
1816 medical cannabis device within the state if the transport does not also contain medical
1817 cannabis.
1818 Section 30. Section **26-61a-605** is amended to read:
1819 **26-61a-605. Medical cannabis shipment transportation.**
1820 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
1821 capable of delivering, directly or through a medical cannabis courier, medical cannabis
1822 shipments in a secure manner.
1823 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed

1824 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
1825 cannabis orders that the state central patient portal facilitates.
1826 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
1827 Subsection (2)(a), the pharmacy shall:
1828 (i) impose security and personnel requirements on the medical cannabis courier
1829 sufficient to ensure the security and safety of medical cannabis shipments; and
1830 (ii) provide regular oversight of the medical cannabis courier.
1831 (3) Except for an individual with a valid medical cannabis card who transports a
1832 shipment the individual receives, an individual may not transport a medical cannabis shipment
1833 unless the individual is:
1834 (a) a registered pharmacy medical provider;
1835 (b) a registered medical cannabis pharmacy agent; or
1836 (c) a registered agent of the medical cannabis courier described in Subsection (2).
1837 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
1838 possess a physical or electronic transportation manifest that:
1839 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
1840 inventory control system;
1841 (b) includes origin and destination information for the medical cannabis shipment the
1842 individual is transporting; and
1843 (c) indicates the departure and estimated arrival times and locations of the individual
1844 transporting the medical cannabis shipment.
1845 (5) In addition to the requirements in Subsections (3) and (4), the department may
1846 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1847 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1848 Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that
1849 are related to safety for human consumption of cannabis or a cannabis product.
1850 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
1851 manifest that does not meet the requirements of Subsection (4).
1852 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
1853 (6)(a) is:
1854 (i) guilty of an infraction; and

1855 (ii) subject to a $100 fine.
1856 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
1857 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1858 underlying the violation described in Subsection (6)(b).
1859 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
1860 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
1861 minimis administrative error:
1862 (i) this chapter does not apply; and
1863 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
1864 Substances Act.
1865 Section 31. Section **26-61a-606** is amended to read:
1866 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
1867 **card -- Rebuttable presumption.**
1868 (1) An individual may not serve as a medical cannabis courier agent unless:
1869 (a) the individual is an employee of a licensed medical cannabis courier; and
1870 (b) the department registers the individual as a medical cannabis courier agent.
1871 (2) (a) The department shall, within 15 days after the day on which the department
1872 receives a complete application from a medical cannabis courier on behalf of a medical
1873 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
1874 the prospective agent if the medical cannabis courier:
1875 (i) provides to the department:
1876 (A) the prospective agent's name and address;
1877 (B) the name and address of the medical cannabis courier;
1878 (C) the name and address of each home delivery medical cannabis pharmacy with
1879 which the medical cannabis courier contracts to deliver medical cannabis shipments; and
1880 (D) the submission required under Subsection (2)(b);
1881 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
1882 law of:
1883 (A) a felony; or
1884 (B) after December 3, 2018, a misdemeanor for drug distribution; and
1885 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),

1886 the department sets in accordance with Section 63J-1-504.
1887 (b) Except for an applicant reapplying for a medical cannabis courier agent registration
1888 card within less than one year after the expiration of the applicant's previous medical cannabis
1889 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:
1890 (i) submit to the department:
1891 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
1892 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1893 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1894 Generation Identification System's Rap Back Service; and
1895 (ii) consent to a fingerprint background check by:
1896 (A) the Bureau of Criminal Identification; and
1897 (B) the Federal Bureau of Investigation.
1898 (c) The Bureau of Criminal Identification shall:
1899 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
1900 the applicable state, regional, and national criminal records databases, including the Federal
1901 Bureau of Investigation Next Generation Identification System;
1902 (ii) report the results of the background check to the department;
1903 (iii) maintain a separate file of fingerprints that prospective agents submit under
1904 Subsection (2)(b) for search by future submissions to the local and regional criminal records
1905 databases, including latent prints;
1906 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1907 Generation Identification System's Rap Back Service for search by future submissions to
1908 national criminal records databases, including the Next Generation Identification System and
1909 latent prints; and
1910 (v) establish a privacy risk mitigation strategy to ensure that the department only
1911 receives notifications for an individual with whom the department maintains an authorizing
1912 relationship.
1913 (d) The department shall:
1914 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
1915 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1916 Bureau of Criminal Identification or another authorized agency provides under this section; and

1917 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
1918 Identification.
1919 (3) The department shall designate on an individual's medical cannabis courier agent
1920 registration card the name of the medical cannabis pharmacy where the individual is registered
1921 as an agent and each home delivery medical cannabis courier for which the medical cannabis
1922 courier delivers medical cannabis shipments.
1923 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
1924 the department develops, in collaboration with the Division of [~~Occupational and~~] Professional
1925 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1926 designates by rule in collaboration with the Division of [~~Occupational and~~] Professional
1927 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1928 Administrative Rulemaking Act.
1929 (b) The department shall ensure that the certification standard described in Subsection
1930 (4)(a) includes training in:
1931 (i) Utah medical cannabis law;
1932 (ii) the medical cannabis shipment process; and
1933 (iii) medical cannabis courier agent best practices.
1934 (5) (a) A medical cannabis courier agent registration card expires two years after the
1935 day on which the department issues or renews the card.
1936 (b) A medical cannabis courier agent may renew the agent's registration card if the
1937 agent:
1938 (i) is eligible for a medical cannabis courier agent registration card under this section;
1939 (ii) certifies to the department in a renewal application that the information in
1940 Subsection (2)(a) is accurate or updates the information; and
1941 (iii) pays to the department a renewal fee in an amount that:
1942 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1943 Section 63J-1-504; and
1944 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1945 comparison to the original application process.
1946 (6) The department may revoke or refuse to issue or renew the medical cannabis
1947 courier agent registration card of an individual who:

1948 (a) violates the requirements of this chapter; or
1949 (b) is convicted under state or federal law of:
1950 (i) a felony; or
1951 (ii) after December 3, 2018, a misdemeanor for drug distribution.
1952 (7) A medical cannabis courier agent whom the department has registered under this
1953 section shall carry the agent's medical cannabis courier agent registration card with the agent at
1954 all times when:
1955 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
1956 pharmacy, or a medical cannabis cardholder's home address; and
1957 (b) the agent is handling a medical cannabis shipment.
1958 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
1959 the shipment in compliance with Subsection (7):
1960 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
1961 (b) there is no probable cause, based solely on the agent's possession of the medical
1962 cannabis shipment that the agent is engaging in illegal activity.
1963 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
1964 (i) guilty of an infraction; and
1965 (ii) subject to a $100 fine.
1966 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
1967 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1968 underlying the violation described in Subsection (9)(a).
1969 Section 32. Section **26-64-102** is amended to read:
1970 **26-64-102. Definitions.**
1971 As used in this chapter:
1972 (1) "Dispense" means the same as that term is defined in Section 58-17b-102.
1973 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
1974 created in Section 58-1-103.
1975 (3) "Local health department" means:
1976 (a) a local health department, as defined in Section 26A-1-102; or
1977 (b) a multicounty local health department, as defined in Section 26A-1-102.
1978 (4) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

1979 (5) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
1980 (6) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
1981 (7) "Physician" means the same as that term is defined in Section 58-67-102.
1982 (8) "Prescribe" means the same as that term is defined in Section 58-17b-102.
1983 (9) (a) "Self-administered hormonal contraceptive" means a self-administered
1984 hormonal contraceptive that is approved by the United States Food and Drug Administration to
1985 prevent pregnancy.
1986 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
1987 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.
1988 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
1989 induce an abortion, as that term is defined in Section 76-7-301.
1990 Section 33. Section **26A-1-113** is amended to read:
1991 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**
1992 (1) Upon presenting proper identification, authorized representatives of local health
1993 departments may enter upon the premises of properties regulated by local health departments to
1994 perform routine inspections to insure compliance with rules, standards, regulations, and
1995 ordinances as adopted by the Departments of Health and Environmental Quality, local boards
1996 of health, county or municipal governing bodies, or administered by the Division of
1997 [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State
1998 Construction Code Administration Act.
1999 (2) Section 58-56-9 does not apply to health inspectors acting under this section.
2000 (3) This section does not authorize local health departments to inspect private
2001 dwellings.
2002 Section 34. Section **26A-1-114** is amended to read:
2003 **26A-1-114. Powers and duties of departments.**
2004 (1) Subject to Subsections (7) and (8), a local health department may:
2005 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
2006 department rules, and local health department standards and regulations relating to public
2007 health and sanitation, including the plumbing code administered by the Division of
2008 [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State
2009 Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager

2010 Certification Act, in all incorporated and unincorporated areas served by the local health
2011 department;
2012 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
2013 control over property and over individuals as the local health department finds necessary for
2014 the protection of the public health;
2015 (c) establish and maintain medical, environmental, occupational, and other laboratory
2016 services considered necessary or proper for the protection of the public health;
2017 (d) establish and operate reasonable health programs or measures not in conflict with
2018 state law which:
2019 (i) are necessary or desirable for the promotion or protection of the public health and
2020 the control of disease; or
2021 (ii) may be necessary to ameliorate the major risk factors associated with the major
2022 causes of injury, sickness, death, and disability in the state;
2023 (e) close theaters, schools, and other public places and prohibit gatherings of people
2024 when necessary to protect the public health;
2025 (f) abate nuisances or eliminate sources of filth and infectious and communicable
2026 diseases affecting the public health and bill the owner or other person in charge of the premises
2027 upon which this nuisance occurs for the cost of abatement;
2028 (g) make necessary sanitary and health investigations and inspections on [~~its~~] the local
2029 health department's own initiative or in cooperation with the Department of Health or
2030 Environmental Quality, or both, as to any matters affecting the public health;
2031 (h) pursuant to county ordinance or interlocal agreement:
2032 (i) establish and collect appropriate fees for the performance of services and operation
2033 of authorized or required programs and duties;
2034 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
2035 property, services, or materials for public health purposes; and
2036 (iii) make agreements not in conflict with state law which are conditional to receiving a
2037 donation or grant;
2038 (i) prepare, publish, and disseminate information necessary to inform and advise the
2039 public concerning:
2040 (i) the health and wellness of the population, specific hazards, and risk factors that may

2041 adversely affect the health and wellness of the population; and
2042 (ii) specific activities individuals and institutions can engage in to promote and protect
2043 the health and wellness of the population;
2044 (j) investigate the causes of morbidity and mortality;
2045 (k) issue notices and orders necessary to carry out this part;
2046 (l) conduct studies to identify injury problems, establish injury control systems,
2047 develop standards for the correction and prevention of future occurrences, and provide public
2048 information and instruction to special high risk groups;
2049 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
2050 within the jurisdiction of the boards;
2051 (n) cooperate with the state health department, the Department of Corrections, the
2052 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
2053 Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders,
2054 convicted sexual offenders, and any victims of a sexual offense;
2055 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and
2056 (p) provide public health assistance in response to a national, state, or local emergency,
2057 a public health emergency as defined in Section 26-23b-102, or a declaration by the President
2058 of the United States or other federal official requesting public health-related activities.
2059 (2) The local health department shall:
2060 (a) establish programs or measures to promote and protect the health and general
2061 wellness of the people within the boundaries of the local health department;
2062 (b) investigate infectious and other diseases of public health importance and implement
2063 measures to control the causes of epidemic and communicable diseases and other conditions
2064 significantly affecting the public health which may include involuntary testing of alleged sexual
2065 offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims
2066 of sexual offenses for HIV infection pursuant to Section 76-5-503;
2067 (c) cooperate with the department in matters pertaining to the public health and in the
2068 administration of state health laws; and
2069 (d) coordinate implementation of environmental programs to maximize efficient use of
2070 resources by developing with the Department of Environmental Quality a Comprehensive
2071 Environmental Service Delivery Plan which:

2072 (i) recognizes that the Department of Environmental Quality and local health
2073 departments are the foundation for providing environmental health programs in the state;
2074 (ii) delineates the responsibilities of the department and each local health department
2075 for the efficient delivery of environmental programs using federal, state, and local authorities,
2076 responsibilities, and resources;
2077 (iii) provides for the delegation of authority and pass through of funding to local health
2078 departments for environmental programs, to the extent allowed by applicable law, identified in
2079 the plan, and requested by the local health department; and
2080 (iv) is reviewed and updated annually.
2081 (3) The local health department has the following duties regarding public and private
2082 schools within [~~its~~] the local health department's boundaries:
2083 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
2084 persons attending public and private schools;
2085 (b) exclude from school attendance any person, including teachers, who is suffering
2086 from any communicable or infectious disease, whether acute or chronic, if the person is likely
2087 to convey the disease to those in attendance; and
2088 (c) (i) make regular inspections of the health-related condition of all school buildings
2089 and premises;
2090 (ii) report the inspections on forms furnished by the department to those responsible for
2091 the condition and provide instructions for correction of any conditions that impair or endanger
2092 the health or life of those attending the schools; and
2093 (iii) provide a copy of the report to the department at the time the report is made.
2094 (4) If those responsible for the health-related condition of the school buildings and
2095 premises do not carry out any instructions for corrections provided in a report in Subsection
2096 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
2097 persons responsible.
2098 (5) The local health department may exercise incidental authority as necessary to carry
2099 out the provisions and purposes of this part.
2100 (6) Nothing in this part may be construed to authorize a local health department to
2101 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
2102 monoxide detector in a residential dwelling against anyone other than the occupant of the

2103 dwelling.
2104 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
2105 declare a public health emergency or issue an order of constraint until the local health
2106 department has provided notice of the proposed action to the chief executive officer of the
2107 relevant county no later than 24 hours before the local health department issues the order or
2108 declaration.
2109 (b) The local health department:
2110 (i) shall provide the notice required by Subsection (7)(a) using the best available
2111 method under the circumstances as determined by the local health department;
2112 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and
2113 (iii) shall provide the notice in written form, if practicable.
2114 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
2115 public health emergency or issue an order of constraint without approval of the chief executive
2116 officer of the relevant county if the passage of time necessary to obtain approval of the chief
2117 executive officer of the relevant county as required in Subsection (7)(a) would substantially
2118 increase the likelihood of loss of life due to an imminent threat.
2119 (ii) If a local health department declares a public health emergency or issues an order
2120 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
2121 chief executive officer of the relevant county before issuing the order of constraint.
2122 (iii) The chief executive officer of the relevant county may terminate a declaration of a
2123 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
2124 within 72 hours of declaration of the public health emergency or issuance of the order of
2125 constraint.
2126 (d) The relevant county governing body may at any time terminate a public health
2127 emergency or an order of constraint issued by the local health department by majority vote of
2128 the county governing body in response to a declared public health emergency.
2129 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
2130 a local health department expires at the earliest of:
2131 (i) the local health department or the chief executive officer of the relevant county
2132 finding that the threat or danger has passed or the public health emergency reduced to the
2133 extent that emergency conditions no longer exist;

2134 (ii) 30 days after the date on which the local health department declared the public
2135 health emergency; or
2136 (iii) the day on which the public health emergency is terminated by majority vote of the
2137 county governing body.
2138 (b) (i) The relevant county legislative body, by majority vote, may extend a public
2139 health emergency for a time period designated by the county legislative body.
2140 (ii) If the county legislative body extends a public health emergency as described in
2141 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
2142 legislative body.
2143 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
2144 local health department expires as described in Subsection (8)(a), the local health department
2145 may not declare a public health emergency for the same illness or occurrence that precipitated
2146 the previous public health emergency declaration.
2147 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
2148 health department finds that exigent circumstances exist, after providing notice to the county
2149 legislative body, the department may declare a new public health emergency for the same
2150 illness or occurrence that precipitated a previous public health emergency declaration.
2151 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
2152 accordance with Subsection (8)(a) or (b).
2153 (e) For a public health emergency declared by a local health department under this
2154 chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the
2155 Legislature may terminate by joint resolution a public health emergency that was declared
2156 based on exigent circumstances or that has been in effect for more than 30 days.
2157 (f) If the Legislature or county legislative body terminates a public health emergency
2158 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
2159 department may not declare a new public health emergency for the same illness, occurrence, or
2160 exigent circumstances.
2161 (9) (a) During a public health emergency declared under this chapter or under Title 26,
2162 Chapter 23b, Detection of Public Health Emergencies Act:
2163 (i) except as provided in Subsection (9)(b), a local health department may not issue an
2164 order of constraint without approval of the chief executive officer of the relevant county;

2165 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
2166 issued by a local health department in response to a declared public health emergency that has
2167 been in effect for more than 30 days; and
2168 (iii) a county governing body may at any time terminate by majority vote of the
2169 governing body an order of constraint issued by a local health department in response to a
2170 declared public health emergency.
2171 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
2172 order of constraint without approval of the chief executive officer of the relevant county if the
2173 passage of time necessary to obtain approval of the chief executive officer of the relevant
2174 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of
2175 life due to an imminent threat.
2176 (ii) If a local health department issues an order of constraint as described in Subsection
2177 (9)(b), the local health department shall notify the chief executive officer of the relevant county
2178 before issuing the order of constraint.
2179 (iii) The chief executive officer of the relevant county may terminate an order of
2180 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
2181 constraint.
2182 (c) (i) For a local health department that serves more than one county, the approval
2183 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
2184 of constraint is applicable.
2185 (ii) For a local health department that serves more than one county, a county governing
2186 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
2187 county served by the county governing body.
2188 (10) (a) During a public health emergency declared as described in this title:
2189 (i) the department or a local health department may not impose an order of constraint
2190 on a religious gathering that is more restrictive than an order of constraint that applies to any
2191 other relevantly similar gathering; and
2192 (ii) an individual, while acting or purporting to act within the course and scope of the
2193 individual's official department or local health department capacity, may not:
2194 (A) prevent a religious gathering that is held in a manner consistent with any order of
2195 constraint issued pursuant to this title; or

2196 (B) impose a penalty for a previous religious gathering that was held in a manner
2197 consistent with any order of constraint issued pursuant to this title.
2198 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
2199 prevent the violation of this Subsection (10).
2200 (c) During a public health emergency declared as described in this title, the department
2201 or a local health department shall not issue a public health order or impose or implement a
2202 regulation that substantially burdens an individual's exercise of religion unless the department
2203 or local health department demonstrates that the application of the burden to the individual:
2204 (i) is in furtherance of a compelling government interest; and
2205 (ii) is the least restrictive means of furthering that compelling government interest.
2206 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
2207 department shall allow reasonable accommodations for an individual to perform or participate
2208 in a religious practice or rite.
2209 Section 35. Section **26A-1-126** is amended to read:
2210 **26A-1-126. Medical reserve corps.**
2211 (1) In addition to the duties listed in Section 26A-1-114, a local health department may
2212 establish a medical reserve corps in accordance with this section.
2213 (2) The purpose of a medical reserve corps is to enable a local health authority to
2214 respond with appropriate health care professionals to a national, state, or local emergency, a
2215 public health emergency as defined in Section 26-23b-102, or a declaration by the president of
2216 the United States or other federal official requesting public health related activities.
2217 (3) (a) A local health department may train health care professionals who participate in
2218 a medical reserve corps to respond to an emergency or declaration for public health related
2219 activities pursuant to Subsection (2).
2220 (b) When an emergency or request for public health related activities has been declared
2221 in accordance with Subsection (2), a local health department may activate a medical reserve
2222 corps for the duration of the emergency or declaration for public health related activities.
2223 (4) For purposes of this section, a medical reserve corps may include persons who:
2224 (a) are licensed under Title 58, Occupations and Professions, and who are operating
2225 within the scope of their practice;
2226 (b) are exempt from licensure, or operating under modified scope of practice

2227 provisions in accordance with Subsections 58-1-307(4) and (5); and
2228 (c) within the 10 years preceding the declared emergency, held a valid license, in good
2229 standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license
2230 is not currently active.
2231 (5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the
2232 local health department may authorize a person described in Subsection (4) to operate in a
2233 modified scope of practice as necessary to respond to the declaration under Subsection (2).
2234 (b) A person operating as a member of an activated medical reserve corps or training as
2235 a member of a medical reserve corps under this section:
2236 (i) shall be volunteering for and supervised by the local health department;
2237 (ii) shall comply with the provisions of this section;
2238 (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and
2239 (iv) shall carry a certificate issued by the local health department which designates the
2240 individual as a member of the medical reserve corps during the duration of the emergency or
2241 declaration for public health related activities pursuant to Subsection (2).
2242 (6) The local department of health may access the Division of [~~Occupational and~~]
2243 Professional Licensing database for the purpose of determining if a person's current or expired
2244 license to practice in the state was in good standing.
2245 (7) The local department of health shall maintain a registry of persons who are
2246 members of a medical reserve corps. The registry of the medical reserve corps shall be made
2247 available to the public and to the Division of [~~Occupational and~~] Professional Licensing.
2248 Section 36. Section **31A-22-642** is amended to read:
2249 **31A-22-642. Insurance coverage for autism spectrum disorder.**
2250 (1) As used in this section:
2251 (a) "Applied behavior analysis" means the design, implementation, and evaluation of
2252 environmental modifications, using behavioral stimuli and consequences, to produce socially
2253 significant improvement in human behavior, including the use of direct observation,
2254 measurement, and functional analysis of the relationship between environment and behavior.
2255 (b) "Autism spectrum disorder" means pervasive developmental disorders as defined
2256 by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders
2257 (DSM).

2258 (c) "Behavioral health treatment" means counseling and treatment programs, including
2259 applied behavior analysis, that are:
2260 (i) necessary to develop, maintain, or restore, to the maximum extent practicable, the
2261 functioning of an individual; and
2262 (ii) provided or supervised by a:
2263 (A) board certified behavior analyst; or
2264 (B) person licensed under Title 58, Chapter 1, Division of [~~Occupational and~~]
2265 Professional Licensing Act, whose scope of practice includes mental health services.
2266 (d) "Diagnosis of autism spectrum disorder" means medically necessary assessments,
2267 evaluations, or tests:
2268 (i) performed by a licensed physician who is board certified in neurology, psychiatry,
2269 or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed
2270 psychologist with experience diagnosing autism spectrum disorder; and
2271 (ii) necessary to diagnose whether an individual has an autism spectrum disorder.
2272 (e) "Pharmacy care" means medications prescribed by a licensed physician and any
2273 health-related services considered medically necessary to determine the need or effectiveness
2274 of the medications.
2275 (f) "Psychiatric care" means direct or consultative services provided by a psychiatrist
2276 licensed in the state in which the psychiatrist practices.
2277 (g) "Psychological care" means direct or consultative services provided by a
2278 psychologist licensed in the state in which the psychologist practices.
2279 (h) "Therapeutic care" means services provided by licensed or certified speech
2280 therapists, occupational therapists, or physical therapists.
2281 (i) "Treatment for autism spectrum disorder":
2282 (i) means evidence-based care and related equipment prescribed or ordered for an
2283 individual diagnosed with an autism spectrum disorder by a physician or a licensed
2284 psychologist described in Subsection (1)(d) who determines the care to be medically necessary;
2285 and
2286 (ii) includes:
2287 (A) behavioral health treatment, provided or supervised by a person described in
2288 Subsection (1)(c)(ii);

2289 (B) pharmacy care;
2290 (C) psychiatric care;
2291 (D) psychological care; and
2292 (E) therapeutic care.
2293 (2) (a) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan
2294 offered in the individual market or the large group market and entered into or renewed on or
2295 after January 1, 2016, and before January 1, 2020, shall provide coverage for the diagnosis and
2296 treatment of autism spectrum disorder:
2297 (i) for a child who is at least two years old, but younger than 10 years old; and
2298 (ii) in accordance with the requirements of this section and rules made by the
2299 commissioner.
2300 (b) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan
2301 offered in the individual market or the large group market and entered into or renewed on or
2302 after January 1, 2020, shall provide coverage for the diagnosis and treatment of autism
2303 spectrum disorder in accordance with the requirements of this section and rules made by the
2304 commissioner.
2305 (3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah
2306 Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of
2307 autism spectrum disorder.
2308 (4) Subject to Subsection (5), the rules described in Subsection (3) shall establish
2309 durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of
2310 autism spectrum disorder that are similar to, or identical to, the coverage provided for other
2311 illnesses or diseases.
2312 (5) (a) Coverage for behavioral health treatment for a person with an autism spectrum
2313 disorder shall cover at least 600 hours a year.
2314 (b) Notwithstanding Subsection (5)(a), for a health benefit plan offered in the
2315 individual market or the large group market and entered into or renewed on or after January 1,
2316 2020, coverage for behavioral health treatment for a person with an autism spectrum disorder
2317 may not have a limit on the number of hours covered.
2318 (c) Other terms and conditions in the health benefit plan that apply to other benefits
2319 covered by the health benefit plan apply to coverage required by this section.

2320 (d) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment
2321 under Subsections (5)(a) and (b) shall include in the plan's provider network both board
2322 certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).
2323 (6) A health care provider shall submit a treatment plan for autism spectrum disorder to
2324 the insurer within 14 business days of starting treatment for an individual. If an individual is
2325 receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a
2326 review of that treatment not more than once every three months. A review of treatment under
2327 this Subsection (6) may include a review of treatment goals and progress toward the treatment
2328 goals. If an insurer makes a determination to stop treatment as a result of the review of the
2329 treatment plan under this subsection, the determination of the insurer may be reviewed under
2330 Section 31A-22-629.
2331 Section 37. Section **32B-4-305** is amended to read:
2332 **32B-4-305. Additional criminal penalties.**
2333 (1) (a) As used in this section, "business entity" means a corporation, partnership,
2334 association, limited liability company, or similar entity.
2335 (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this
2336 section applies.
2337 (2) Upon a defendant's conviction of an offense defined in this title, the court may
2338 order the defendant to pay restitution or costs in accordance with Subsection 76-3-201(4).
2339 (3) (a) Upon a business entity's conviction of an offense defined in this title, and a
2340 failure of the business entity to pay a fine imposed upon it:
2341 (i) if [~~it~~] the business entity is a domestic business entity, the powers, rights, and
2342 privileges of the business entity may be suspended or revoked; and
2343 (ii) if [~~it~~] the business entity is a foreign business entity, it forfeits its right to do
2344 intrastate business in this state.
2345 (b) The department shall transmit the name of a business entity described in Subsection
2346 (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information,
2347 the Division of Corporations and Commercial Code shall immediately record the action in a
2348 manner that makes the information available to the public.
2349 (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from
2350 the day on which the Division of Corporations and Commercial Code records the information.

2351 (d) A certificate of the Division of Corporations and Commercial Code is prima facie
2352 evidence of a suspension, revocation, or forfeiture.
2353 (e) This section may not be construed as affecting, limiting, or restricting a proceeding
2354 that otherwise may be taken for the imposition of any other punishment or the modes of
2355 enforcement or recovery of fines or penalties.
2356 (4) (a) Upon the conviction of a business entity required to have a business license to
2357 operate [~~its~~] the business entity's activities, or upon the conviction of any of [~~its~~] the business
2358 entity's staff of any offense defined in this title, with the knowledge, consent, or acquiescence
2359 of the business entity, the department shall forward a copy of the judgment of conviction to the
2360 appropriate governmental entity responsible for issuing and revoking the business license.
2361 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)
2362 may institute appropriate proceedings to revoke the business license.
2363 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a
2364 business license to the business entity for at least one year from the date of revocation.
2365 (d) Upon the conviction for a second or other offense, the governmental entity may not
2366 issue a business license for at least two years from the date of revocation.
2367 (5) (a) Upon conviction of one of the following of an offense defined in this title, the
2368 department shall forward a certified copy of the judgment of conviction to the Division of
2369 [~~Occupational and~~] Professional Licensing:
2370 (i) a health care practitioner; or
2371 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary
2372 Practice Act.
2373 (b) The Division of [~~Occupational and~~] Professional Licensing may bring a proceeding
2374 in accordance with Title 58, Occupations and Professions, to revoke the license issued under
2375 Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).
2376 (c) Upon revocation of a license under Subsection (5)(b):
2377 (i) the Division of [~~Occupational and~~] Professional Licensing may not issue a license to
2378 the individual under Title 58, Occupations and Professions, for at least one year from the date
2379 of revocation; and
2380 (ii) if the individual is convicted of a second or subsequent offense, the Division of
2381 [~~Occupational and~~] Professional Licensing may not issue a license to the individual under Title

2382 58, Occupations and Professions, for at least two years from the date of revocation.
2383 Section 38. Section **34-38-13** is amended to read:
2384 **34-38-13. Confidentiality of test-related information.**
2385 (1) For purposes of this section, "test-related information" means the following
2386 received by the employer through the employer's drug or alcohol testing program:
2387 (a) information;
2388 (b) interviews;
2389 (c) reports;
2390 (d) statements;
2391 (e) memoranda; or
2392 (f) test results.
2393 (2) Except as provided in Subsections (3) and (6), test-related information is a
2394 confidential communication and may not be:
2395 (a) used or received in evidence;
2396 (b) obtained in discovery; or
2397 (c) disclosed in any public or private proceeding.
2398 (3) Test-related information:
2399 (a) shall be disclosed to the Division of [~~Occupational and~~] Professional Licensing:
2400 (i) in the manner provided in Subsection 58-13-5(3); and
2401 (ii) only to the extent required under Subsection 58-13-5(3); and
2402 (b) may only be used in a proceeding related to:
2403 (i) an action taken by the Division of [~~Occupational and~~] Professional Licensing under
2404 Section 58-1-401 when the Division of [~~Occupational and~~] Professional Licensing is taking
2405 action in whole or in part on the basis of test-related information disclosed under Subsection
2406 (3)(a);
2407 (ii) an action taken by an employer under Section 34-38-8; or
2408 (iii) an action under Section 34-38-11.
2409 (4) Test-related information shall be the property of the employer.
2410 (5) An employer is entitled to use a drug or alcohol test result as a basis for action
2411 under Section 34-38-8.
2412 (6) An employer may not be examined as a witness with regard to test-related

2413 information, except:
2414 (a) in a proceeding related to an action taken by the employer under Section 34-38-8;
2415 (b) in an action under Section 34-38-11; or
2416 (c) in an action described in Subsection (3)(b)(i).
2417 Section 39. Section **35A-6-105** is amended to read:
2418 **35A-6-105. Commissioner of Apprenticeship Programs.**
2419 (1) There is created the position of Commissioner of Apprenticeship Programs within
2420 the department.
2421 (2) The commissioner shall be appointed by the executive director and chosen from
2422 one or more recommendations provided by a majority vote of the State Workforce
2423 Development Board.
2424 (3) The commissioner may be terminated without cause by the executive director.
2425 (4) The commissioner shall:
2426 (a) promote and educate the public, including high school guidance counselors and
2427 potential participants in apprenticeship programs, about apprenticeship programs, youth
2428 apprenticeship, and pre-apprenticeship programs offered in the state, including apprenticeship,
2429 youth apprenticeship, and pre-apprenticeship programs offered by private sector businesses,
2430 trade groups, labor unions, partnerships with educational institutions, and other associations in
2431 the state;
2432 (b) coordinate with the department and other stakeholders, including union and
2433 nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education,
2434 the Utah system of higher education, the Department of Commerce, the Division of
2435 [~~Occupational and~~] Professional Licensing, and the Governor's Office of Economic
2436 Opportunity to improve and promote apprenticeship opportunities in the state; and
2437 (c) provide an annual written report to:
2438 (i) the department for inclusion in the department's annual written report described in
2439 Section 35A-1-109;
2440 (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;
2441 and
2442 (iii) the Higher Education Appropriations Subcommittee.
2443 (5) The annual written report described in Subsection (4)(c) shall provide information

2444 concerning:
2445 (a) the number of available apprenticeship, youth apprenticeship, and
2446 pre-apprenticeship programs in the state;
2447 (b) the number of apprentice participants in each program;
2448 (c) the completion rate of each program;
2449 (d) the cost of state funding for each program; and
2450 (e) recommendations for improving apprenticeship, youth apprenticeship, and
2451 pre-apprenticeship programs.
2452 Section 40. Section **36-23-102** is amended to read:
2453 **36-23-102. Occupational and Professional Licensure Review Committee.**
2454 (1) There is created the Occupational and Professional Licensure Review Committee.
2455 (2) The committee consists of nine members appointed as follows:
2456 (a) three members of the House of Representatives, appointed by the speaker of the
2457 House of Representatives, with no more than two appointees from the same political party;
2458 (b) three members of the Senate, appointed by the president of the Senate, with no
2459 more than two appointees from the same political party; and
2460 (c) three public members appointed jointly by the speaker of the House of
2461 Representatives and the president of the Senate from the following two groups:
2462 (i) at least one member who has previously served, but is no longer serving, on an
2463 advisory board created under Title 58, Occupations and Professions; and
2464 (ii) at least one member from the general public who does not hold a license issued by
2465 the Division of [~~Occupational and~~] Professional Licensing.
2466 (3) (a) The speaker of the House of Representatives shall designate a member of the
2467 House of Representatives appointed under Subsection (2)(a) as a cochair of the committee.
2468 (b) The president of the Senate shall designate a member of the Senate appointed under
2469 Subsection (2)(b) as a cochair of the committee.
2470 Section 41. Section **36-23-107** is amended to read:
2471 **36-23-107. Sunrise or sunset review -- Criteria.**
2472 (1) In conducting a sunrise review or a sunset review under this chapter, the committee
2473 may:
2474 (a) receive information from:

2475 (i) representatives of the lawful occupation proposed to be newly regulated or that is
2476 subject to a sunset review;
2477 (ii) the Division of [~~Occupational and~~] Professional Licensing; or
2478 (iii) any other person; and
2479 (b) review a proposal with or without considering proposed statutory language.
2480 (2) When conducting a sunrise review or sunset review under this chapter, the
2481 committee shall:
2482 (a) consider whether state regulation of the lawful occupation is necessary to address a
2483 compelling state interest in protecting against present, recognizable, and significant harm to the
2484 health or safety of the public;
2485 (b) consider if the committee's recommendations to the Legislature would negatively
2486 affect the interests of members of the regulated lawful occupation, including the effect on
2487 matters of reciprocity with other states;
2488 (c) if the committee determines that state regulation of the lawful occupation is not
2489 necessary to protect against present, recognizable, and significant harm to the health or safety
2490 of the public, recommend to the Legislature that the state not regulate the profession;
2491 (d) if the committee determines that state regulation of the lawful occupation is
2492 necessary in protecting against present, recognizable, and significant harm to the health or
2493 safety of the public, consider whether:
2494 (i) the proposed or existing statute is narrowly tailored to protect against present,
2495 recognizable, and significant harm to the health or safety of the public; and
2496 (ii) a potentially less restrictive alternative to licensing, including state certification,
2497 state registration, or exemption, would avoid unnecessary regulation while still protecting the
2498 health and safety of the public; and
2499 (e) recommend to the Legislature any necessary changes to the proposed or existing
2500 statute to ensure it is narrowly tailored to protect against present, recognizable, and significant
2501 harm to the health or safety of the public.
2502 (3) In [~~its~~] the committee's performance of each sunrise review or sunset review, the
2503 committee may apply the following criteria, to the extent that it is applicable:
2504 (a) whether the unregulated practice of the occupation or profession has clearly harmed
2505 or may harm or endanger the health, safety, or welfare of the public;

2506 (b) whether the potential for harm or endangerment described in Subsection (3)(a) is
2507 easily recognizable and not remote;
2508 (c) whether regulation of the occupation or profession will significantly diminish an
2509 identified risk to the health, safety, or welfare of the public;
2510 (d) whether regulation of the lawful occupation:
2511 (i) imposes significant new economic hardship on the public;
2512 (ii) significantly diminishes the supply of qualified practitioners; or
2513 (iii) otherwise creates barriers to service that are not consistent with the public welfare
2514 or interest;
2515 (e) whether the lawful occupation requires knowledge, skills, and abilities that are:
2516 (i) teachable; and
2517 (ii) testable;
2518 (f) whether the lawful occupation is clearly distinguishable from other lawful
2519 occupations that are already regulated;
2520 (g) whether the lawful occupation has:
2521 (i) an established code of ethics;
2522 (ii) a voluntary certification program; or
2523 (iii) other measures to ensure a minimum quality of service;
2524 (h) whether:
2525 (i) the lawful occupation involves the treatment of an illness, injury, or health care
2526 condition; and
2527 (ii) practitioners of the lawful occupation will request payment of benefits for the
2528 treatment under an insurance contract subject to Section 31A-22-618;
2529 (i) whether the public can be adequately protected by means other than regulation; and
2530 (j) other appropriate criteria as determined by the committee.
2531 Section 42. Section **38-1a-102** is amended to read:
2532 **38-1a-102. Definitions.**
2533 As used in this chapter:
2534 (1) "Alternate means" means a method of filing a legible and complete notice or other
2535 document with the registry other than electronically, as established by the division by rule.
2536 (2) "Anticipated improvement" means the improvement:

2537 (a) for which preconstruction service is performed; and
2538 (b) that is anticipated to follow the performing of preconstruction service.
2539 (3) "Applicable county recorder" means the office of the recorder of each county in
2540 which any part of the property on which a claimant claims or intends to claim a preconstruction
2541 or construction lien is located.
2542 (4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which
2543 the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting
2544 shares or other ownership interest.
2545 (5) "Claimant" means a person entitled to claim a preconstruction or construction lien.
2546 (6) "Compensation" means the payment of money for a service rendered or an expense
2547 incurred, whether based on:
2548 (a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or
2549 percentage fee, or commission; or
2550 (b) a combination of the bases listed in Subsection (6)(a).
2551 (7) "Construction lender" means a person who makes a construction loan.
2552 (8) "Construction lien" means a lien under this chapter for construction work.
2553 (9) "Construction loan" does not include a consumer loan secured by the equity in the
2554 consumer's home.
2555 (10) "Construction project" means an improvement that is constructed pursuant to an
2556 original contract.
2557 (11) "Construction work":
2558 (a) means labor, service, material, or equipment provided for the purpose and during
2559 the process of constructing, altering, or repairing an improvement; and
2560 (b) includes scheduling, estimating, staking, supervising, managing, materials testing,
2561 inspection, observation, and quality control or assurance involved in constructing, altering, or
2562 repairing an improvement.
2563 (12) "Contestable notice" means a notice of preconstruction service under Section
2564 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under
2565 Section 38-1a-506.
2566 (13) "Contesting person" means an owner, original contractor, subcontractor, or other
2567 interested person.

2568 (14) "Designated agent" means the third party the division contracts with as provided
2569 in Section 38-1a-202 to create and maintain the registry.
2570 (15) "Division" means the Division of [~~Occupational and~~] Professional Licensing
2571 created in Section 58-1-103.
2572 (16) "Entry number" means the reference number that:
2573 (a) the designated agent assigns to each notice or other document filed with the
2574 registry; and
2575 (b) is unique for each notice or other document.
2576 (17) "Final completion" means:
2577 (a) the date of issuance of a permanent certificate of occupancy by the local
2578 government entity having jurisdiction over the construction project, if a permanent certificate
2579 of occupancy is required;
2580 (b) the date of the final inspection of the construction work by the local government
2581 entity having jurisdiction over the construction project, if an inspection is required under a
2582 state-adopted building code applicable to the construction work, but no certificate of occupancy
2583 is required;
2584 (c) unless the owner is holding payment to ensure completion of construction work, the
2585 date on which there remains no substantial work to be completed to finish the construction
2586 work under the original contract, if a certificate of occupancy is not required and a final
2587 inspection is not required under an applicable state-adopted building code; or
2588 (d) the last date on which substantial work was performed under the original contract,
2589 if, because the original contract is terminated before completion of the construction work
2590 defined by the original contract, the local government entity having jurisdiction over the
2591 construction project does not issue a certificate of occupancy or perform a final inspection.
2592 (18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).
2593 (19) "First preliminary notice filing" means a preliminary notice that:
2594 (a) is the earliest preliminary notice filed on the construction project for which the
2595 preliminary notice is filed;
2596 (b) is filed on a construction project that, at the time the preliminary notice is filed, has
2597 not reached final completion; and
2598 (c) is not cancelled under Section 38-1a-307.

2599 (20) "Government project-identifying information" has the same meaning as defined in
2600 Section 38-1b-102.
2601 (21) "Improvement" means:
2602 (a) a building, infrastructure, utility, or other human-made structure or object
2603 constructed on or for and affixed to real property; or
2604 (b) a repair, modification, or alteration of a building, infrastructure, utility, or object
2605 referred to in Subsection (21)(a).
2606 (22) "Interested person" means a person that may be affected by a construction project.
2607 (23) "Notice of commencement" means a notice required under Section 38-1b-201 for
2608 a government project, as defined in Section 38-1b-102.
2609 (24) "Original contract":
2610 (a) means a contract between an owner and an original contractor for preconstruction
2611 service or construction work; and
2612 (b) does not include a contract between an owner-builder and another person.
2613 (25) "Original contractor" means a person, including an owner-builder, that contracts
2614 with an owner to provide preconstruction service or construction work.
2615 (26) "Owner" means the person that owns the project property.
2616 (27) "Owner-builder" means an owner, including an owner who is also an original
2617 contractor, who:
2618 (a) contracts with one or more other persons for preconstruction service or construction
2619 work for an improvement on the owner's real property; and
2620 (b) obtains a building permit for the improvement.
2621 (28) "Preconstruction lien" means a lien under this chapter for a preconstruction
2622 service.
2623 (29) "Preconstruction service":
2624 (a) means to plan or design, or to assist in the planning or design of, an improvement or
2625 a proposed improvement:
2626 (i) before construction of the improvement commences; and
2627 (ii) for compensation separate from any compensation paid or to be paid for
2628 construction work for the improvement; and
2629 (b) includes consulting, conducting a site investigation or assessment, programming,

2630 preconstruction cost or quantity estimating, preconstruction scheduling, performing a
2631 preconstruction construction feasibility review, procuring construction services, and preparing
2632 a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan,
2633 drawing, specification, or contract document.
2634 (30) "Private project" means a construction project that is not a government project.
2635 (31) "Project property" means the real property on or for which preconstruction service
2636 or construction work is or will be provided.
2637 (32) "Registry" means the State Construction Registry under Part 2, State Construction
2638 Registry.
2639 (33) "Required notice" means:
2640 (a) a notice of preconstruction service under Section 38-1a-401;
2641 (b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;
2642 (c) a notice of commencement;
2643 (d) a notice of construction loan under Section 38-1a-601;
2644 (e) a notice under Section 38-1a-602 concerning a construction loan default;
2645 (f) a notice of intent to obtain final completion under Section 38-1a-506; or
2646 (g) a notice of completion under Section 38-1a-507.
2647 (34) "Subcontractor" means a person that contracts to provide preconstruction service
2648 or construction work to:
2649 (a) a person other than the owner; or
2650 (b) the owner, if the owner is an owner-builder.
2651 (35) "Substantial work" does not include repair work or warranty work.
2652 (36) "Supervisory subcontractor" means a person that:
2653 (a) is a subcontractor under contract to provide preconstruction service or construction
2654 work; and
2655 (b) contracts with one or more other subcontractors for the other subcontractor or
2656 subcontractors to provide preconstruction service or construction work that the person is under
2657 contract to provide.
2658 Section 43. Section **38-1b-102** is amended to read:
2659 **38-1b-102. Definitions.**
2660 As used in this chapter:

2661 (1) "Alternate means" means the same as that term is defined in Section 38-1a-102.
2662 (2) "Construction project" means the same as that term is defined in Section 38-1a-102.
2663 (3) "Construction work" means the same as that term is defined in Section 38-1a-102.
2664 (4) "Designated agent" means the same as that term is defined in Section 38-1a-102.
2665 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing
2666 created in Section 58-1-103.
2667 (6) "Government project" means a construction project undertaken by or for:
2668 (a) the state, including a department, division, or other agency of the state; or
2669 (b) a county, city, town, school district, local district, special service district,
2670 community reinvestment agency, or other political subdivision of the state.
2671 (7) "Government project-identifying information" means:
2672 (a) the lot or parcel number of each lot included in the project property that has a lot or
2673 parcel number; or
2674 (b) the unique project number assigned by the designated agent.
2675 (8) "Original contractor" means the same as that term is defined in Section 38-1a-102.
2676 (9) "Owner" means the same as that term is defined in Section 38-1a-102.
2677 (10) "Owner-builder" means the same as that term is defined in Section 38-1a-102.
2678 (11) "Private project" means a construction project that is not a government project.
2679 (12) "Project property" means the same as that term is defined in Section 38-1a-102.
2680 (13) "Registry" means the same as that term is defined in Section 38-1a-102.
2681 Section 44. Section **38-11-102** is amended to read:
2682 **38-11-102. Definitions.**
2683 (1) "Certificate of compliance" means an order issued by the director to the owner
2684 finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a)
2685 and (4)(b) and is entitled to protection under Section 38-11-107.
2686 (2) "Construction on an owner-occupied residence" means designing, engineering,
2687 constructing, altering, remodeling, improving, repairing, or maintaining a new or existing
2688 residence.
2689 (3) "Department" means the Department of Commerce.
2690 (4) "Director" means the director of the Division of [~~Occupational and~~] Professional
2691 Licensing or the director's designee.

2692 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing.
2693 (6) "Duplex" means a single building having two separate living units.
2694 (7) "Encumbered fund balance" means the aggregate amount of outstanding claims
2695 against the fund. The remainder of the money in the fund is unencumbered funds.
2696 (8) "Executive director" means the executive director of the Department of Commerce.
2697 (9) "Factory built housing" is as defined in Section 15A-1-302.
2698 (10) "Factory built housing retailer" means a person that sells factory built housing to
2699 consumers.
2700 (11) "Fund" means the Residence Lien Recovery Fund established under Section
2701 38-11-201.
2702 (12) "Laborer" means a person who provides services at the site of the construction on
2703 an owner-occupied residence as an employee of an original contractor or other qualified
2704 beneficiary performing qualified services on the residence.
2705 (13) "Licensee" means any holder of a license issued under Title 58, Chapter 3a,
2706 Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors
2707 Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah
2708 Construction Trades Licensing Act.
2709 (14) "Nonpaying party" means the original contractor, subcontractor, or real estate
2710 developer who has failed to pay the qualified beneficiary making a claim against the fund.
2711 (15) "Original contractor" means a person who contracts with the owner of real
2712 property or the owner's agent to provide services, labor, or material for the construction of an
2713 owner-occupied residence.
2714 (16) "Owner" means a person who:
2715 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
2716 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an
2717 owner-occupied residence upon real property that the person:
2718 (i) owns; or
2719 (ii) purchases after the person enters into a contract described in this Subsection (16)(a)
2720 and before completion of the owner-occupied residence;
2721 (b) contracts with a real estate developer to buy a residence upon completion of the
2722 construction on the owner-occupied residence; or

2723 (c) purchases a residence from a real estate developer after completion of the
2724 construction on the owner-occupied residence.
2725 (17) "Owner-occupied residence" means a residence that is, or after completion of the
2726 construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a
2727 primary or secondary residence within 180 days after the day on which the construction on the
2728 residence is complete.
2729 (18) "Qualified beneficiary" means a person who:
2730 (a) provides qualified services;
2731 (b) pays necessary fees required under this chapter; and
2732 (c) registers with the division:
2733 (i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks
2734 recovery from the fund as a licensed contractor; or
2735 (ii) as a person providing qualified services other than as a licensed contractor under
2736 Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as
2737 a licensed contractor.
2738 (19) (a) "Qualified services" means the following performed in construction on an
2739 owner-occupied residence:
2740 (i) contractor services provided by a contractor licensed or exempt from licensure
2741 under Title 58, Chapter 55, Utah Construction Trades Licensing Act;
2742 (ii) architectural services provided by an architect licensed under Title 58, Chapter 3a,
2743 Architects Licensing Act;
2744 (iii) engineering and land surveying services provided by a professional engineer or
2745 land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional
2746 Engineers and Professional Land Surveyors Licensing Act;
2747 (iv) landscape architectural services by a landscape architect licensed or exempt from
2748 licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;
2749 (v) design and specification services of mechanical or other systems;
2750 (vi) other services related to the design, drawing, surveying, specification, cost
2751 estimation, or other like professional services;
2752 (vii) providing materials, supplies, components, or similar products;
2753 (viii) renting equipment or materials;

2754 (ix) labor at the site of the construction on the owner-occupied residence; and
2755 (x) site preparation, set up, and installation of factory built housing.
2756 (b) "Qualified services" does not include the construction of factory built housing in
2757 the factory.
2758 (20) "Real estate developer" means a person having an ownership interest in real
2759 property who:
2760 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
2761 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a
2762 residence that is offered for sale to the public; or
2763 (b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades
2764 Licensing Act, who engages in the construction of a residence that is offered for sale to the
2765 public.
2766 (21) (a) "Residence" means an improvement to real property used or occupied, to be
2767 used or occupied as, or in conjunction with:
2768 (i) a primary or secondary detached single-family dwelling; or
2769 (ii) a multifamily dwelling up to and including duplexes.
2770 (b) "Residence" includes factory built housing.
2771 (22) "Subsequent owner" means a person who purchases a residence from an owner
2772 within 180 days after the day on which the construction on the residence is completed.
2773 Section 45. Section **38-11-103** is amended to read:
2774 **38-11-103. Administration.**
2775 This chapter shall be administered by the Division of [~~Occupational and~~] Professional
2776 Licensing pursuant to the provisions of this chapter and consistent with Title 58, Chapter 1,
2777 Division of [~~Occupational and~~] Professional Licensing Act.
2778 Section 46. Section **41-6a-502** is amended to read:
2779 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
2780 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**
2781 (1) A person may not operate or be in actual physical control of a vehicle within this
2782 state if the person:
2783 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
2784 that the person has a blood or breath alcohol concentration of .05 grams or greater at the time

2785 of the test;
2786 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
2787 and any drug to a degree that renders the person incapable of safely operating a vehicle; or
2788 (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of
2789 operation or actual physical control.
2790 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
2791 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
2792 alcohol per 210 liters of breath.
2793 (3) A violation of this section includes a violation under a local ordinance similar to
2794 this section adopted in compliance with Section 41-6a-510.
2795 (4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
2796 [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the
2797 name, case number, and, if known, the date of birth of each person convicted during the
2798 preceding month of a violation of this section for whom there is evidence that the person was
2799 driving under the influence, in whole or in part, of a prescribed controlled substance.
2800 (5) An offense described in this section is a strict liability offense.
2801 (6) A guilty or no contest plea to an offense described in this section may not be held in
2802 abeyance.
2803 Section 47. Section **41-6a-502.5** is amended to read:
2804 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
2805 **requirements.**
2806 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
2807 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
2808 impaired driving under this section if:
2809 (a) the defendant completes court ordered probation requirements; or
2810 (b) (i) the prosecutor agrees as part of a negotiated plea; and
2811 (ii) the court finds the plea to be in the interest of justice.
2812 (2) A conviction entered under this section is a class B misdemeanor.
2813 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
2814 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.
2815 (ii) If the defendant fails to appear before the court and establish successful completion

2816 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
2817 amended conviction of Section 41-6a-502.
2818 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
2819 conviction.
2820 (b) The court may enter a conviction of impaired driving immediately under
2821 Subsection (1)(b).
2822 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
2823 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
2824 degree.
2825 (5) (a) The court shall notify the Driver License Division of each conviction entered
2826 under this section.
2827 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
2828 [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the
2829 name, case number, and, if known, the date of birth of each person convicted during the
2830 preceding month of a violation of this section for whom there is evidence that the person was
2831 driving while impaired, in whole or in part, by a prescribed controlled substance.
2832 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
2833 sentencing court to order a convicted person to participate in a screening, an assessment, or an
2834 educational series, or obtain substance abuse treatment or do a combination of those things,
2835 apply to a conviction entered under this section.
2836 (b) The court shall render the same order regarding screening, assessment, an
2837 educational series, or substance abuse treatment in connection with a first, second, or
2838 subsequent conviction under this section as the court would render in connection with applying
2839 respectively, the first, second, or subsequent conviction requirements of Subsections
2840 41-6a-505(1), (3), (5), and (7).
2841 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
2842 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
2843 reporting court notifies the Driver License Division that the defendant is participating in or has
2844 successfully completed the program of a driving under the influence court.
2845 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:
2846 (i) a CDL license holder; or

2847 (ii) a violation that occurred in a commercial motor vehicle.
2848 (8) The provisions of this section are not available:
2849 (a) to a person who has a prior conviction as that term is defined in Subsection
2850 41-6a-501(2); or
2851 (b) where there is admissible evidence that the individual:
2852 (i) had a blood alcohol level of .16 or higher;
2853 (ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled
2854 substance; or
2855 (iii) had a combination of two or more controlled substances in the person's body that
2856 were not:
2857 (A) prescribed by a licensed physician; or
2858 (B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis
2859 Act.
2860 Section 48. Section **53-2a-1205** is amended to read:
2861 **53-2a-1205. Administration -- Notification and procedures.**
2862 (1) Any out-of-state business that enters the state shall, within a reasonable time after
2863 entry, not to exceed 30 days, provide to the Division of [~~Occupational and~~] Professional
2864 Licensing a statement that it is in the state for purposes of responding to the disaster or
2865 emergency, which statement shall include the business's:
2866 (a) name;
2867 (b) state of domicile;
2868 (c) principal business address;
2869 (d) federal tax identification number;
2870 (e) date of entry;
2871 (f) contact information; and
2872 (g) evidence of compliance with the regulatory or licensing requirements in Section
2873 53-2a-1203, such as a copy of applicable permits or licenses.
2874 (2) Any affiliate of a registered business in the state and any out-of-state business that
2875 is registered as a public utility in another state and that is providing assistance under the terms
2876 of a utility multistate mutual aid agreement shall not be required to provide the information
2877 required in Subsection (1), unless requested by the Division of [~~Occupational and~~] Professional

2878 Licensing within a reasonable period of time.
2879 (3) An out-of-state business or an out-of-state employee that remains in the state after
2880 the disaster period shall complete state and local registration, licensing, and filing requirements
2881 that establish the requisite business presence or residency in the state.
2882 (4) The Division of [~~Occupational and~~] Professional Licensing shall:
2883 (a) make rules necessary to implement Subsection (3);
2884 (b) develop and provide forms or online processes; and
2885 (c) maintain and make available an annual report of any designations made pursuant to
2886 this section.
2887 Section 49. Section **53-10-114** is amended to read:
2888 **53-10-114. Authority regarding drug precursors.**
2889 (1) As used in this section, "acts" means:
2890 (a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and
2891 (b) Title 58, Chapter 37d, Clandestine Drug Lab Act.
2892 (2) The division has authority to enforce the drug lab and precursor acts. To carry out
2893 this purpose, the division may:
2894 (a) inspect, copy, and audit any records, inventories of controlled substance precursors,
2895 and reports required under the acts and rules adopted under the acts;
2896 (b) enter the premises of regulated distributors and regulated purchasers during normal
2897 business hours to conduct administrative inspections;
2898 (c) assist the law enforcement agencies of the state in enforcing the acts;
2899 (d) conduct investigations to enforce the acts;
2900 (e) present evidence obtained from investigations conducted in conjunction with
2901 appropriate county and district attorneys and the Office of the Attorney General for civil or
2902 criminal prosecution or for administrative action against a licensee; and
2903 (f) work in cooperation with the Division of [~~Occupational and~~] Professional
2904 Licensing, created under Section 58-1-103, to accomplish the purposes of this section.
2905 Section 50. Section **53B-24-304** is amended to read:
2906 **53B-24-304. Powers of council.**
2907 The council may:
2908 (1) conduct surveys, with the assistance of the Division of [~~Occupational and~~]

2909 Professional Licensing within the Department of Commerce, to assess and meet changing
2910 market and education needs;
2911 (2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information
2912 obtained by the Division of Workforce Information and Payment Services under the provisions
2913 of Section 35A-4-312 for purposes consistent with the council's duties as identified under
2914 Section 53B-24-303, including identifying changes in the medical and health care workforce
2915 numbers, types, and geographic distribution;
2916 (3) appoint advisory committees of broad representation on interdisciplinary clinical
2917 education, workforce mix planning and projections, funding mechanisms, and other topics as is
2918 necessary;
2919 (4) use federal money for necessary administrative expenses to carry out [~~its~~] the
2920 council's duties and powers as permitted by federal law;
2921 (5) distribute program money in accordance with Subsection 53B-24-303(7); and
2922 (6) as is necessary to carry out [~~its~~] the council's duties under Section 53B-24-303:
2923 (a) hire employees; and
2924 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
2925 Rulemaking Act.
2926 Section 51. Section **53F-2-305** is amended to read:
2927 **53F-2-305. Professional staff weighted pupil units.**
2928 (1) Professional staff weighted pupil units are computed and distributed in accordance
2929 with the following schedule:
2930 (a) Professional Staff Cost Formula

	Years of Experience	Bachelor's Degree	Bachelor's +30 Qt. Hr.	Master's Degree	Master's Degree +45 Qt. Hr.	Doctorate
2932	1	1.00	1.05	1.10	1.15	1.20
2933	2	1.05	1.10	1.15	1.20	1.25
2934	3	1.10	1.15	1.20	1.25	1.30
2935	4	1.15	1.20	1.25	1.30	1.35
2936	5	1.20	1.25	1.30	1.35	1.40

6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53F-2-302 and 53F-2-304.

(2) The state board shall enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the LEA governing board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

(4) The professional personnel described in Subsection (1) shall include an individual employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license in the field of social work issued by the Division of [~~Occupational and~~] Professional Licensing; and

(b) a position as a social worker.

Section 52. Section **53F-2-405** is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

2967 (a) (i) a license issued by the state board; and
2968 (ii) a position as a:
2969 (A) classroom teacher;
2970 (B) speech pathologist;
2971 (C) librarian or media specialist;
2972 (D) preschool teacher;
2973 (E) mentor teacher;
2974 (F) teacher specialist or teacher leader;
2975 (G) guidance counselor;
2976 (H) audiologist;
2977 (I) psychologist; or
2978 (J) social worker; or
2979 (b) (i) a license issued by the Division of [~~Occupational and~~] Professional Licensing;
2980 and
2981 (ii) a position as a social worker.
2982 (2) In recognition of the need to attract and retain highly skilled and dedicated
2983 educators, the Legislature shall annually appropriate money for educator salary adjustments,
2984 subject to future budget constraints.
2985 (3) Money appropriated to the state board for educator salary adjustments shall be
2986 distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind
2987 in proportion to the number of full-time-equivalent educator positions in a school district, a
2988 charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number
2989 of full-time-equivalent educator positions in school districts, charter schools, and the Utah
2990 Schools for the Deaf and the Blind.
2991 (4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind
2992 shall award bonuses to educators as follows:
2993 (a) the amount of the salary adjustment shall be the same for each full-time-equivalent
2994 educator position in the school district, charter school, or the Utah Schools for the Deaf and the
2995 Blind;
2996 (b) an individual who is not a full-time educator shall receive a partial salary
2997 adjustment based on the number of hours the individual works as an educator; and

2998 (c) a salary adjustment may be awarded only to an educator who has received a
2999 satisfactory rating or above on the educator's most recent evaluation.
3000 (5) The state board may make rules as necessary to administer this section in
3001 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3002 (6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient
3003 money each year to:
3004 (i) maintain educator salary adjustments provided in prior years; and
3005 (ii) provide educator salary adjustments to new employees.
3006 (b) Money appropriated for educator salary adjustments shall include money for the
3007 following employer-paid benefits:
3008 (i) retirement;
3009 (ii) worker's compensation;
3010 (iii) social security; and
3011 (iv) Medicare.
3012 (7) (a) Subject to future budget constraints, the Legislature shall:
3013 (i) maintain the salary adjustments provided to school administrators in the 2007-08
3014 school year; and
3015 (ii) provide salary adjustments for new school administrators in the same amount as
3016 provided for existing school administrators.
3017 (b) The appropriation provided for educator salary adjustments shall include salary
3018 adjustments for school administrators as specified in Subsection (7)(a).
3019 (c) In distributing and awarding salary adjustments for school administrators, the state
3020 board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall
3021 comply with the requirements for the distribution and award of educator salary adjustments as
3022 provided in Subsections (3) and (4).
3023 Section 53. Section **58-1-102** is amended to read:
3024 **58-1-102. Definitions.**
3025 For purposes of this title:
3026 (1) "Ablative procedure" is as defined in Section 58-67-102.
3027 (2) "Cosmetic medical procedure":
3028 (a) is as defined in Section 58-67-102; and

3029 (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah
3030 Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual
3031 licensed under this title if the individual's scope of practice includes the authority to operate or
3032 perform surgical procedures.
3033 (3) "Department" means the Department of Commerce.
3034 (4) "Director" means the director of the Division of [~~Occupational and~~] Professional
3035 Licensing.
3036 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing
3037 created in Section 58-1-103.
3038 (6) "Executive director" means the executive director of the Department of Commerce.
3039 (7) "Licensee" includes any holder of a license, certificate, registration, permit, student
3040 card, or apprentice card authorized under this title.
3041 (8) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
3042 alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove
3043 living tissue.
3044 (ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal.
3045 (b) "Nonablative procedure" does not include:
3046 (i) a superficial procedure;
3047 (ii) the application of permanent make-up; or
3048 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
3049 performed by an individual licensed under this title who is acting within their scope of practice.
3050 (9) "Pain clinic" means:
3051 (a) a clinic that advertises its primary purpose is the treatment of chronic pain; or
3052 (b) a clinic in which greater than 50% of the clinic's annual patient population receive
3053 treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.
3054 (10) "Superficial procedure" means a procedure that is expected or intended to
3055 temporarily alter living skin tissue and may excise or remove stratum corneum but have no
3056 appreciable risk of damage to any tissue below the stratum corneum.
3057 (11) "Unlawful conduct" has the meaning given in Subsection 58-1-501(1).
3058 (12) "Unprofessional conduct" has the meaning given in Subsection 58-1-501(2).
3059 Section 54. Section **58-1-103** is amended to read:

3060 **58-1-103. Division created to administer licensing laws.**
3061 There is created within the Department of Commerce the Division of [~~Occupational~~
3062 ~~and~~] Professional Licensing. The division shall administer and enforce all licensing laws of
3063 Title 58, Occupations and Professions.
3064 Section 55. Section **58-1-202** is amended to read:
3065 **58-1-202. Boards -- Duties, functions, and responsibilities.**
3066 (1) The duties, functions, and responsibilities of each board established under this title
3067 include the following:
3068 (a) recommending to the director appropriate rules and statutory changes, including
3069 changes to remove regulations that are no longer necessary or effective in protecting the public
3070 and enhancing commerce;
3071 (b) recommending to the director policy and budgetary matters;
3072 (c) approving and establishing a passing score for applicant examinations;
3073 (d) screening applicants and recommending licensing, renewal, reinstatement, and
3074 relicensure actions to the director in writing;
3075 (e) assisting the director in establishing standards of supervision for students or persons
3076 in training to become qualified to obtain a license in the occupation or profession it represents;
3077 and
3078 (f) acting as presiding officer in conducting hearings associated with adjudicative
3079 proceedings and in issuing recommended orders when so designated by the director.
3080 (2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah
3081 Construction Trades Licensing Act.
3082 (3) (a) Each board or commission established under this title may recommend to the
3083 appropriate legislative committee whether the board or commission supports a change to a
3084 licensing act.
3085 (b) This Subsection (3) does not:
3086 (i) require a board's approval to amend a practice act; and
3087 (ii) apply to technical or clarifying amendments to a practice act.
3088 Section 56. Section **58-1-301** is amended to read:
3089 **58-1-301. License application -- Licensing procedure.**
3090 (1) (a) Each license applicant shall apply to the division in writing upon forms

3091 available from the division.
3092 (b) Each completed application shall:
3093 (i) contain documentation of the particular qualifications required of the applicant
3094 under this title or rules made by the division;
3095 (ii) include the applicant's full legal name and social security number;
3096 (iii) be verified by the applicant; and
3097 (iv) be accompanied by the appropriate fees.
3098 (c) An applicant's social security number is a private record under Subsection
3099 63G-2-302(1)(i).
3100 (2) (a) The division shall issue a license to an applicant who submits a complete
3101 application if the division determines that the applicant meets the qualifications of licensure.
3102 (b) The division shall provide a written notice of additional proceedings to an applicant
3103 who submits a complete application, but who has been, is, or will be placed under investigation
3104 by the division for conduct directly bearing upon the applicant's qualifications for licensure, if
3105 the outcome of additional proceedings is required to determine the division's response to the
3106 application.
3107 (c) The division shall provide a written notice of denial of licensure to an applicant
3108 who submits a complete application if the division determines that the applicant does not meet
3109 the qualifications of licensure.
3110 (d) The division shall provide a written notice of incomplete application and
3111 conditional denial of licensure to an applicant who submits an incomplete application, which
3112 notice shall advise the applicant that the application is incomplete and that the application is
3113 denied, unless the applicant corrects the deficiencies within the time period specified in the
3114 notice and otherwise meets all qualifications for licensure.
3115 (3) The division may only issue a license to an applicant under this title if the applicant
3116 meets the requirements for that license as established under this title and by division rule made
3117 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3118 (4) If an applicant meets all requirements for a specific license, the division shall issue
3119 the license to the applicant.
3120 (5) (a) As used in this Subsection (5):
3121 (i) (A) "Competency-based licensing requirement" means a practical assessment of

3122 knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation
3123 or profession regulated by this title, and which the director determines is at least as effective as
3124 a time-based licensing requirement at demonstrating proficiency and protecting the health and
3125 safety of the public.
3126 (B) "Competency-based licensing requirement" may include any combination of
3127 training, experience, testing, or observation.
3128 (ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks,
3129 months, or years of education, training, supervised training, or other experience that an
3130 applicant for licensure under this title is required to complete before receiving a license under
3131 this title.
3132 (B) "Time-based licensing requirement" does not include an associate degree, a
3133 bachelor's degree, or a graduate degree from an accredited institution of higher education.
3134 (b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title
3135 that has a time-based licensing requirement, the director, after consultation with the appropriate
3136 board, may by division rule made in accordance with Title 63G, Chapter 3, Utah
3137 Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing
3138 requirement as an alternative to completing the time-based licensing requirement.
3139 (c) If a time-based licensing requirement involves a program that must be approved or
3140 accredited by a specific entity or board, the director may only allow an applicant to complete a
3141 competency-based licensing requirement as an alternative to completing the time-based
3142 licensing requirement under Subsection (5)(b) if the competency-based requirement is
3143 approved or accredited by the specific entity or board as a replacement or alternative to the
3144 time-based licensing requirement.
3145 (d) By October 1 of each year, the director shall provide a written report to the
3146 Occupational and Professional Licensure Review Committee describing any competency-based
3147 licensing requirements implemented under this Subsection (5).
3148 Section 57. Section **58-1-302** is amended to read:
3149 **58-1-302. License by endorsement.**
3150 (1) Subject to Subsections [~~(2), (3), (4), and (5)~~] (3) through (6), the division shall
3151 issue a license [~~without examination~~] to a person who has been licensed in a state, district, or
3152 territory of the United States if:

3153 (a) after being licensed outside of this state, the person has at least one year of
3154 experience in the state, district, or territory of the United States where the license was issued;
3155 (b) the person's license is in good standing in the state, district, or territory of the
3156 United States where the license was issued; and
3157 (c) the division determines that the license issued by the state, district, or territory of
3158 the United States encompasses a similar scope of practice as the license sought in this state.
3159 (2) Subject to Subsections (3) through (6), the division may issue a license to a person
3160 who:
3161 (a) has been licensed in a state, district, or territory of the United States, or in a
3162 jurisdiction outside of the United States, if:
3163 (i) (A) after being licensed, the person has at least one year of experience in the
3164 jurisdiction where the license was issued; and
3165 (B) the division determines that the person's education, experience, and skills
3166 demonstrate competency in the occupation or profession for which the person seeks licensure;
3167 or
3168 (ii) the division determines that the licensure requirements of the jurisdiction at the
3169 time the license was issued were substantially similar to the current licensure requirements of
3170 this state; or
3171 (b) has never been licensed in a state, district, or territory of the United States, or in a
3172 jurisdiction outside of the United States, if:
3173 (i) the person was educated in or obtained relevant experience in a state, district, or
3174 territory of the United States, or a jurisdiction outside of the United States; and
3175 (ii) the division determines that the education or experience was substantially similar to
3176 the current education or experience requirements for licensure in this state.
3177 [~~(2)~~] (3) The division, in consultation with the applicable licensing board, may make
3178 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3179 prescribing the administration and requirements of this section.
3180 [~~(3) Notwithstanding the provisions of Subsection (1), the~~]
3181 (4) The division may refuse to issue a license to a person under the provisions of this
3182 section if:
3183 (a) the division determines that there is reasonable cause to believe that the person is

3184 not qualified to receive a license in this state; or
3185 (b) the person has a previous or pending disciplinary action related to the person's
3186 license.
3187 [~~(4)~~] (5) Before a person may be issued a license under this section, the person shall:
3188 (a) pay a fee determined by the department under Section 63J-1-504; and
3189 (b) produce satisfactory evidence of the person's identity, qualifications, and good
3190 standing in the occupation or profession for which licensure is sought.
3191 [~~(5)~~] (6) In accordance with Section 58-1-107, licensure endorsement provisions in this
3192 section are subject to and may be supplemented or altered by licensure endorsement provisions
3193 or multistate licensure compacts in specific chapters of this title.
3194 [~~(6)~~] (7) On or before October 1, 2022, the division shall provide a written report to the
3195 Business and Labor Interim Committee regarding the effectiveness and sufficiency of the
3196 provisions of this section at ensuring that persons receiving a license without examination
3197 under the provisions of this section are qualified to receive a license in this state.
3198 Section 58. Section **58-3a-302** is amended to read:
3199 **58-3a-302. Qualifications for licensure.**
3200 (1) Except as provided in Subsection (2), each applicant for licensure as an architect
3201 shall:
3202 (a) submit an application in a form prescribed by the division;
3203 (b) pay a fee determined by the department under Section 63J-1-504;
3204 (c) have graduated and received an earned bachelors or masters degree from an
3205 architecture program meeting criteria established by rule by the division in collaboration with
3206 the board;
3207 (d) have successfully completed a program of diversified practical experience
3208 established by rule by the division in collaboration with the board;
3209 (e) have successfully passed examinations established by rule by the division in
3210 collaboration with the board; and
3211 (f) meet with the board or representative of the division upon request for the purpose of
3212 evaluating the applicant's qualifications for license.
3213 (2) Each applicant for licensure as an architect by endorsement shall:
3214 (a) submit an application in a form prescribed by the division;

3215 (b) pay a fee determined by the department under Section 63J-1-504;
3216 (c) submit satisfactory evidence of:
3217 (i) (A) current licensure in good standing in a jurisdiction recognized by rule by the
3218 division in collaboration with the board; and
3219 [~~(ii)~~] (B) current certification from the National Council of Architectural Registration
3220 Boards; or
3221 [~~(iii)~~] (ii) (A) current license in good standing in a jurisdiction recognized by rule by
3222 the division in collaboration with the board; and
3223 [~~(iv)~~] (B) full-time employment as a licensed architect as a principal for at least five of
3224 the last seven years immediately preceding the date of the application;
3225 (d) have successfully passed [~~any~~] an examination established by rule by the division in
3226 collaboration with the board; and
3227 (e) meet with the board or representative of the division upon request for the purpose
3228 of evaluating the applicant's qualifications for license.
3229 Section 59. Section **58-9-302** is amended to read:
3230 **58-9-302. Qualifications for licensure.**
3231 (1) Each applicant for licensure as a funeral service director shall:
3232 (a) submit an application in a form prescribed by the division;
3233 (b) pay a fee as determined by the department under Section 63J-1-504;
3234 [~~(c) be of good moral character in that the applicant has not been convicted of:~~]
3235 [~~(i) a first or second degree felony;~~]
3236 [~~(ii) a misdemeanor involving moral turpitude; or~~]
3237 [~~(iii) any other crime that when considered with the duties and responsibilities of a~~
3238 ~~funeral service director is considered by the division and the board to indicate that the best~~
3239 ~~interests of the public are not served by granting the applicant a license;~~]
3240 [~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education
3241 degree;
3242 [~~(e)~~] (d) have obtained an associate degree, or its equivalent, in mortuary science from
3243 a school of funeral service accredited by the American Board of Funeral Service Education or
3244 other accrediting body recognized by the U.S. Department of Education;
3245 [~~(f)~~] (e) have completed not less than 2,000 hours and 50 embalmings, over a period of

3246 not less than one year, of satisfactory performance in training as a licensed funeral service
3247 intern under the supervision of a licensed funeral service director; and
3248 [~~(g)~~] (f) obtain a passing score on examinations approved by the division in
3249 collaboration with the board.
3250 (2) Each applicant for licensure as a funeral service intern shall:
3251 (a) submit an application in a form prescribed by the division;
3252 (b) pay a fee as determined by the department under Section 63J-1-504;
3253 [~~(c) be of good moral character in that the applicant has not been convicted of:~~]
3254 [~~(i) a first or second degree felony;~~]
3255 [~~(ii) a misdemeanor involving moral turpitude; or~~]
3256 [~~(iii) any other crime that when considered with the duties and responsibilities of a~~
3257 ~~funeral service intern is considered by the division and the board to indicate that the best~~
3258 ~~interests of the public are not served by granting the applicant a license;~~]
3259 [~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education
3260 degree; and
3261 [~~(e)~~] (d) obtain a passing score on an examination approved by the division in
3262 collaboration with the board.
3263 (3) Each applicant for licensure as a funeral service establishment and each funeral
3264 service establishment licensee shall:
3265 (a) submit an application in a form prescribed by the division;
3266 (b) pay a fee as determined by the department under Section 63J-1-504;
3267 (c) have in place:
3268 (i) an embalming room for preparing dead human bodies for burial or final disposition,
3269 which may serve one or more facilities operated by the applicant;
3270 (ii) a refrigeration room that maintains a temperature of not more than 40 degrees
3271 fahrenheit for preserving dead human bodies prior to burial or final disposition, which may
3272 serve one or more facilities operated by the applicant; and
3273 (iii) maintain at all times a licensed funeral service director who is responsible for the
3274 day-to-day operation of the funeral service establishment and who is personally available to
3275 perform the services for which the license is required;
3276 (d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service

3277 director if the funeral service establishment sells preneed funeral arrangements;
3278 (e) file with the completed application a copy of each form of contract or agreement the
3279 applicant will use in the sale of preneed funeral arrangements;
3280 (f) provide evidence of appropriate licensure with the Insurance Department if the
3281 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
3282 in part by an insurance policy or product to be sold by the provider or the provider's sales
3283 agent; and
3284 (g) if the applicant intends to offer alkaline hydrolysis in a funeral service
3285 establishment, provide evidence that in accordance with rules made by the division in
3286 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
3287 (i) the funeral service establishment meets the minimum standards for the handling,
3288 holding, and processing of deceased human remains in a safe, clean, private, and respectful
3289 manner; and
3290 (ii) all operators of the alkaline hydrolysis equipment have received adequate training.
3291 (4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:
3292 (a) submit an application in a form prescribed by the division;
3293 (b) pay a fee as determined by the department under Section 63J-1-504;
3294 [~~(c) be of good moral character in that the applicant has not been convicted of:~~]
3295 [~~(i) a first or second degree felony;~~]
3296 [~~(ii) a misdemeanor involving moral turpitude; or~~]
3297 [~~(iii) any other crime that when considered with the duties and responsibilities of a~~
3298 ~~preneed funeral sales agent is considered by the division and the board to indicate that the best~~
3299 ~~interests of the public are not served by granting the applicant a license;~~]
3300 [~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education
3301 degree;
3302 [~~(e)~~] (d) have obtained a passing score on an examination approved by the division in
3303 collaboration with the board;
3304 [~~(f)~~] (e) affiliate with a licensed funeral service establishment; and
3305 [~~(g)~~] (f) provide evidence of appropriate licensure with the Insurance Department if the
3306 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
3307 in part by an insurance policy or product.

3308 Section 60. Section **58-15-101**, which is renumbered from Section 58-15-2 is
3309 renumbered and amended to read:
3310 **CHAPTER 15. HEALTH FACILITY ADMINISTRATOR ACT**
3311 **Part 1. General Provisions**
3312 **[~~58-15-2~~]. 58-15-101. Definitions.**
3313 In addition to the definitions in Section 58-1-102, as used in this chapter:
3314 (1) "Administrator" means a person who is charged with the general administration of a
3315 health facility, regardless of whether [~~that~~]:
3316 (a) the person has an ownership interest in the facility [~~and whether his~~]; or
3317 (b) the person's functions and duties are shared with one or more persons.
3318 (2) "Board" means the Health Facility Administrators Licensing Board created in
3319 Section [~~58-15-3~~] 58-15-201.
3320 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an
3321 intermediate care facility for individuals with an intellectual disability.
3322 (4) "Intermediate care facility" means an institution that provides, on a regular basis,
3323 health care and services to individuals who do not require the degree of care and treatment a
3324 hospital or skilled nursing facility provides, but who require health care and services in
3325 addition to room and board.
3326 (5) "Intermediate care facility for people with an intellectual disability" means an
3327 institution that provides, on a regular basis, health-related care and service to individuals with
3328 intellectual disabilities as defined in Section 68-3-12.5 or individuals with related conditions,
3329 who do not require the degree of care and treatment a hospital or skilled nursing facility
3330 provides, but who require health-related care and services above the need for room and board.
3331 (6) "Skilled nursing facility" means an institution primarily providing inpatients with
3332 skilled nursing care and related services on a continuing basis for patients who require mental,
3333 medical, or nursing care, or service for the rehabilitation of an injured individual, a sick
3334 individual, or an individual with a disability.
3335 (7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further
3336 defined by rule includes:
3337 (a) intentionally filing a false report or record, intentionally failing to file a report or
3338 record required by state or federal law, or [~~wilfully~~] willfully impeding or obstructing the filing

3339 of a required report. These reports or records only include those which are signed in the
3340 capacity of a licensed health facility administrator; and
3341 (b) acting in a manner inconsistent with the health and safety of the patients of the
3342 health facility in which he is the administrator.
3343 Section 61. Section **58-15-201**, which is renumbered from Section 58-15-3 is
3344 renumbered and amended to read:
3345 **Part 2. Board**
3346 **[~~58-15-3~~]. 58-15-201. Health Facility Administrators Licensing Board.**
3347 (1) There is created a Health Facility Administrators Licensing Board consisting of:
3348 (a) one administrator from a skilled nursing facility[~~,~~];
3349 (b) two administrators from intermediate care facilities[~~,~~];
3350 (c) one administrator from an intermediate care facility for people with an intellectual
3351 disability[~~,~~]; and
3352 (d) one member from the general public.
3353 (2) The board shall be appointed and serve in accordance with Section 58-1-201.
3354 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
3355 58-1-202 and 58-1-203.
3356 (b) The board, in collaboration with the division, may establish continuing education
3357 requirements by rule.
3358 (c) Board members may not receive compensation for their involvement in continuing
3359 education programs.
3360 Section 62. Section **58-15-301**, which is renumbered from Section 58-15-4 is
3361 renumbered and amended to read:
3362 **Part 3. Licensing**
3363 **[~~58-15-4~~]. 58-15-301. Licensure requirements.**
3364 (1) An applicant for a license under this chapter shall submit to the division a written
3365 application [~~to the division, verified under oath, that the applicant is of good moral character as~~
3366 ~~it relates to the functions and responsibilities of the practice of administration of a health~~
3367 ~~facility~~] in a form prescribed by the division.
3368 (2) After July 1, 1985, all new applicants are required to have[~~, in addition to~~
3369 ~~Subsection (1),~~] the education or experience requirements as established by rule and as

3370 approved by the division.
3371 (3) The applicant shall pay [~~a fee to the Department of Commerce determined by it~~
3372 ~~pursuant to~~] to the department a fee in an amount determined by the department in accordance
3373 with Section 63J-1-504 for:
3374 (a) admission to the examination[~~, for~~];
3375 (b) an initial license[~~, and for~~]; and
3376 (c) a renewal license.
3377 (4) (a) The applicant shall pass a written examination in subjects determined by the
3378 board.
3379 (b) Upon the applicant passing the examination described in Subsection (4)(a) and
3380 [~~payment of~~] paying the license fee described in Subsection (3), the board shall recommend
3381 issuance to the applicant of a license to practice as a health facility administrator.
3382 (5) (a) A temporary license may be issued without examination to a person who meets
3383 the requirements established by statute and by rule for an administrator. [~~The~~]
3384 (b) A temporary license may be issued only:
3385 (i) to fill a position of administrator that unexpectedly becomes vacant; and [~~may be~~
3386 ~~issued for only a single period not to exceed six months.~~]
3387 (ii) for a single period of six months or less.
3388 [~~(6) A license may be granted to an applicant who is a licensed nursing home~~
3389 ~~administrator in another state if the standards for licensure in the other state are equivalent to~~
3390 ~~those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.~~]
3391 Section 63. Section **58-15-302**, which is renumbered from Section 58-15-4.5 is
3392 renumbered and amended to read:
3393 **[~~58-15-4.5~~]. 58-15-302. Term of license -- Expiration -- Renewal.**
3394 (1) (a) Each license issued under this chapter shall be issued in accordance with a
3395 two-year renewal cycle established by rule.
3396 (b) A renewal period described in Subsection (1)(a) may be extended or shortened by
3397 as much as one year to maintain established renewal cycles or to change an established renewal
3398 cycle.
3399 (2) Each license automatically expires on the expiration date shown on the license
3400 unless renewed by the licensee in accordance with Section 58-1-308.

3401 Section 64. Section **58-15-303**, which is renumbered from Section 58-15-11 is
3402 renumbered and amended to read:
3403 **[~~58-15-11~~]. 58-15-303. Exemptions to chapter.**
3404 (1) In addition to the exemptions described in Section 58-1-307, this chapter does not
3405 apply to:
3406 (a) a facility of a recognized church or denomination that cares for the sick and
3407 suffering by mental or spiritual means if no drug or material remedy is used in the care
3408 provided; or
3409 (b) the superintendent of the Utah State Developmental Center described in Section
3410 62A-5-201.
3411 (2) Any facility or person exempted under this section shall comply with each statute
3412 and rule on sanitation and life safety.
3413 Section 65. Section **58-15-401**, which is renumbered from Section 58-15-12 is
3414 renumbered and amended to read:
3415 **Part 4. License Denial and Discipline**
3416 **[~~58-15-12~~]. 58-15-401. Grounds for denial of license -- Disciplinary**
3417 **proceedings.**
3418 Grounds for refusal to issue a license to an applicant, for refusal to renew the license of
3419 a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a
3420 public or private reprimand to a licensee, and to issue cease and desist orders shall be in
3421 accordance with Section 58-1-401.
3422 Section 66. Section **58-15-501**, which is renumbered from Section 58-15-10 is
3423 renumbered and amended to read:
3424 **Part 5. Unlawful Conduct**
3425 **[~~58-15-10~~]. 58-15-501. Penalty for unlawful conduct.**
3426 [~~Any~~] A person who violates the unlawful conduct provisions defined in Subsection
3427 58-1-501(1) is guilty of a class B misdemeanor.
3428 Section 67. Section **58-16a-302** is amended to read:
3429 **58-16a-302. Qualifications for licensure.**
3430 [~~(1)~~] An applicant for licensure as an optometrist shall:
3431 [~~(a)~~] (1) submit an application in a form prescribed by the division;

3432 [~~(b)~~] (2) pay a fee as determined by the division under Section 63J-1-504;
3433 [~~(c) (i)~~] (3) (a) be a doctoral graduate of a recognized school of optometry accredited
3434 by the American Optometric Association's Accreditation Council on Optometric Education; or
3435 [~~(ii)~~] (b) be a graduate of a school of optometry located outside the United States that
3436 meets the criteria that would qualify the school for accreditation under Subsection [~~(1)(c)(i)~~]
3437 (3)(a), as demonstrated by the applicant for licensure;
3438 [~~(d)~~] (4) if the applicant graduated from a recognized school of optometry prior to July
3439 1, 1996, have successfully completed a course of study satisfactory to the division, in
3440 consultation with the board, in general and ocular pharmacology and emergency medical care;
3441 [~~(e)~~] (5) have passed examinations approved by the division in consultation with the
3442 board that include:
3443 [~~(i)~~] (a) a standardized national optometry examination;
3444 [~~(ii)~~] (b) a standardized clinical examination; and
3445 [~~(iii)~~] (c) a standardized national therapeutics examination; and
3446 [~~(f)~~] (6) meet with the board and representatives of the division, if requested by either
3447 party, for the purpose of evaluating the applicant's qualifications for licensure.
3448 [~~(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a~~
3449 ~~license under this chapter by endorsement to an individual who:~~]
3450 [~~(a) submits an application for licensure by endorsement on a form approved by the~~
3451 ~~division;~~]
3452 [~~(b) pays a fee established by the division in accordance with Section 63J-1-504;~~]
3453 [~~(c) verifies that the individual is licensed as an optometrist in good standing in each~~
3454 ~~state of the United States, or province of Canada, in which the individual is currently licensed~~
3455 ~~as an optometrist; and~~]
3456 [~~(d) has been actively engaged in the legal practice of optometry for at least 3,200~~
3457 ~~hours during the immediately preceding two years in a manner consistent with the legal~~
3458 ~~practice of optometry in this state.~~]
3459 Section 68. Section **58-17b-504** is amended to read:
3460 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**
3461 (1) Any person who violates any of the unlawful conduct provisions of Subsection
3462 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

3463 (2) Any person who violates any of the unlawful conduct provisions of Subsection
3464 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except
3465 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.
3466 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts
3467 of unprofessional or unlawful conduct, the division may:
3468 (i) assess administrative penalties; and
3469 (ii) take any other appropriate administrative action.
3470 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
3471 General Fund as a dedicated credit to be used by the division for pharmacy licensee education
3472 and enforcement as provided in Section 58-17b-505.
3473 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an
3474 administrative finding of a violation of the same section, the licensee may not be assessed an
3475 administrative fine under this chapter for the same offense for which the conviction was
3476 obtained.
3477 (5) (a) If upon inspection or investigation, the division concludes that a person has
3478 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled
3479 Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of
3480 [~~Occupational and~~] Professional Licensing Act, or any rule or order issued with respect to these
3481 provisions, and that disciplinary action is appropriate, the director or the director's designee
3482 from within the division shall promptly issue a citation to the person according to this chapter
3483 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to
3484 appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
3485 Administrative Procedures Act.
3486 (b) Any person who is in violation of the provisions of Section 58-17b-501 or
3487 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance
3488 Database Act, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any
3489 rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a
3490 stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a
3491 fine pursuant to this Subsection (5) of up to $10,000 per single violation or up to $2,000 per
3492 day of ongoing violation, whichever is greater, in accordance with a fine schedule established
3493 by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the

3494 provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act,
3495 Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any rule or order
3496 issued with respect to these provisions.
3497 (c) Except for an administrative fine and a cease and desist order, the licensure
3498 sanctions cited in Section 58-17b-401 may not be assessed through a citation.
3499 (d) Each citation shall be in writing and specifically describe with particularity the
3500 nature of the violation, including a reference to the provision of the chapter, rule, or order
3501 alleged to have been violated. The citation shall clearly state that the recipient must notify the
3502 division in writing within 20 calendar days of service of the citation in order to contest the
3503 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.
3504 The citation shall clearly explain the consequences of failure to timely contest the citation or to
3505 make payment of any fines assessed by the citation within the time specified in the citation.
3506 (e) Each citation issued under this section, or a copy of each citation, may be served
3507 upon any person upon whom a summons may be served:
3508 (i) in accordance with the Utah Rules of Civil Procedure;
3509 (ii) personally or upon the person's agent by a division investigator or by any person
3510 specially designated by the director; or
3511 (iii) by mail.
3512 (f) If within 20 calendar days from the service of a citation, the person to whom the
3513 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3514 final order of the division and is not subject to further agency review. The period to contest the
3515 citation may be extended by the division for cause.
3516 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
3517 the license of a licensee who fails to comply with the citation after it becomes final.
3518 (h) The failure of an applicant for licensure to comply with a citation after it becomes
3519 final is a ground for denial of license.
3520 (i) No citation may be issued under this section after the expiration of one year
3521 following the date on which the violation that is the subject of the citation is reported to the
3522 division.
3523 (6) (a) The director may collect a penalty that is not paid by:
3524 (i) referring the matter to a collection agency; or

3525 (ii) bringing an action in the district court of the county where the person against whom
3526 the penalty is imposed resides or in the county where the office of the director is located.
3527 (b) A county attorney or the attorney general of the state shall provide legal assistance
3528 and advice to the director in an action to collect a penalty.
3529 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
3530 action brought by the division to collect a penalty.
3531 Section 69. Section **58-20b-102** is amended to read:
3532 **58-20b-102. Definitions.**
3533 In addition to the definitions in Section 58-1-102, as used in this chapter:
3534 (1) "Accredited program" means a degree-offering program from:
3535 (a) an institution, college, or university that is accredited by the Department of
3536 Education or the Council for Higher Education Accreditation; or
3537 (b) a non-accredited institution, college, or university that offers education equivalent
3538 to Department of Education-accredited programs, as determined by a third party selected by the
3539 board.
3540 (2) "Board" means the Environmental Health Scientist Board created in Section
3541 58-20b-201.
3542 (3) "General supervision" means the supervising environmental health scientist is
3543 available for immediate voice communication with the person he or she is supervising.
3544 (4) "Practice of environmental health science" means:
3545 (a) the enforcement of, the issuance of permits required by, or the inspection for the
3546 purpose of enforcing state and local public health laws in the following areas:
3547 (i) air quality;
3548 (ii) food [~~quality~~] safety;
3549 (iii) solid, hazardous, and toxic substances disposal;
3550 (iv) consumer product safety;
3551 (v) housing;
3552 (vi) noise control;
3553 (vii) radiation protection;
3554 (viii) water quality;
3555 (ix) vector control;

3556 (x) drinking water quality;
3557 (xi) milk sanitation;
3558 (xii) rabies control;
3559 (xiii) public health nuisances;
3560 (xiv) indoor clean air regulations;
3561 (xv) institutional and residential sanitation; or
3562 (xvi) recreational facilities sanitation; or
3563 (b) representing oneself in any manner as, or using the titles "environmental health
3564 scientist," "environmental health scientist-in-training," or "registered sanitarian."
3565 (5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.
3566 (6) "Unprofessional conduct" means the same as that term is defined in Sections
3567 58-1-501 and 58-20b-501 and as may be further defined by division rule.
3568 Section 70. Section **58-22-102** is amended to read:
3569 **58-22-102. Definitions.**
3570 In addition to the definitions in Section 58-1-102, as used in this chapter:
3571 (1) "Board" means the Professional Engineers and Professional Land Surveyors
3572 Licensing Board created in Section 58-22-201.
3573 (2) "Building" means a structure which has human occupancy or habitation as its
3574 principal purpose, and includes the structural, mechanical, and electrical systems, utility
3575 services, and other facilities required for the building, and is otherwise governed by the State
3576 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
3577 Act.
3578 (3) "Complete construction plans" means a final set of plans, specifications, and reports
3579 for a building or structure that normally includes:
3580 (a) floor plans;
3581 (b) elevations;
3582 (c) site plans;
3583 (d) foundation, structural, and framing detail;
3584 (e) electrical, mechanical, and plumbing design;
3585 (f) information required by the energy code;
3586 (g) specifications and related calculations as appropriate; and

3587 (h) all other documents required to obtain a building permit.
3588 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation
3589 Board for Engineering and Technology.
3590 (5) "Fund" means the Professional Engineer, Professional Structural Engineer, and
3591 Professional Land Surveyor Education and Enforcement Fund created in Section 58-22-103.
3592 (6) "NCEES" means the National Council of Examiners for Engineering and
3593 Surveying.
3594 (7) "Principal" means a licensed professional engineer, professional structural engineer,
3595 or professional land surveyor having responsible charge of an organization's professional
3596 engineering, professional structural engineering, or professional land surveying practice.
3597 (8) "Professional engineer" means a person licensed under this chapter as a
3598 professional engineer.
3599 (9) (a) "Professional engineering," "the practice of engineering," or "the practice of
3600 professional engineering" means a service or creative work, the adequate performance of which
3601 requires engineering education, training, and experience in the application of special
3602 knowledge of the mathematical, physical, and engineering sciences to the service or creative
3603 work as consultation, investigation, evaluation, planning, design, and design coordination of
3604 engineering works and systems, planning the use of land and water, facility programming,
3605 performing engineering surveys and studies, and the review of construction for the purpose of
3606 monitoring compliance with drawings and specifications; any of which embraces these services
3607 or work, either public or private, in connection with any utilities, structures, buildings,
3608 machines, equipment, processes, work systems, projects, and industrial or consumer products
3609 or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and
3610 including other professional services as may be necessary to the planning, progress, and
3611 completion of any engineering services.
3612 (b) "The practice of professional engineering" does not include the practice of
3613 architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform
3614 architecture work as is incidental to the practice of engineering.
3615 (10) "Professional engineering intern" means a person who:
3616 (a) has completed the education requirements to become a professional engineer;
3617 (b) has passed the fundamentals of engineering examination; and

3618 (c) is engaged in obtaining the four years of qualifying experience for licensure under
3619 the [~~direct~~] supervision of a licensed professional engineer.
3620 (11) "Professional land surveying" or "the practice of land surveying" means a service
3621 or work, the adequate performance of which requires the application of special knowledge of
3622 the principles of mathematics, the related physical and applied sciences, and the relevant
3623 requirements of law for adequate evidence to the act of measuring and locating lines, angles,
3624 elevations, natural and man-made features in the air, on the surface of the earth, within
3625 underground workings, and on the beds of bodies of water for the purpose of determining areas
3626 and volumes, for the monumenting or locating of property boundaries or points controlling
3627 boundaries, and for the platting and layout of lands and subdivisions of lands, including the
3628 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,
3629 record plats, field notes records, and property descriptions that represent these surveys and
3630 other duties as sound surveying practices could direct.
3631 (12) "Professional land surveyor" means an individual licensed under this chapter as a
3632 professional land surveyor.
3633 (13) "Professional structural engineer" means a person licensed under this chapter as a
3634 professional structural engineer.
3635 (14) (a) "Professional structural engineering" or "the practice of structural engineering"
3636 means a service or creative work providing structural engineering services for significant
3637 structures, including:
3638 (i) buildings and other structures representing a substantial hazard to human life, which
3639 include:
3640 (A) buildings and other structures whose primary occupancy is public assembly with an
3641 occupant load greater than 300;
3642 (B) buildings and other structures with elementary school, secondary school, or day
3643 care facilities with an occupant load greater than 250;
3644 (C) buildings and other structures with an occupant load greater than 500 for colleges
3645 or adult education facilities;
3646 (D) health care facilities with an occupant load of 50 or more resident patients, but not
3647 having surgery or emergency treatment facilities;
3648 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and

3649 (F) buildings and other structures with an occupant load greater than 5,000;
3650 (ii) buildings and other structures designated as essential facilities, including:
3651 (A) hospitals and other health care facilities having surgery or emergency treatment
3652 facilities with a gross area greater than 3,000 square feet;
3653 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
3654 greater than 24 feet or a gross area greater than 5,000 square feet;
3655 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
3656 greater than 3,000 square feet;
3657 (D) designated emergency preparedness, communication, and operation centers and
3658 other buildings required for emergency response with a mean height more than 24 feet or a
3659 gross area greater than 5,000 square feet;
3660 (E) power-generating stations and other public utility facilities required as emergency
3661 backup facilities with a gross area greater than 3,000 square feet;
3662 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
3663 square feet containing highly toxic materials as defined by the division by rule, where the
3664 quantity of the material exceeds the maximum allowable quantities set by the division by rule;
3665 and
3666 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars
3667 at commercial service and cargo air services airports as defined by the Federal Aviation
3668 Administration with a mean height greater than 35 feet or a gross area greater than 20,000
3669 square feet; and
3670 (iii) buildings and other structures requiring special consideration, including:
3671 (A) structures or buildings that are normally occupied by human beings and are five
3672 stories or more in height;
3673 (B) structures or buildings that are normally occupied by human beings and have an
3674 average roof height more than 60 feet above the average ground level measured at the
3675 perimeter of the structure; and
3676 (C) buildings that are over 200,000 aggregate gross square feet in area.
3677 (b) "Professional structural engineering" or "the practice of structural engineering":
3678 (i) includes the definition of professional engineering or the practice of professional
3679 engineering as provided in Subsection (9); and

3680 (ii) may be further defined by rules made by the division in collaboration with the
3681 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3682 (15) "Structure" means that which is built or constructed, an edifice or building of any
3683 kind, or a piece of work artificially built up or composed of parts joined together in a definite
3684 manner, and as otherwise governed by the State Construction Code or an approved code under
3685 Title 15A, State Construction and Fire Codes Act.
3686 (16) "Supervision [~~of an employee, subordinate, associate, or drafter of a licensee~~]"
3687 means that a licensed professional engineer, professional structural engineer, or professional
3688 land surveyor is responsible for and personally reviews, corrects when necessary, and approves
3689 work performed by an employee, subordinate, associate, or drafter under the direction of the
3690 licensee, and may be further defined by rule by the division in collaboration with the board.
3691 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation
3692 Board for Engineering and Technology.
3693 (18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
3694 and 58-22-501.
3695 (19) "Unprofessional conduct" means the same as that term is defined in Sections
3696 58-1-501 and 58-22-502.5.
3697 Section 71. Section **58-28-304** is amended to read:
3698 **58-28-304. Temporary license -- License reciprocity.**
3699 (1) The division may issue a temporary license to practice veterinary medicine, surgery,
3700 and dentistry to any person not qualified for licensure under [~~Subsection (4)~~] Section 58-1-302
3701 who meets all requirements of Section 58-28-302 with the exception of Subsections
3702 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date
3703 examination results are available for the examination next following the date of the issuance of
3704 the temporary license.
3705 (2) The temporary license shall permit the holder to practice under the indirect
3706 supervision of a veterinarian licensed to practice in this state.
3707 (3) The division may extend the expiration date of the temporary license until the
3708 following examination date if:
3709 (a) the applicant shows to the board good cause for failing to take or pass the
3710 examination; and

3711 (b) the majority of the board members recommend the extension.
3712 [~~(4) Upon the recommendation of the board, the division may issue a license without~~
3713 ~~examination to a person who:~~]
3714 [~~(a) has been licensed or registered to practice veterinary medicine, surgery, and~~
3715 ~~dentistry in any state, district, or territory of the United States or in any foreign country, whose~~
3716 ~~educational, examination, and experience requirements are or were at the time the license was~~
3717 ~~issued equal to those of this state;~~]
3718 [~~(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while~~
3719 ~~licensed by another jurisdiction for at least two years;~~]
3720 [~~(c) obtained the license in another jurisdiction after passing an examination~~
3721 ~~component acceptable to the division and the board;~~]
3722 [~~(d) produces satisfactory evidence of having practiced veterinary medicine~~
3723 ~~competently and in accordance with the standards and ethics of the profession while practicing~~
3724 ~~in another jurisdiction; and~~]
3725 [~~(e) produces satisfactory evidence of identity and good moral character as it relates to~~
3726 ~~the applicant's functions and practice as a licensed veterinarian.~~]
3727 Section 72. Section **58-28-503** is amended to read:
3728 **58-28-503. Penalty for unlawful or unprofessional conduct.**
3729 (1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is
3730 guilty of a third degree felony.
3731 (2) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act,
3732 and Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may
3733 impose administrative penalties of up to $10,000 for acts of unprofessional conduct or
3734 unlawful conduct under this chapter.
3735 (3) Assessment of a penalty under this section does not affect any other action the
3736 division is authorized to take regarding a license issued under this chapter.
3737 (4) (a) The director may collect a penalty that is not paid by:
3738 (i) referring the matter to a collection agency; or
3739 (ii) bringing an action in the district court of the county where the person against whom
3740 the penalty is imposed resides or in the county where the office of the director is located.
3741 (b) A county attorney or the attorney general of the state shall provide legal assistance

3742 and advice to the director in an action to collect a penalty.
3743 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
3744 action brought by the division to collect a penalty.
3745 Section 73. Section **58-31b-303** is amended to read:
3746 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing**
3747 **programs.**
3748 An applicant for licensure as a practical nurse or registered nurse who is a graduate of a
3749 nursing education program not approved by the division in collaboration with the board must
3750 comply with the requirements of this section.
3751 (1) An applicant for licensure as a licensed practical nurse shall:
3752 (a) meet all requirements of Subsection 58-31b-302(2), except Subsection
3753 58-31b-302(2)(e); and
3754 (b) produce evidence acceptable to the division and the board that the nursing
3755 education program completed by the applicant is equivalent to the minimum standards
3756 established by the division in collaboration with the board for an approved licensed practical
3757 nursing education program.
3758 (2) An applicant for licensure as a registered nurse shall:
3759 (a) meet all requirements of Subsection 58-31b-302(3), except Subsection
3760 58-31b-302(3)(e); and
3761 (b) (i) pass the Commission on Graduates of Foreign Nursing Schools (CGFNS)
3762 Examination; or
3763 (ii) produce evidence acceptable to the division and the board that the applicant is
3764 currently licensed as a registered nurse in one of the states, territories, or the District of
3765 Columbia of the United States or in Canada and has passed the NCLEX-RN examination in
3766 English.
3767 Section 74. Section **58-31b-503** is amended to read:
3768 **58-31b-503. Penalties and administrative actions for unlawful conduct and**
3769 **unprofessional conduct.**
3770 (1) Any person who violates the unlawful conduct provision specifically defined in
3771 Subsection 58-1-501(1)(a) is guilty of a third degree felony.
3772 (2) Any person who violates any of the unlawful conduct provisions specifically

3773 defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A
3774 misdemeanor.
3775 (3) Any person who violates any of the unlawful conduct provisions specifically
3776 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B
3777 misdemeanor.
3778 (4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts
3779 of unprofessional or unlawful conduct, the division may:
3780 (i) assess administrative penalties; and
3781 (ii) take any other appropriate administrative action.
3782 (b) An administrative penalty imposed pursuant to this section shall be deposited [~~in~~]
3783 into the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.
3784 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an
3785 administrative finding of a violation of the same section, the licensee may not be assessed an
3786 administrative fine under this chapter for the same offense for which the conviction was
3787 obtained.
3788 (6) (a) If upon inspection or investigation, the division concludes that a person has
3789 violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division
3790 of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances
3791 Act, or any rule or order issued with respect to these provisions, and that disciplinary action is
3792 appropriate, the director or the director's designee from within the division shall:
3793 (i) promptly issue a citation to the person according to this chapter and any pertinent
3794 administrative rules;
3795 (ii) attempt to negotiate a stipulated settlement; or
3796 (iii) notify the person to appear before an adjudicative proceeding conducted under
3797 Title 63G, Chapter 4, Administrative Procedures Act.
3798 (b) Any person who is in violation of a provision described in Subsection (6)(a), as
3799 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an
3800 adjudicative proceeding may be assessed a fine:
3801 (i) pursuant to this Subsection (6) of up to $10,000 per single violation or up to $2,000
3802 per day of ongoing violation, whichever is greater, in accordance with a fine schedule
3803 established by rule; and

3804 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered
3805 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter
3806 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled
3807 Substances Act, or any rule or order issued with respect to those provisions.
3808 (c) Except for an administrative fine and a cease and desist order, the licensure
3809 sanctions cited in Section 58-31b-401 may not be assessed through a citation.
3810 (d) Each citation issued under this section shall:
3811 (i) be in writing; and
3812 (ii) clearly describe or explain:
3813 (A) the nature of the violation, including a reference to the provision of the chapter,
3814 rule, or order alleged to have been violated;
3815 (B) that the recipient must notify the division in writing within 20 calendar days of
3816 service of the citation in order to contest the citation at a hearing conducted under Title 63G,
3817 Chapter 4, Administrative Procedures Act; and
3818 (C) the consequences of failure to timely contest the citation or to make payment of
3819 any fines assessed by the citation within the time specified in the citation; and
3820 (iii) be served upon any person upon whom a summons may be served:
3821 (A) in accordance with the Utah Rules of Civil Procedure;
3822 (B) personally or upon the person's agent by a division investigator or by any person
3823 specially designated by the director; or
3824 (C) by mail.
3825 (e) If within 20 calendar days from the service of a citation, the person to whom the
3826 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3827 final order of the division and is not subject to further agency review. The period to contest the
3828 citation may be extended by the division for cause.
3829 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
3830 the license of a licensee who fails to comply with the citation after it becomes final.
3831 (g) The failure of an applicant for licensure to comply with a citation after it becomes
3832 final is a ground for denial of license.
3833 (h) No citation may be issued under this section after the expiration of one year
3834 following the date on which the violation that is the subject of the citation is reported to the

3835 division.
3836 (7) (a) The director may collect a penalty that is not paid by:
3837 (i) referring the matter to a collection agency; or
3838 (ii) bringing an action in the district court of the county where the person against whom
3839 the penalty is imposed resides or in the county where the office of the director is located.
3840 (b) A county attorney or the attorney general of the state shall provide legal assistance
3841 and advice to the director in an action to collect a penalty.
3842 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
3843 action brought by the division to collect a penalty.
3844 Section 75. Section **58-37-2** is amended to read:
3845 **58-37-2. Definitions.**
3846 (1) As used in this chapter:
3847 (a) "Administer" means the direct application of a controlled substance, whether by
3848 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
3849 by:
3850 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;
3851 or
3852 (ii) the patient or research subject at the direction and in the presence of the
3853 practitioner.
3854 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
3855 manufacturer, distributor, or practitioner but does not include a motor carrier, public
3856 warehouseman, or employee of any of them.
3857 (c) "Consumption" means ingesting or having any measurable amount of a controlled
3858 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
3859 controlled substance.
3860 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
3861 partnership, corporation, business trust, association, or other legal entity, and any union or
3862 groups of individuals associated in fact although not a legal entity, and includes illicit as well
3863 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
3864 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
3865 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

3866 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
3867 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
3868 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
3869 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
3870 unlawful conduct and be related either to each other or to the enterprise.
3871 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
3872 immediate precursor under Section 58-37-3.
3873 (f) (i) "Controlled substance" means a drug or substance:
3874 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;
3875 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
3876 Title II, P.L. 91-513;
3877 (C) that is a controlled substance analog; or
3878 (D) listed in Section 58-37-4.2.
3879 (ii) "Controlled substance" does not include:
3880 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
3881 Alcoholic Beverage Control Act;
3882 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
3883 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
3884 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
3885 transferred, or furnished as an over-the-counter medication without prescription; or
3886 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
3887 including concentrates or extracts, which:
3888 (I) are not otherwise regulated by law; and
3889 (II) may contain naturally occurring amounts of chemical or substances listed in this
3890 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
3891 Act.
3892 (g) (i) "Controlled substance analog" means:
3893 (A) a substance the chemical structure of which is substantially similar to the chemical
3894 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
3895 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
3896 Title II, P.L. 91-513;

3897 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
3898 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
3899 effect on the central nervous system of controlled substances listed in Schedules I and II of
3900 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
3901 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or
3902 (C) A substance which, with respect to a particular individual, is represented or
3903 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
3904 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
3905 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
3906 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
3907 Controlled Substances Act, Title II, P.L. 91-513.
3908 (ii) "Controlled substance analog" does not include:
3909 (A) a controlled substance currently scheduled in Schedules I through V of Section
3910 58-37-4;
3911 (B) a substance for which there is an approved new drug application;
3912 (C) a substance with respect to which an exemption is in effect for investigational use
3913 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
3914 to the extent the conduct with respect to the substance is permitted by the exemption;
3915 (D) any substance to the extent not intended for human consumption before an
3916 exemption takes effect with respect to the substance;
3917 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
3918 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
3919 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
3920 transferred, or furnished as an over-the-counter medication without prescription; or
3921 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
3922 including concentrates or extracts, which are not otherwise regulated by law, which may
3923 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
3924 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3925 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
3926 or plea, whether guilty or no contest, for any offense proscribed by:
3927 (A) Chapter 37, Utah Controlled Substances Act;

3928 (B) Chapter 37a, Utah Drug Paraphernalia Act;
3929 (C) Chapter 37b, Imitation Controlled Substances Act;
3930 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
3931 (E) Chapter 37d, Clandestine Drug Lab Act; or
3932 (ii) for any offense under the laws of the United States and any other state which, if
3933 committed in this state, would be an offense under:
3934 (A) Chapter 37, Utah Controlled Substances Act;
3935 (B) Chapter 37a, Utah Drug Paraphernalia Act;
3936 (C) Chapter 37b, Imitation Controlled Substances Act;
3937 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
3938 (E) Chapter 37d, Clandestine Drug Lab Act.
3939 (i) "Counterfeit substance" means:
3940 (i) any controlled substance or container or labeling of any controlled substance that:
3941 (A) without authorization bears the trademark, trade name, or other identifying mark,
3942 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
3943 other than the person or persons who in fact manufactured, distributed, or dispensed the
3944 substance which falsely purports to be a controlled substance distributed by any other
3945 manufacturer, distributor, or dispenser; and
3946 (B) a reasonable person would believe to be a controlled substance distributed by an
3947 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
3948 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
3949 substance; or
3950 (ii) any substance other than under Subsection (1)(i)(i) that:
3951 (A) is falsely represented to be any legally or illegally manufactured controlled
3952 substance; and
3953 (B) a reasonable person would believe to be a legal or illegal controlled substance.
3954 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
3955 controlled substance or a listed chemical, whether or not an agency relationship exists.
3956 (k) "Department" means the Department of Commerce.
3957 (l) "Depressant or stimulant substance" means:
3958 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric

3959 acid;
3960 (ii) a drug which contains any quantity of:
3961 (A) amphetamine or any of its optical isomers;
3962 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
3963 (C) any substance which the Secretary of Health and Human Services or the Attorney
3964 General of the United States after investigation has found and by regulation designated
3965 habit-forming because of its stimulant effect on the central nervous system;
3966 (iii) lysergic acid diethylamide; or
3967 (iv) any drug which contains any quantity of a substance which the Secretary of Health
3968 and Human Services or the Attorney General of the United States after investigation has found
3969 to have, and by regulation designated as having, a potential for abuse because of its depressant
3970 or stimulant effect on the central nervous system or its hallucinogenic effect.
3971 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
3972 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
3973 distributing to, leaving with, giving away, or disposing of that substance as well as the
3974 packaging, labeling, or compounding necessary to prepare the substance for delivery.
3975 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
3976 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
3977 substance or a listed chemical.
3978 (p) "Distributor" means a person who distributes controlled substances.
3979 (q) "Division" means the Division of [~~Occupational and~~] Professional Licensing
3980 created in Section 58-1-103.
3981 (r) (i) "Drug" means:
3982 (A) a substance recognized in the official United States Pharmacopoeia, Official
3983 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
3984 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
3985 prevention of disease in humans or animals;
3986 (B) a substance that is required by any applicable federal or state law or rule to be
3987 dispensed by prescription only or is restricted to administration by practitioners only;
3988 (C) a substance other than food intended to affect the structure or any function of the
3989 body of humans or other animals; and

3990 (D) substances intended for use as a component of any substance specified in
3991 Subsections (1)(r)(i)(A), (B), and (C).
3992 (ii) "Drug" does not include dietary supplements.
3993 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
3994 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
3995 dependent upon the use of controlled substances as to have lost the power of self-control with
3996 reference to the individual's dependency.
3997 (t) "Food" means:
3998 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
3999 specified in this chapter, and normally ingested by human beings; and
4000 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
4001 pathological, or other condition including but not limited to the conditions of disease,
4002 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
4003 overweight; uses for supplying a particular dietary need which exist by reason of age including
4004 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
4005 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
4006 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
4007 purposes.
4008 (u) "Immediate precursor" means a substance which the Attorney General of the United
4009 States has found to be, and by regulation designated as being, the principal compound used or
4010 produced primarily for use in the manufacture of a controlled substance, or which is an
4011 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
4012 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
4013 controlled substance.
4014 (v) "Indian" means a member of an Indian tribe.
4015 (w) "Indian religion" means any religion:
4016 (i) the origin and interpretation of which is from within a traditional Indian culture or
4017 community; and
4018 (ii) which is practiced by Indians.
4019 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
4020 community of Indians, including any Alaska Native village, which is legally recognized as

4021 eligible for and is consistent with the special programs, services, and entitlements provided by
4022 the United States to Indians because of their status as Indians.
4023 (y) "Manufacture" means the production, preparation, propagation, compounding, or
4024 processing of a controlled substance, either directly or indirectly by extraction from substances
4025 of natural origin, or independently by means of chemical synthesis or by a combination of
4026 extraction and chemical synthesis.
4027 (z) "Manufacturer" includes any person who packages, repackages, or labels any
4028 container of any controlled substance, except pharmacists who dispense or compound
4029 prescription orders for delivery to the ultimate consumer.
4030 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
4031 whether growing or not, including:
4032 (A) seeds;
4033 (B) resin extracted from any part of the plant, including the resin extracted from the
4034 mature stalks;
4035 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
4036 seeds, or resin; and
4037 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
4038 or any other species of the genus cannabis which are chemically indistinguishable and
4039 pharmacologically active.
4040 (ii) "Marijuana" does not include:
4041 (A) the mature stalks of the plant;
4042 (B) fiber produced from the stalks;
4043 (C) oil or cake made from the seeds of the plant;
4044 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
4045 salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;
4046 (E) the sterilized seed of the plant which is incapable of germination; or
4047 (F) any compound, mixture, or preparation approved by the federal Food and Drug
4048 Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
4049 that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal
4050 Controlled Substances Act, Title II, P.L. 91-513.
4051 (bb) "Money" means officially issued coin and currency of the United States or any

4052 foreign country.
4053 (cc) "Narcotic drug" means any of the following, whether produced directly or
4054 indirectly by extraction from substances of vegetable origin, or independently by means of
4055 chemical synthesis, or by a combination of extraction and chemical synthesis:
4056 (i) opium, coca leaves, and opiates;
4057 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
4058 opiates;
4059 (iii) opium poppy and poppy straw; or
4060 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
4061 substance, which is chemically identical with any of the substances referred to in Subsection
4062 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
4063 extracts of coca leaves which do not contain cocaine or ecgonine.
4064 (dd) "Negotiable instrument" means documents, containing an unconditional promise
4065 to pay a sum of money, which are legally transferable to another party by endorsement or
4066 delivery.
4067 (ee) "Opiate" means any drug or other substance having an addiction-forming or
4068 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
4069 having addiction-forming or addiction-sustaining liability.
4070 (ff) "Opium poppy" means the plant of the species papaver somniferum L., except the
4071 seeds of the plant.
4072 (gg) "Person" means any corporation, association, partnership, trust, other institution or
4073 entity or one or more individuals.
4074 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
4075 mowing.
4076 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
4077 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
4078 or consumption, as distinguished from distribution, of controlled substances and includes
4079 individual, joint, or group possession or use of controlled substances. For a person to be a
4080 possessor or user of a controlled substance, it is not required that the person be shown to have
4081 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
4082 the person jointly participated with one or more persons in the use, possession, or control of

4083 any substances with knowledge that the activity was occurring, or the controlled substance is
4084 found in a place or under circumstances indicating that the person had the ability and the intent
4085 to exercise dominion and control over it.
4086 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
4087 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
4088 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
4089 in teaching or chemical analysis a controlled substance in the course of professional practice or
4090 research in this state.
4091 (kk) "Prescribe" means to issue a prescription:
4092 (i) orally or in writing; or
4093 (ii) by telephone, facsimile transmission, computer, or other electronic means of
4094 communication as defined by division rule.
4095 (ll) "Prescription" means an order issued:
4096 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
4097 by collaborative pharmacy practice agreement; and
4098 (ii) for a controlled substance or other prescription drug or device for use by a patient
4099 or an animal.
4100 (mm) "Production" means the manufacture, planting, cultivation, growing, or
4101 harvesting of a controlled substance.
4102 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
4103 property.
4104 (oo) "State" means the state of Utah.
4105 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
4106 for the person's own use, for the use of a member of the person's household, or for
4107 administration to an animal owned by the person or a member of the person's household.
4108 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
4109 Utah Criminal Code, shall apply.
4110 Section 76. Section **58-37-6** is amended to read:
4111 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
4112 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
4113 **required -- Prescriptions.**

4114 (1) (a) The division may adopt rules relating to the licensing and control of the
4115 manufacture, distribution, production, prescription, administration, dispensing, conducting of
4116 research with, and performing of laboratory analysis upon controlled substances within this
4117 state.
4118 (b) The division may assess reasonable fees to defray the cost of issuing original and
4119 renewal licenses under this chapter pursuant to Section 63J-1-504.
4120 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
4121 administers, conducts research with, or performs laboratory analysis upon any controlled
4122 substance in Schedules I through V within this state, or who proposes to engage in
4123 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
4124 research with, or performing laboratory analysis upon controlled substances included in
4125 Schedules I through V within this state shall obtain a license issued by the division.
4126 (ii) The division shall issue each license under this chapter in accordance with a
4127 two-year renewal cycle established by rule. The division may by rule extend or shorten a
4128 renewal period by as much as one year to stagger the renewal cycles it administers.
4129 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
4130 administer, conduct research with, or perform laboratory analysis upon controlled substances in
4131 Schedules I through V within this state may possess, manufacture, produce, distribute,
4132 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
4133 those substances to the extent authorized by their license and in conformity with this chapter.
4134 (c) The following persons are not required to obtain a license and may lawfully possess
4135 controlled substances included in Schedules II through V under this section:
4136 (i) an agent or employee, except a sales representative, of any registered manufacturer,
4137 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
4138 usual course of the agent or employee's business or employment; however, nothing in this
4139 subsection shall be interpreted to permit an agent, employee, sales representative, or detail man
4140 to maintain an inventory of controlled substances separate from the location of the person's
4141 employer's registered and licensed place of business;
4142 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
4143 warehouseman, who possesses a controlled substance in the usual course of the person's
4144 business or employment; and

4145 (iii) an ultimate user, or a person who possesses any controlled substance pursuant to a
4146 lawful order of a practitioner.
4147 (d) The division may enact rules waiving the license requirement for certain
4148 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
4149 practitioners, or laboratories performing analysis if waiving the license requirement is
4150 consistent with public health and safety.
4151 (e) A separate license is required at each principal place of business or professional
4152 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
4153 with, or performs laboratory analysis upon controlled substances.
4154 (f) The division may enact rules providing for the inspection of a licensee or applicant's
4155 establishment, and may inspect the establishment according to those rules.
4156 (3) (a) (i) Upon proper application, the division shall license a qualified applicant to
4157 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
4158 controlled substances included in Schedules I through V, unless it determines that issuance of a
4159 license is inconsistent with the public interest.
4160 (ii) The division may not issue a license to any person to prescribe, dispense, or
4161 administer a Schedule I controlled substance except under Subsection (3)(a)(i).
4162 (iii) In determining public interest under this Subsection (3)(a), the division shall
4163 consider whether the applicant has:
4164 (A) maintained effective controls against diversion of controlled substances and any
4165 Schedule I or II substance compounded from any controlled substance into channels other than
4166 legitimate medical, scientific, or industrial channels;
4167 (B) complied with applicable state and local law;
4168 (C) been convicted under federal or state laws relating to the manufacture, distribution,
4169 or dispensing of substances;
4170 (D) past experience in the manufacture of controlled dangerous substances;
4171 (E) established effective controls against diversion; and
4172 (F) complied with any other factors that the division establishes that promote the public
4173 health and safety.
4174 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
4175 produce, distribute, conduct research with, or perform laboratory analysis upon controlled

4176 substances in Schedule I other than those specified in the license.
4177 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
4178 substances in Schedules II through V if they are authorized to administer, dispense, or conduct
4179 research under the laws of this state.
4180 (ii) The division need not require a separate license for practitioners engaging in
4181 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
4182 already licensed under this chapter in another capacity.
4183 (iii) With respect to research involving narcotic substances in Schedules II through V,
4184 or where the division by rule requires a separate license for research of nonnarcotic substances
4185 in Schedules II through V, a practitioner shall apply to the division prior to conducting
4186 research.
4187 (iv) Licensing for purposes of bona fide research with controlled substances by a
4188 practitioner considered qualified may be denied only on a ground specified in Subsection (4),
4189 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
4190 adequately the practitioner's supply of substances against diversion from medical or scientific
4191 use.
4192 (v) Practitioners registered under federal law to conduct research in Schedule I
4193 substances may conduct research in Schedule I substances within this state upon providing the
4194 division with evidence of federal registration.
4195 (d) Compliance by manufacturers, producers, and distributors with the provisions of
4196 federal law respecting registration, excluding fees, entitles them to be licensed under this
4197 chapter.
4198 (e) The division shall initially license those persons who own or operate an
4199 establishment engaged in the manufacture, production, distribution, dispensation, or
4200 administration of controlled substances prior to April 3, 1980, and who are licensed by the
4201 state.
4202 (4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended,
4203 placed on probation, or revoked by the division upon finding that the applicant or licensee has:
4204 (i) materially falsified any application filed or required pursuant to this chapter;
4205 (ii) been convicted of an offense under this chapter or any law of the United States, or
4206 any state, relating to any substance defined as a controlled substance;

4207 (iii) been convicted of a felony under any other law of the United States or any state
4208 within five years of the date of the issuance of the license;
4209 (iv) had a federal registration or license denied, suspended, or revoked by competent
4210 federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense
4211 controlled substances;
4212 (v) had the licensee's license suspended or revoked by competent authority of another
4213 state for violation of laws or regulations comparable to those of this state relating to the
4214 manufacture, distribution, or dispensing of controlled substances;
4215 (vi) violated any division rule that reflects adversely on the licensee's reliability and
4216 integrity with respect to controlled substances;
4217 (vii) refused inspection of records required to be maintained under this chapter by a
4218 person authorized to inspect them; or
4219 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the
4220 purpose of manipulating human hormonal structure so as to:
4221 (A) increase muscle mass, strength, or weight without medical necessity and without a
4222 written prescription by any practitioner in the course of the practitioner's professional practice;
4223 or
4224 (B) improve performance in any form of human exercise, sport, or game.
4225 (b) The division may limit revocation or suspension of a license to a particular
4226 controlled substance with respect to which grounds for revocation or suspension exist.
4227 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to
4228 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of
4229 [~~Occupational and~~] Professional Licensing Act, and conducted in conjunction with the
4230 appropriate representative committee designated by the director of the department.
4231 (ii) Nothing in this Subsection (4)(c) gives the Division of [~~Occupational and~~]
4232 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
4233 except where the division is designated by law to perform those functions, or, when not
4234 designated by law, is designated by the executive director of the Department of Commerce to
4235 conduct the proceedings.
4236 (d) (i) The division may suspend any license simultaneously with the institution of
4237 proceedings under this section if it finds there is an imminent danger to the public health or

4238 safety.
4239 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
4240 judicial review, unless withdrawn by the division or dissolved by a court of competent
4241 jurisdiction.
4242 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
4243 substances owned or possessed by the licensee may be placed under seal in the discretion of the
4244 division.
4245 (ii) Disposition may not be made of substances under seal until the time for taking an
4246 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
4247 orders the sale of perishable substances and the proceeds deposited with the court.
4248 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.
4249 (f) The division shall notify promptly the Drug Enforcement Administration of all
4250 orders suspending or revoking a license and all forfeitures of controlled substances.
4251 (g) If an individual's Drug Enforcement Administration registration is denied, revoked,
4252 surrendered, or suspended, the division shall immediately suspend the individual's controlled
4253 substance license, which shall only be reinstated by the division upon reinstatement of the
4254 federal registration, unless the division has taken further administrative action under
4255 Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled
4256 substance license.
4257 (5) (a) A person licensed under Subsection (2) or (3) shall maintain records and
4258 inventories in conformance with the record keeping and inventory requirements of federal and
4259 state law and any additional rules issued by the division.
4260 (b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other
4261 individual who is authorized to administer or professionally use a controlled substance shall
4262 keep a record of the drugs received by the individual and a record of all drugs administered,
4263 dispensed, or professionally used by the individual otherwise than by a prescription.
4264 (ii) An individual using small quantities or solutions or other preparations of those
4265 drugs for local application has complied with this Subsection (5)(b) if the individual keeps a
4266 record of the quantity, character, and potency of those solutions or preparations purchased or
4267 prepared by the individual, and of the dates when purchased or prepared.
4268 (6) Controlled substances in Schedules I through V may be distributed only by a

4269 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
4270 order under the rules and regulations of the United States.
4271 (7) (a) An individual may not write or authorize a prescription for a controlled
4272 substance unless the individual is:
4273 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
4274 or under the laws of another state having similar standards; and
4275 (ii) licensed under this chapter or under the laws of another state having similar
4276 standards.
4277 (b) An individual other than a pharmacist licensed under the laws of this state, or the
4278 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not
4279 dispense a controlled substance.
4280 (c) (i) A controlled substance may not be dispensed without the written prescription of
4281 a practitioner, if the written prescription is required by the federal Controlled Substances Act.
4282 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
4283 conformity with Subsection (7)(d).
4284 (iii) In emergency situations, as defined by division rule, controlled substances may be
4285 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
4286 designated by the division and filed by the pharmacy.
4287 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with
4288 Subsection (7)(d).
4289 (d) Except for emergency situations designated by the division, an individual may not
4290 issue, fill, compound, or dispense a prescription for a controlled substance unless the
4291 prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic
4292 signature of the prescriber as authorized by division rule, and contains the following
4293 information:
4294 (i) the name, address, and registry number of the prescriber;
4295 (ii) the name, address, and age of the person to whom or for whom the prescription is
4296 issued;
4297 (iii) the date of issuance of the prescription; and
4298 (iv) the name, quantity, and specific directions for use by the ultimate user of the
4299 controlled substance.

4300 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
4301 controlled substance unless:
4302 (i) the individual who writes the prescription is licensed under Subsection (2); and
4303 (ii) the prescribed controlled substance is to be used in research.
4304 (f) Except when administered directly to an ultimate user by a licensed practitioner,
4305 controlled substances are subject to the restrictions of this Subsection (7)(f).
4306 (i) A prescription for a Schedule II substance may not be refilled.
4307 (ii) A Schedule II controlled substance may not be filled in a quantity to exceed a
4308 one-month's supply, as directed on the daily dosage rate of the prescriptions.
4309 (iii) (A) A prescription for a Schedule II or Schedule III controlled substance that is an
4310 opiate and that is issued for an acute condition shall be completely or partially filled in a
4311 quantity not to exceed a seven-day supply as directed on the daily dosage rate of the
4312 prescription.
4313 (B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or
4314 chronic conditions which are documented as being complex or chronic in the medical record.
4315 (C) A pharmacist is not required to verify that a prescription is in compliance with
4316 Subsection (7)(f)(iii).
4317 (iv) A Schedule III or IV controlled substance may be filled only within six months of
4318 issuance, and may not be refilled more than six months after the date of its original issuance or
4319 be refilled more than five times after the date of the prescription unless renewed by the
4320 practitioner.
4321 (v) All other controlled substances in Schedule V may be refilled as the prescriber's
4322 prescription directs, but they may not be refilled one year after the date the prescription was
4323 issued unless renewed by the practitioner.
4324 (vi) Any prescription for a Schedule II substance may not be dispensed if it is not
4325 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
4326 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
4327 specified separately from the date of issue.
4328 (vii) A practitioner may issue more than one prescription at the same time for the same
4329 Schedule II controlled substance, but only under the following conditions:
4330 (A) no more than three prescriptions for the same Schedule II controlled substance may

4331 be issued at the same time;
4332 (B) no one prescription may exceed a 30-day supply; and
4333 (C) a second or third prescription shall include the date of issuance and the date for
4334 dispensing.
4335 (g) An order for a controlled substance in Schedules II through V for use by an
4336 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
4337 Subsection (7) if the order is:
4338 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
4339 with the federal Drug Enforcement Administration, and an active Utah controlled substance
4340 license in good standing issued by the division under this section, or a medical resident who is
4341 exempted from licensure under Subsection 58-1-307(1)(c);
4342 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
4343 practitioner designates the quantity ordered;
4344 (iii) entered upon the record of the patient, the record is signed by the prescriber
4345 affirming the prescriber's authorization of the order within 48 hours after filling or
4346 administering the order, and the patient's record reflects the quantity actually administered; and
4347 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within
4348 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by
4349 the hospital and the amount taken from the supply is administered directly to the patient
4350 authorized to receive it.
4351 (h) A practitioner licensed under this chapter may not prescribe, administer, or
4352 dispense a controlled substance to a child, without first obtaining the consent required in
4353 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except
4354 in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as
4355 defined in Section 80-1-102, and "emergency" means any physical condition requiring the
4356 administration of a controlled substance for immediate relief of pain or suffering.
4357 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
4358 of a controlled substance in excess of medically recognized quantities necessary to treat the
4359 ailment, malady, or condition of the ultimate user.
4360 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
4361 any controlled substance to another person knowing that the other person is using a false name,

4362 address, or other personal information for the purpose of securing the controlled substance.
4363 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
4364 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
4365 another licensee or any other authorized person not authorized by this license.
4366 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
4367 symbol required by this chapter or by a rule issued under this chapter.
4368 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
4369 furnish any record notification, order form, statement, invoice, or information required under
4370 this chapter.
4371 (n) A person licensed under this chapter may not refuse entry into any premises for
4372 inspection as authorized by this chapter.
4373 (o) A person licensed under this chapter may not furnish false or fraudulent material
4374 information in any application, report, or other document required to be kept by this chapter or
4375 willfully make any false statement in any prescription, order, report, or record required by this
4376 chapter.
4377 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
4378 violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to
4379 a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of
4380 any violations in accordance with Sections 58-1-106 and 58-1-108.
4381 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) into the
4382 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).
4383 (iii) The director may collect a penalty that is not paid by:
4384 (A) referring the matter to a collection agency; or
4385 (B) bringing an action in the district court of the county where the person against
4386 whom the penalty is imposed resides or in the county where the office of the director is located.
4387 (iv) A county attorney or the attorney general of the state shall provide legal assistance
4388 and advice to the director in an action to collect a penalty.
4389 (v) A court shall award reasonable attorney fees and costs to the prevailing party in an
4390 action brought by the division to collect a penalty.
4391 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j)
4392 or Subsection (10) is:

4393 (i) upon first conviction, guilty of a class B misdemeanor;
4394 (ii) upon second conviction, guilty of a class A misdemeanor; and
4395 (iii) on third or subsequent conviction, guilty of a third degree felony.
4396 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
4397 (o) shall upon conviction be guilty of a third degree felony.
4398 (9) Any information communicated to any licensed practitioner in an attempt to
4399 unlawfully procure, or to procure the administration of, a controlled substance is not considered
4400 to be a privileged communication.
4401 (10) A person holding a valid license under this chapter who is engaged in medical
4402 research may produce, possess, administer, prescribe, or dispense a controlled substance for
4403 research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense
4404 a controlled substance listed in Section 58-37-4.2.
4405 (11) (a) As used in this Subsection (11):
4406 (i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that
4407 is written to continue for longer than 30 consecutive days.
4408 (ii) "Database" means the controlled substance database created in Section 58-37f-201.
4409 (b) A practitioner who issues a high risk prescription to a patient shall, before issuing
4410 the high risk prescription to the patient, verify in the database that the patient does not have a
4411 high risk prescription from a different practitioner that is currently active.
4412 (c) If the database shows that the patient has received a high risk prescription that is
4413 currently active from a different practitioner, the practitioner may not issue a high risk
4414 prescription to the patient unless the practitioner:
4415 (i) contacts and consults with each practitioner who issued a high risk prescription that
4416 is currently active to the patient;
4417 (ii) documents in the patient's medical record that the practitioner made contact with
4418 each practitioner in accordance with Subsection (11)(c)(i); and
4419 (iii) documents in the patient's medical record the reason why the practitioner believes
4420 that the patient needs multiple high risk prescriptions from different practitioners.
4421 (d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a
4422 timely manner, which may be after the practitioner issues the high risk prescription to the
4423 patient.

4424 Section 77. Section **58-37-8** is amended to read:
4425 **58-37-8. Prohibited acts -- Penalties.**
4426 (1) Prohibited acts A -- Penalties and reporting:
4427 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
4428 intentionally:
4429 (i) produce, manufacture, or dispense, or to possess with intent to produce,
4430 manufacture, or dispense, a controlled or counterfeit substance;
4431 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
4432 arrange to distribute a controlled or counterfeit substance;
4433 (iii) possess a controlled or counterfeit substance with intent to distribute; or
4434 (iv) engage in a continuing criminal enterprise where:
4435 (A) the person participates, directs, or engages in conduct that results in a violation of
4436 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,
4437 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance
4438 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and
4439 (B) the violation is a part of a continuing series of two or more violations of Chapter
4440 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,
4441 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,
4442 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert
4443 with five or more persons with respect to whom the person occupies a position of organizer,
4444 supervisor, or any other position of management.
4445 (b) A person convicted of violating Subsection (1)(a) with respect to:
4446 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
4447 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
4448 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
4449 subsequent conviction is guilty of a first degree felony;
4450 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
4451 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
4452 upon a second or subsequent conviction is guilty of a second degree felony; or
4453 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
4454 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree

4455 felony.
4456 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
4457 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
4458 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
4459 person or in the person's immediate possession during the commission or in furtherance of the
4460 offense, the court shall additionally sentence the person convicted for a term of one year to run
4461 consecutively and not concurrently; and the court may additionally sentence the person
4462 convicted for an indeterminate term not to exceed five years to run consecutively and not
4463 concurrently.
4464 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
4465 felony punishable by imprisonment for an indeterminate term of not less than:
4466 (A) seven years and which may be for life; or
4467 (B) 15 years and which may be for life if the trier of fact determined that the defendant
4468 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
4469 was under 18 years old.
4470 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4471 not eligible for probation.
4472 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
4473 offense, was under 18 years old.
4474 (e) The Administrative Office of the Courts shall report to the Division of
4475 [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if
4476 known, the date of birth of each person convicted of violating Subsection (1)(a).
4477 (2) Prohibited acts B -- Penalties and reporting:
4478 (a) It is unlawful:
4479 (i) for a person knowingly and intentionally to possess or use a controlled substance
4480 analog or a controlled substance, unless it was obtained under a valid prescription or order,
4481 directly from a practitioner while acting in the course of the person's professional practice, or as
4482 otherwise authorized by this chapter;
4483 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
4484 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
4485 by persons unlawfully possessing, using, or distributing controlled substances in any of those

4486 locations; or
4487 (iii) for a person knowingly and intentionally to possess an altered or forged
4488 prescription or written order for a controlled substance.
4489 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
4490 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
4491 or
4492 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
4493 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
4494 conviction if each prior offense was committed within seven years before the date of the
4495 offense upon which the current conviction is based is guilty of a third degree felony.
4496 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
4497 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
4498 penalty than provided in this Subsection (2).
4499 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
4500 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
4501 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
4502 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior
4503 offense was committed within seven years before the date of the offense upon which the
4504 current conviction is based.
4505 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony
4506 if each prior offense was committed within seven years before the date of the offense upon
4507 which the current conviction is based.
4508 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
4509 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
4510 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
4511 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
4512 listed in:
4513 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
4514 indeterminate term as provided by law, and:
4515 (A) the court shall additionally sentence the person convicted to a term of one year to
4516 run consecutively and not concurrently; and

4517 (B) the court may additionally sentence the person convicted for an indeterminate term
4518 not to exceed five years to run consecutively and not concurrently; and
4519 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
4520 indeterminate term as provided by law, and the court shall additionally sentence the person
4521 convicted to a term of six months to run consecutively and not concurrently.
4522 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
4523 (i) on a first conviction, guilty of a class B misdemeanor;
4524 (ii) on a second conviction, guilty of a class A misdemeanor; and
4525 (iii) on a third or subsequent conviction, guilty of a third degree felony.
4526 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
4527 amounting to a violation of Section 76-5-207:
4528 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
4529 body any measurable amount of a controlled substance, except for
4530 11-nor-9-carboxy-tetrahydrocannabinol; and
4531 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
4532 in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section
4533 76-1-601 or the death of another; or
4534 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
4535 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
4536 Section 76-1-601 or the death of another.
4537 (h) A person who violates Subsection (2)(g) by having in the person's body:
4538 (i) a controlled substance classified under Schedule I, other than those described in
4539 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
4540 degree felony;
4541 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
4542 equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in
4543 Section 58-37-4.2 is guilty of a third degree felony; or
4544 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
4545 misdemeanor.
4546 (i) A person is guilty of a separate offense for each victim suffering serious bodily
4547 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)

4548 whether or not the injuries arise from the same episode of driving.
4549 (j) The Administrative Office of the Courts shall report to the Division of
4550 [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if
4551 known, the date of birth of each person convicted of violating Subsection (2)(a).
4552 (3) Prohibited acts C -- Penalties:
4553 (a) It is unlawful for a person knowingly and intentionally:
4554 (i) to use in the course of the manufacture or distribution of a controlled substance a
4555 license number which is fictitious, revoked, suspended, or issued to another person or, for the
4556 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
4557 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
4558 person;
4559 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4560 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
4561 attempting to acquire or obtain possession of, or to procure the administration of a controlled
4562 substance by misrepresentation or failure by the person to disclose receiving a controlled
4563 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
4564 prescription or written order for a controlled substance, or the use of a false name or address;
4565 (iii) to make a false or forged prescription or written order for a controlled substance,
4566 or to utter the same, or to alter a prescription or written order issued or written under the terms
4567 of this chapter; or
4568 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
4569 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
4570 device of another or any likeness of any of the foregoing upon any drug or container or labeling
4571 so as to render a drug a counterfeit controlled substance.
4572 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
4573 misdemeanor.
4574 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4575 degree felony.
4576 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
4577 (4) Prohibited acts D -- Penalties:
4578 (a) Notwithstanding other provisions of this section, a person not authorized under this

4579 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
4580 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
4581 of fact finds the act is committed:
4582 (i) in a public or private elementary or secondary school or on the grounds of any of
4583 those schools during the hours of 6 a.m. through 10 p.m.;
4584 (ii) in a public or private vocational school or postsecondary institution or on the
4585 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;
4586 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
4587 facility's hours of operation;
4588 (iv) in a public park, amusement park, arcade, or recreation center when the public or
4589 amusement park, arcade, or recreation center is open to the public;
4590 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;
4591 (vi) in or on the grounds of a library when the library is open to the public;
4592 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
4593 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);
4594 (viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of
4595 where the act occurs; or
4596 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
4597 distribution of a substance in violation of this section to an inmate or on the grounds of a
4598 correctional facility as defined in Section 76-8-311.3.
4599 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
4600 and shall be imprisoned for a term of not less than five years if the penalty that would
4601 otherwise have been established but for this Subsection (4) would have been a first degree
4602 felony.
4603 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4604 not eligible for probation.
4605 (c) If the classification that would otherwise have been established would have been
4606 less than a first degree felony but for this Subsection (4), a person convicted under this
4607 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
4608 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).
4609 (d) (i) If the violation is of Subsection (4)(a)(ix):

4610 (A) the person may be sentenced to imprisonment for an indeterminate term as
4611 provided by law, and the court shall additionally sentence the person convicted for a term of
4612 one year to run consecutively and not concurrently; and
4613 (B) the court may additionally sentence the person convicted for an indeterminate term
4614 not to exceed five years to run consecutively and not concurrently; and
4615 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
4616 the mental state required for the commission of an offense, directly or indirectly solicits,
4617 requests, commands, coerces, encourages, or intentionally aids another person to commit a
4618 violation of Subsection (4)(a)(ix).
4619 (e) It is not a defense to a prosecution under this Subsection (4) that:
4620 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
4621 the offense or was unaware of the individual's true age; or
4622 (ii) the actor mistakenly believed that the location where the act occurred was not as
4623 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
4624 described in Subsection (4)(a).
4625 (5) A violation of this chapter for which no penalty is specified is a class B
4626 misdemeanor.
4627 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
4628 guilty or no contest to a violation or attempted violation of this section or a plea which is held
4629 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
4630 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
4631 abeyance agreement.
4632 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
4633 conviction that is:
4634 (i) from a separate criminal episode than the current charge; and
4635 (ii) from a conviction that is separate from any other conviction used to enhance the
4636 current charge.
4637 (7) A person may be charged and sentenced for a violation of this section,
4638 notwithstanding a charge and sentence for a violation of any other section of this chapter.
4639 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
4640 of, a civil or administrative penalty or sanction authorized by law.

4641 (b) When a violation of this chapter violates a federal law or the law of another state,
4642 conviction or acquittal under federal law or the law of another state for the same act is a bar to
4643 prosecution in this state.
4644 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
4645 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
4646 substance or substances, is prima facie evidence that the person or persons did so with
4647 knowledge of the character of the substance or substances.
4648 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
4649 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
4650 administering controlled substances or from causing the substances to be administered by an
4651 assistant or orderly under the veterinarian's direction and supervision.
4652 (11) Civil or criminal liability may not be imposed under this section on:
4653 (a) a person registered under this chapter who manufactures, distributes, or possesses
4654 an imitation controlled substance for use as a placebo or investigational new drug by a
4655 registered practitioner in the ordinary course of professional practice or research; or
4656 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
4657 employment.
4658 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
4659 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
4660 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
4661 as defined in Section 58-37-2.
4662 (b) In a prosecution alleging violation of this section regarding peyote as defined in
4663 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
4664 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
4665 traditional Indian religion.
4666 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
4667 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
4668 trial.
4669 (ii) The notice shall include the specific claims of the affirmative defense.
4670 (iii) The court may waive the notice requirement in the interest of justice for good
4671 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

4672 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
4673 a preponderance of the evidence. If the defense is established, it is a complete defense to the
4674 charges.
4675 (13) (a) It is an affirmative defense that the person produced, possessed, or
4676 administered a controlled substance listed in Section 58-37-4.2 if the person was:
4677 (i) engaged in medical research; and
4678 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
4679 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
4680 a controlled substance listed in Section 58-37-4.2.
4681 (14) It is an affirmative defense that the person possessed, in the person's body, a
4682 controlled substance listed in Section 58-37-4.2 if:
4683 (a) the person was the subject of medical research conducted by a holder of a valid
4684 license to possess controlled substances under Section 58-37-6; and
4685 (b) the substance was administered to the person by the medical researcher.
4686 (15) The application of any increase in penalty under this section to a violation of
4687 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
4688 Subsection (15) takes precedence over any conflicting provision of this section.
4689 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
4690 listed in Subsection (16)(b) that the person or bystander:
4691 (i) reasonably believes that the person or another person is experiencing an overdose
4692 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
4693 controlled substance or other substance;
4694 (ii) reports, or assists a person who reports, in good faith the overdose event to a
4695 medical provider, an emergency medical service provider as defined in Section 26-8a-102, a
4696 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
4697 person is the subject of a report made under this Subsection (16);
4698 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
4699 actual location of the overdose event that facilitates responding to the person experiencing the
4700 overdose event;
4701 (iv) remains at the location of the person experiencing the overdose event until a
4702 responding law enforcement officer or emergency medical service provider arrives, or remains

4703 at the medical care facility where the person experiencing an overdose event is located until a
4704 responding law enforcement officer arrives;
4705 (v) cooperates with the responding medical provider, emergency medical service
4706 provider, and law enforcement officer, including providing information regarding the person
4707 experiencing the overdose event and any substances the person may have injected, inhaled, or
4708 otherwise introduced into the person's body; and
4709 (vi) is alleged to have committed the offense in the same course of events from which
4710 the reported overdose arose.
4711 (b) The offenses referred to in Subsection (16)(a) are:
4712 (i) the possession or use of less than 16 ounces of marijuana;
4713 (ii) the possession or use of a scheduled or listed controlled substance other than
4714 marijuana; and
4715 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
4716 Imitation Controlled Substances Act.
4717 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
4718 include seeking medical assistance under this section during the course of a law enforcement
4719 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.
4720 (17) If any provision of this chapter, or the application of any provision to any person
4721 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
4722 invalid provision or application.
4723 (18) A legislative body of a political subdivision may not enact an ordinance that is
4724 less restrictive than any provision of this chapter.
4725 (19) If a minor who is under 18 years old is found by a court to have violated this
4726 section, the court may order the minor to complete:
4727 (a) a screening as defined in Section 41-6a-501;
4728 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
4729 assessment to be appropriate; and
4730 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
4731 treatment as indicated by an assessment.
4732 Section 78. Section **58-37c-5** is amended to read:
4733 **58-37c-5. Responsibility of Department of Commerce -- Delegation to the**

4734 **Division of Professional Licensing -- Rulemaking authority of the division.**
4735 (1) Responsibility for the enforcement of the licensing and reporting provisions of this
4736 chapter shall be with the Department of Commerce.
4737 (2) The executive director shall delegate specific responsibility within the department
4738 to the Division of [~~Occupational and~~] Professional Licensing.
4739 (3) The division shall make, adopt, amend, and repeal rules necessary for the proper
4740 administration and enforcement of this chapter.
4741 Section 79. Section **58-37c-6** is amended to read:
4742 **58-37c-6. Division duties.**
4743 The division shall be responsible for the licensing and reporting provisions of this
4744 chapter and those duties shall include:
4745 (1) providing for a system of licensure of regulated distributors and regulated
4746 purchasers;
4747 (2) refusing to renew a license or revoking, suspending, restricting, placing on
4748 probation, issuing a private or public letter of censure or reprimand, or imposing other
4749 appropriate action against a license;
4750 (3) with respect to the licensure and reporting provisions of this chapter, investigating
4751 or causing to be investigated any violation of this chapter by any person and to cause, when
4752 necessary, appropriate administrative action with respect to the license of that person;
4753 (4) presenting evidence obtained from investigations conducted by appropriate county
4754 attorneys and the Office of the Attorney General for civil or criminal prosecution or for
4755 administrative action against a licensee;
4756 (5) conducting hearings for the purpose of revoking, suspending, placing on probation,
4757 or imposing other appropriate administrative action against the license of regulated distributors
4758 or regulated purchasers in accordance with the provisions of Title 58, Chapter 1, Division of
4759 [~~Occupational and~~] Professional Licensing Act, and Title 63G, Chapter 4, Administrative
4760 Procedures Act;
4761 (6) assisting all other law enforcement agencies of the state in enforcing all laws
4762 regarding controlled substance precursors;
4763 (7) specifying reports, frequency of reports, and conditions under which reports are to
4764 be submitted and to whom reports are to be submitted by regulated distributors and regulated

4765 purchasers with respect to transactions involving threshold amounts of controlled substance
4766 precursors; and
4767 (8) performing all other functions necessary to fulfill division duties and
4768 responsibilities as outlined under this chapter or rules adopted pursuant to this chapter.
4769 Section 80. Section **58-37c-21** is amended to read:
4770 **58-37c-21. Department of Public Safety enforcement authority.**
4771 (1) As used in this section, "division" means the Criminal Investigations and Technical
4772 Services Division of the Department of Public Safety, created in Section 53-10-103.
4773 (2) The division has authority to enforce this chapter. To carry out this purpose, the
4774 division may:
4775 (a) inspect, copy, and audit records, inventories of controlled substance precursors, and
4776 reports required under this chapter and rules adopted under this chapter;
4777 (b) enter the premises of regulated distributors and regulated purchasers during normal
4778 business hours to conduct administrative inspections;
4779 (c) assist the law enforcement agencies of the state in enforcing this chapter;
4780 (d) conduct investigations to enforce this chapter;
4781 (e) present evidence obtained from investigations conducted in conjunction with
4782 appropriate county and district attorneys and the Office of the Attorney General for civil or
4783 criminal prosecution or for administrative action against a licensee; and
4784 (f) work in cooperation with the Division of [~~Occupational and~~] Professional
4785 Licensing, created under Section 58-1-103, to accomplish the purposes of this section.
4786 Section 81. Section **58-37d-9** is amended to read:
4787 **58-37d-9. Department of Public Safety enforcement authority.**
4788 (1) As used in this section, "division" means the Criminal Investigations and Technical
4789 Services Division of the Department of Public Safety, created in Section 53-10-103.
4790 (2) The division has authority to enforce this chapter. To carry out this purpose, the
4791 division may:
4792 (a) assist the law enforcement agencies of the state in enforcing this chapter;
4793 (b) conduct investigations to enforce this chapter;
4794 (c) present evidence obtained from investigations conducted in conjunction with
4795 appropriate county and district attorneys and the Office of the Attorney General for civil or

4796 criminal prosecution or for administrative action against a licensee; and
4797 (d) work in cooperation with the Division of [~~Occupational and~~] Professional
4798 Licensing, created under Section 58-1-103, to accomplish the purposes of this section.
4799 Section 82. Section **58-38a-201** is amended to read:
4800 **58-38a-201. Controlled Substances Advisory Committee.**
4801 There is created within the Division of [~~Occupational and~~] Professional Licensing the
4802 Controlled Substances Advisory Committee. The committee consists of:
4803 (1) the director of the Department of Health or the director's designee;
4804 (2) the State Medical Examiner or the examiner's designee;
4805 (3) the commissioner of the Department of Public Safety or the commissioner's
4806 designee;
4807 (4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the
4808 director's designee;
4809 (5) the director of the Utah Poison Control Center or the director's designee;
4810 (6) one physician who is a member of the Physicians Licensing Board and is
4811 designated by that board;
4812 (7) one pharmacist who is a member of the Utah State Board of Pharmacy and is
4813 designated by that board;
4814 (8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
4815 and is designated by that board;
4816 (9) one physician who is currently licensed and practicing in the state, to be appointed
4817 by the governor;
4818 (10) one psychiatrist who is currently licensed and practicing in the state, to be
4819 appointed by the governor;
4820 (11) one individual with expertise in substance abuse addiction, to be appointed by the
4821 governor;
4822 (12) one representative from the Statewide Association of Prosecutors, to be
4823 designated by that association;
4824 (13) one naturopathic physician who is currently licensed and practicing in the state, to
4825 be appointed by the governor;
4826 (14) one advanced practice registered nurse who is currently licensed and practicing in

4827 this state, to be appointed by the governor; and
4828 (15) one member of the public, to be appointed by the governor.
4829 Section 83. Section **58-41-4** is amended to read:
4830 **58-41-4. Exemptions from chapter.**
4831 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
4832 persons may engage in the practice of speech-language pathology and audiology subject to the
4833 stated circumstances and limitations without being licensed under this chapter:
4834 (a) a qualified person licensed in this state under any law existing in this state prior to
4835 May 13, 1975, engaging in the profession for which [~~he~~] the person is licensed;
4836 (b) a medical doctor, physician, physician assistant, or surgeon licensed in this state,
4837 engaging in his or her specialty in the practice of medicine;
4838 (c) a hearing aid dealer or [~~salesman from~~] salesperson selling, fitting, adjusting, and
4839 repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing
4840 aid dealer may not conduct audiologic testing on persons [~~under the age of 18 years~~] younger
4841 than 18 years old except under the direct supervision of an audiologist licensed under this
4842 chapter;
4843 (d) a person who has obtained a valid and current credential issued by the State Board
4844 of Education while specifically performing [~~specifically~~] the functions of a speech-language
4845 pathologist or audiologist[~~, in no way in his own interest, solely within the confines of and~~
4846 ~~under the direction and jurisdiction of and only in the academic interest of the schools by which~~
4847 ~~employed in this state~~] solely within the confines of, under the direction and jurisdiction of, and
4848 in the academic interest of the school employing the person;
4849 (e) a person employed as a speech-language pathologist or audiologist by federal
4850 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
4851 agencies or subdivisions, while specifically performing speech-language pathology or
4852 audiology services [~~in no way in his own interest,~~] solely within the confines of [~~and~~], under
4853 the direction and jurisdiction of, and in the specific interest of [~~that~~] the agency or subdivision;
4854 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or
4855 monetary or other compensation, without being licensed[~~; however, such person may elect to~~
4856 ~~be subject to the requirements of this chapter~~];
4857 (g) a person employed by an accredited [~~colleges or universities~~] college or university

4858 as a speech-language pathologist or audiologist [~~from~~] performing the services or functions
4859 described in this chapter [~~when they~~] if the services or functions are:
4860 (i) performed solely as an assigned teaching function of the person's employment;
4861 (ii) solely in academic interest and pursuit as a function of [~~that~~] the person's
4862 employment;
4863 (iii) in no way for [~~their~~] the person's own interest; and
4864 (iv) provided for no fee, monetary or otherwise, other than [~~their~~] the person's agreed
4865 institutional salary;
4866 (h) a person pursuing a course of study leading to a degree in speech-language
4867 pathology or audiology while enrolled in an accredited college or university, provided:
4868 (i) those activities constitute an assigned, directed, and supervised part of [~~his~~] the
4869 person's curricular study, and in no other interest[~~, and~~];
4870 (ii) that all examinations, tests, histories, charts, progress notes, reports,
4871 correspondence, [~~and all~~] documents, and records [~~which he~~] the person produces be identified
4872 clearly as having been conducted and prepared by a student in training [~~and that such a~~];
4873 (iii) that the person is obviously identified and designated by appropriate title clearly
4874 indicating the person's training status; and [~~provided that he~~]
4875 (iv) that the person does not hold [~~himself~~] out directly or indirectly [~~as being~~] to the
4876 public or otherwise represent that the person is qualified to practice independently;
4877 (i) a person trained in elementary audiometry and qualified to perform basic
4878 audiometric tests while employed by and under the direct supervision of a licensed medical
4879 doctor to perform solely for [~~him while under his direct supervision,~~] the licensed medical
4880 doctor, the elementary conventional audiometric tests of air conduction screening, air
4881 conduction threshold testing, and tympanometry;
4882 (j) a person [~~while performing as a~~] performing the functions of a speech-language
4883 pathologist or audiologist for the sole purpose of obtaining required professional experience
4884 under the provisions of this chapter and only during the period the person is obtaining the
4885 required professional experience, if [~~he~~] the person:
4886 (i) meets all training requirements; and
4887 (ii) is professionally responsible to and under the supervision of a speech-language
4888 pathologist or audiologist who holds the CCC or a state license in speech-language pathology

4889 or audiology[~~. This provision is applicable only during the time that person is obtaining the~~
4890 ~~required professional experience~~];
4891 (k) a corporation, partnership, trust, association, group practice, or [~~like~~] similar
4892 organization engaging in speech-language pathology or audiology services without certification
4893 or license, if [~~it acts~~] acting only through employees or [~~consists~~] consisting only of persons
4894 who are licensed under this chapter;
4895 (l) [~~performance of~~] a person who is not a resident of this state performing
4896 speech-language pathology or audiology services in this state [~~by a speech-language pathologist~~
4897 ~~or audiologist who is not a resident of this state and is not licensed under this chapter if those~~]
4898 if:
4899 (i) the services are performed for no more than one month in any calendar year in
4900 association with a speech-language pathologist or audiologist licensed under this chapter[~~, and~~
4901 ~~if that~~]; and
4902 (ii) the person meets the qualifications and requirements for application for licensure
4903 described in Section 58-41-5; [~~and~~]
4904 (m) a person certified under Title 53E, Public Education System -- State
4905 Administration, as a teacher of the deaf, from providing the services or performing the
4906 functions [~~he~~] the person is certified to perform[~~.~~]; and
4907 (n) a person who is:
4908 (i) trained in newborn hearing screening as described in rules made by the Department
4909 of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
4910 (ii) is working under the indirect supervision of a licensed audiologist responsible for a
4911 newborn hearing screening program established by the Department of Health under Section
4912 26-10-6.
4913 (2) No person is exempt from the requirements of this chapter who performs or
4914 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
4915 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
4916 engages any part of his professional work for a fee practicing in conjunction with, by
4917 permission of, or apart from his position of employment as speech-language pathologist or
4918 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
4919 identified in this section.

4920 Section 84. Section **58-44a-302** is amended to read:
4921 **58-44a-302. Qualifications for licensure.**
4922 (1) An applicant for licensure as a nurse midwife shall:
4923 (a) submit an application in a form as prescribed by the division;
4924 (b) pay a fee as determined by the department under Section 63J-1-504;
4925 [~~(c) be of good moral character;~~]
4926 [~~(d)~~] (c) at the time of application for licensure hold a license in good standing as a
4927 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
4928 Title 58, Chapter 31b, Nurse Practice Act;
4929 [~~(e)~~] (d) have completed:
4930 (i) a certified nurse midwifery education program accredited by the Accreditation
4931 Commission for Midwifery Education and approved by the division; or
4932 (ii) a nurse midwifery education program located outside of the United States which is
4933 approved by the division and is equivalent to a program accredited by the Accreditation
4934 Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for
4935 the national certifying examination administered by the Accreditation Commission for
4936 Midwifery Education or its designee; and
4937 [~~(f)~~] (e) have passed examinations established by the division rule in collaboration with
4938 the board within two years after completion of the approved education program required under
4939 Subsection [~~(1)(e)~~] (1)(d).
4940 (2) For purposes of Subsection [~~(1)(e)~~] (1)(d), as of January 1, 2010, the accredited
4941 education program or it's equivalent must grant a graduate degree, including post-master's
4942 certificate, in nurse midwifery.
4943 Section 85. Section **58-44a-402** is amended to read:
4944 **58-44a-402. Authority to assess penalty.**
4945 (1) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures
4946 Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
4947 division may impose an administrative penalty of up to $10,000 for unprofessional or unlawful
4948 conduct under this chapter in accordance with a fine schedule established by rule.
4949 (2) The assessment of a penalty under this section does not affect any other action the
4950 division is authorized to take regarding a license issued under this chapter.

4951 (3) The division may impose an administrative penalty of up to $500 for any violation
4952 of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.
4953 (4) (a) The director may collect a penalty that is not paid by:
4954 (i) referring the matter to a collection agency; or
4955 (ii) bringing an action in the district court of the county where the person against whom
4956 the penalty is imposed resides or in the county where the office of the director is located.
4957 (b) A county attorney or the attorney general of the state shall provide legal assistance
4958 and advice to the director in an action to collect a penalty.
4959 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
4960 action brought by the division to collect a penalty.
4961 Section 86. Section **58-55-102** is amended to read:
4962 **58-55-102. Definitions.**
4963 In addition to the definitions in Section 58-1-102, as used in this chapter:
4964 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
4965 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,
4966 except as provided in Subsection (1)(b).
4967 (b) "Alarm business or company" does not include:
4968 (i) a person engaged in the manufacture or sale of alarm systems unless:
4969 (A) that person is also engaged in the installation, maintenance, alteration, repair,
4970 replacement, servicing, or monitoring of alarm systems;
4971 (B) the manufacture or sale occurs at a location other than a place of business
4972 established by the person engaged in the manufacture or sale; or
4973 (C) the manufacture or sale involves site visits at the place or intended place of
4974 installation of an alarm system; or
4975 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
4976 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
4977 of the alarm system owned by that owner.
4978 (2) "Alarm company agent":
4979 (a) except as provided in Subsection (2)(b), means any individual employed within this
4980 state by an alarm business; and
4981 (b) does not include an individual who:

4982 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
4983 servicing, or monitoring of an alarm system; and
4984 (ii) does not, during the normal course of the individual's employment with an alarm
4985 business, use or have access to sensitive alarm system information.
4986 (3) "Alarm system" means equipment and devices assembled for the purpose of:
4987 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
4988 premises; or
4989 (b) signaling a robbery or attempted robbery on protected premises.
4990 (4) "Apprentice electrician" means a person licensed under this chapter as an
4991 apprentice electrician who is learning the electrical trade under the immediate supervision of a
4992 master electrician, residential master electrician, a journeyman electrician, or a residential
4993 journeyman electrician.
4994 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
4995 plumber who is learning the plumbing trade under the immediate supervision of a master
4996 plumber, residential master plumber, journeyman plumber, or a residential journeyman
4997 plumber.
4998 (6) "Approved continuing education" means instruction provided through courses
4999 under a program established under Subsection 58-55-302.5(2).
5000 (7) (a) "Approved prelicensure course provider" means a provider that is the
5001 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
5002 Contractors, or the Utah Home Builders Association, and that meets the requirements
5003 established by rule by the commission with the concurrence of the director, to teach the
5004 25-hour course described in Subsection 58-55-302(1)(e)(iii).
5005 (b) "Approved prelicensure course provider" may only include a provider that, in
5006 addition to any other locations, offers the 25-hour course described in Subsection
5007 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake
5008 County, Utah County, Davis County, or Weber County.
5009 (8) "Board" means the Electrician Licensing Board, Alarm System Security and
5010 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.
5011 (9) "Combustion system" means an assembly consisting of:
5012 (a) piping and components with a means for conveying, either continuously or

5013 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
5014 appliance;
5015 (b) the electric control and combustion air supply and venting systems, including air
5016 ducts; and
5017 (c) components intended to achieve control of quantity, flow, and pressure.
5018 (10) "Commission" means the Construction Services Commission created under
5019 Section 58-55-103.
5020 (11) "Construction trade" means any trade or occupation involving:
5021 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
5022 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
5023 or other project, development, or improvement to other than personal property; and
5024 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
5025 defined in Section 15A-1-302; or
5026 (b) installation or repair of a residential or commercial natural gas appliance or
5027 combustion system.
5028 (12) "Construction trades instructor" means a person licensed under this chapter to
5029 teach one or more construction trades in both a classroom and project environment, where a
5030 project is intended for sale to or use by the public and is completed under the direction of the
5031 instructor, who has no economic interest in the project.
5032 (13) (a) "Contractor" means any person who for compensation other than wages as an
5033 employee undertakes any work in the construction, plumbing, or electrical trade for which
5034 licensure is required under this chapter and includes:
5035 (i) a person who builds any structure on the person's own property for the purpose of
5036 sale or who builds any structure intended for public use on the person's own property;
5037 (ii) any person who represents that the person is a contractor, or will perform a service
5038 described in this Subsection (13), by advertising on a website or social media, or any other
5039 means;
5040 (iii) any person engaged as a maintenance person, other than an employee, who
5041 regularly engages in activities set forth under the definition of "construction trade";
5042 (iv) any person engaged in, or offering to engage in, any construction trade for which
5043 licensure is required under this chapter; or

5044 (v) a construction manager, construction consultant, construction assistant, or any other
5045 person who, for a fee:
5046 (A) performs or offers to perform construction consulting;
5047 (B) performs or offers to perform management of construction subcontractors;
5048 (C) provides or offers to provide a list of subcontractors or suppliers; or
5049 (D) provides or offers to provide management or counseling services on a construction
5050 project.
5051 (b) "Contractor" does not include:
5052 (i) an alarm company or alarm company agent; or
5053 (ii) a material supplier who provides consulting to customers regarding the design and
5054 installation of the material supplier's products.
5055 (14) (a) "Electrical trade" means the performance of any electrical work involved in the
5056 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
5057 buildings, or appendages or appurtenances.
5058 (b) "Electrical trade" does not include:
5059 (i) transporting or handling electrical materials;
5060 (ii) preparing clearance for raceways for wiring;
5061 (iii) work commonly done by unskilled labor on any installations under the exclusive
5062 control of electrical utilities;
5063 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
5064 hazard; or
5065 (v) work involving class two or class three power-limited circuits as defined in the
5066 National Electrical Code.
5067 (15) "Elevator" means the same as that term is defined in Section 34A-7-202, except
5068 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
5069 incline platform lift.
5070 (16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
5071 this chapter that is engaged in the business of erecting, constructing, installing, altering,
5072 servicing, repairing, or maintaining an elevator.
5073 (17) "Elevator mechanic" means an individual who is licensed under this chapter as an
5074 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,

5075 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.
5076 (18) "Employee" means an individual as defined by the division by rule giving
5077 consideration to the definition adopted by the Internal Revenue Service and the Department of
5078 Workforce Services.
5079 (19) "Engage in a construction trade" means to:
5080 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
5081 in a construction trade; or
5082 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
5083 to believe one is or will act as a contractor.
5084 (20) (a) "Financial responsibility" means a demonstration of a current and expected
5085 future condition of financial solvency evidencing a reasonable expectation to the division and
5086 the board that an applicant or licensee can successfully engage in business as a contractor
5087 without jeopardy to the public health, safety, and welfare.
5088 (b) Financial responsibility may be determined by an evaluation of the total history
5089 concerning the licensee or applicant including past, present, and expected condition and record
5090 of financial solvency and business conduct.
5091 (21) "Gas appliance" means any device that uses natural gas to produce light, heat,
5092 power, steam, hot water, refrigeration, or air conditioning.
5093 (22) (a) "General building contractor" means a person licensed under this chapter as a
5094 general building contractor qualified by education, training, experience, and knowledge to
5095 perform or superintend construction of structures for the support, shelter, and enclosure of
5096 persons, animals, chattels, or movable property of any kind or any of the components of that
5097 construction except plumbing, electrical work, mechanical work, work related to the operating
5098 integrity of an elevator, and manufactured housing installation, for which the general building
5099 contractor shall employ the services of a contractor licensed in the particular specialty, except
5100 that a general building contractor engaged in the construction of single-family and multifamily
5101 residences up to four units may perform the mechanical work and hire a licensed plumber or
5102 electrician as an employee.
5103 (b) The division may by rule exclude general building contractors from engaging in the
5104 performance of other construction specialties in which there is represented a substantial risk to
5105 the public health, safety, and welfare, and for which a license is required unless that general

5106 building contractor holds a valid license in that specialty classification.
5107 (23) (a) "General electrical contractor" means a person licensed under this chapter as a
5108 general electrical contractor qualified by education, training, experience, and knowledge to
5109 perform the fabrication, construction, and installation of generators, transformers, conduits,
5110 raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses
5111 electrical energy.
5112 (b) The scope of work of a general electrical contractor may be further defined by rules
5113 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5114 Chapter 3, Utah Administrative Rulemaking Act.
5115 (24) (a) "General engineering contractor" means a person licensed under this chapter as
5116 a general engineering contractor qualified by education, training, experience, and knowledge to
5117 perform or superintend construction of fixed works or components of fixed works requiring
5118 specialized engineering knowledge and skill in any of the following: [~~irrigation, drainage,~~
5119 ~~water, power, water supply, flood control, inland waterways, harbors, railroads, highways,~~
5120 ~~tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial~~
5121 ~~plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of~~
5122 ~~the components of those works.~~]
5123 (i) irrigation;
5124 (ii) drainage;
5125 (iii) water power;
5126 (iv) water supply;
5127 (v) flood control;
5128 (vi) an inland waterway;
5129 (vii) a harbor;
5130 (viii) a railroad;
5131 (ix) a highway;
5132 (x) a tunnel;
5133 (xi) an airport;
5134 (xii) an airport runway;
5135 (xiii) a sewer;
5136 (xiv) a bridge;

5137 (xv) a refinery;
5138 (xvi) a pipeline;
5139 (xvii) a chemical plant;
5140 (xviii) an industrial plant;
5141 (xix) a pier;
5142 (xx) a foundation;
5143 (xxi) a power plant; or
5144 (xxii) a utility plant or installation.
5145 (b) A general engineering contractor may not perform [~~construction of structures~~] or
5146 superintend:
5147 (i) construction of a structure built primarily for the support, shelter, and enclosure of
5148 persons, animals, and chattels[~~.~~]; or
5149 (ii) performance of:
5150 (A) plumbing work;
5151 (B) electrical work; or
5152 (C) mechanical work.
5153 (25) (a) "General plumbing contractor" means a person licensed under this chapter as a
5154 general plumbing contractor qualified by education, training, experience, and knowledge to
5155 perform the fabrication or installation of material and fixtures to create and maintain sanitary
5156 conditions in a building by providing permanent means for a supply of safe and pure water, a
5157 means for the timely and complete removal from the premises of all used or contaminated
5158 water, fluid and semi-fluid organic wastes and other impurities incidental to life and the
5159 occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and
5160 industrial purposes.
5161 (b) The scope of work of a general plumbing contractor may be further defined by rules
5162 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5163 Chapter 3, Utah Administrative Rulemaking Act.
5164 (26) "Immediate supervision" means reasonable direction, oversight, inspection, and
5165 evaluation of the work of a person:
5166 (a) as the division specifies in rule;
5167 (b) by, as applicable, a qualified electrician or plumber;

5168 (c) as part of a planned program of training; and
5169 (d) to ensure that the end result complies with applicable standards.
5170 (27) "Individual" means a natural person.
5171 (28) "Journeyman electrician" means a person licensed under this chapter as a
5172 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
5173 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.
5174 (29) "Journeyman plumber" means a person licensed under this chapter as a
5175 journeyman plumber having the qualifications, training, experience, and technical knowledge
5176 to engage in the plumbing trade.
5177 (30) "Master electrician" means a person licensed under this chapter as a master
5178 electrician having the qualifications, training, experience, and knowledge to properly plan,
5179 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
5180 for light, heat, power, and other purposes.
5181 (31) "Master plumber" means a person licensed under this chapter as a master plumber
5182 having the qualifications, training, experience, and knowledge to properly plan and layout
5183 projects and supervise persons in the plumbing trade.
5184 (32) "Person" means a natural person, sole proprietorship, joint venture, corporation,
5185 limited liability company, association, or organization of any type.
5186 (33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
5187 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
5188 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:
5189 (i) delivery of the water supply;
5190 (ii) discharge of liquid and water carried waste;
5191 (iii) building drainage system within the walls of the building; and
5192 (iv) delivery of gases for lighting, heating, and industrial purposes.
5193 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
5194 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
5195 safe and adequate supply of gases, together with their devices, appurtenances, and connections
5196 where installed within the outside walls of the building.
5197 (34) "Ratio of apprentices" means the number of licensed plumber apprentices or
5198 licensed electrician apprentices that are allowed to be under the immediate supervision of a

5199 licensed supervisor as established by the provisions of this chapter and by rules made by the
5200 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5201 Utah Administrative Rulemaking Act.
5202 (35) "Residential and small commercial contractor" means a person licensed under this
5203 chapter as a residential and small commercial contractor qualified by education, training,
5204 experience, and knowledge to perform or superintend the construction of single-family
5205 residences, multifamily residences up to four units, and commercial construction of not more
5206 than three stories above ground and not more than 20,000 square feet, or any of the components
5207 of that construction except plumbing, electrical work, mechanical work, and manufactured
5208 housing installation, for which the residential and small commercial contractor shall employ
5209 the services of a contractor licensed in the particular specialty, except that a residential and
5210 small commercial contractor engaged in the construction of single-family and multifamily
5211 residences up to four units may perform the mechanical work and hire a licensed plumber or
5212 electrician as an employee.
5213 (36) "Residential building," as it relates to the license classification of residential
5214 journeyman plumber and residential master plumber, means a single or multiple family
5215 dwelling of up to four units.
5216 (37) (a) "Residential electrical contractor" means a person licensed under this chapter
5217 as a residential electrical contractor qualified by education, training, experience, and
5218 knowledge to perform the fabrication, construction, and installation of services, disconnecting
5219 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
5220 appliances, and fixtures in a residential unit.
5221 (b) The scope of work of a residential electrical contractor may be further defined by
5222 rules made by the commission, with the concurrence of the director, in accordance with Title
5223 63G, Chapter 3, Utah Administrative Rulemaking Act.
5224 (38) "Residential journeyman electrician" means a person licensed under this chapter
5225 as a residential journeyman electrician having the qualifications, training, experience, and
5226 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
5227 and other purposes on buildings using primarily nonmetallic sheath cable.
5228 (39) "Residential journeyman plumber" means a person licensed under this chapter as a
5229 residential journeyman plumber having the qualifications, training, experience, and knowledge

5230 to engage in the plumbing trade as limited to the plumbing of residential buildings.
5231 (40) "Residential master electrician" means a person licensed under this chapter as a
5232 residential master electrician having the qualifications, training, experience, and knowledge to
5233 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
5234 and equipment for light, heat, power, and other purposes on residential projects.
5235 (41) "Residential master plumber" means a person licensed under this chapter as a
5236 residential master plumber having the qualifications, training, experience, and knowledge to
5237 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
5238 plumbing of residential buildings.
5239 (42) (a) "Residential plumbing contractor" means a person licensed under this chapter
5240 as a residential plumbing contractor qualified by education, training, experience, and
5241 knowledge to perform the fabrication or installation of material and fixtures to create and
5242 maintain sanitary conditions in residential buildings by providing permanent means for a
5243 supply of safe and pure water, a means for the timely and complete removal from the premises
5244 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
5245 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
5246 for lighting, heating, and [~~industrial~~] residential purposes.
5247 (b) The scope of work of a residential plumbing contractor may be further defined by
5248 rules made by the commission, with the concurrence of the director, in accordance with Title
5249 63G, Chapter 3, Utah Administrative Rulemaking Act.
5250 (43) "Residential project," as it relates to an electrician or electrical contractor, means
5251 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
5252 and regulations governing this work, including the National Electrical Code, and in which the
5253 voltage does not exceed 250 volts line to line and 125 volts to ground.
5254 (44) "Sensitive alarm system information" means:
5255 (a) a pass code or other code used in the operation of an alarm system;
5256 (b) information on the location of alarm system components at the premises of a
5257 customer of the alarm business providing the alarm system;
5258 (c) information that would allow the circumvention, bypass, deactivation, or other
5259 compromise of an alarm system of a customer of the alarm business providing the alarm
5260 system; and

5261 (d) any other similar information that the division by rule determines to be information
5262 that an individual employed by an alarm business should use or have access to only if the
5263 individual is licensed as provided in this chapter.
5264 (45) (a) "Specialty contractor" means a person licensed under this chapter under a
5265 specialty contractor classification established by rule, who is qualified by education, training,
5266 experience, and knowledge to perform those construction trades and crafts requiring
5267 specialized skill, the regulation of which are determined by the division to be in the best
5268 interest of the public health, safety, and welfare.
5269 (b) A specialty contractor may perform work in crafts or trades other than those in
5270 which the specialty contractor is licensed if they are incidental to the performance of the
5271 specialty contractor's licensed craft or trade.
5272 (46) "Unincorporated entity" means an entity that is not:
5273 (a) an individual;
5274 (b) a corporation; or
5275 (c) publicly traded.
5276 (47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
5277 and 58-55-501.
5278 (48) "Unprofessional conduct" means the same as that term is defined in Sections
5279 58-1-501 and 58-55-502 and as may be further defined by rule.
5280 (49) "Wages" means amounts due to an employee for labor or services whether the
5281 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
5282 the amount.
5283 Section 87. Section **58-55-302** is amended to read:
5284 **58-55-302. Qualifications for licensure.**
5285 (1) Each applicant for a license under this chapter shall:
5286 (a) submit an application prescribed by the division;
5287 (b) pay a fee as determined by the department under Section 63J-1-504;
5288 (c) meet the examination requirements established by this section and by rule by the
5289 commission with the concurrence of the director, which requirements include:
5290 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
5291 contractor, no division-administered examination is required;

5292 (ii) for licensure as a general building contractor, general engineering contractor,
5293 residential and small commercial contractor, general plumbing contractor, residential plumbing
5294 contractor, general electrical contractor, or residential electrical contractor, the only required
5295 division-administered examination is a division-administered examination that covers
5296 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
5297 have been previously completed as part of applying for any other license under this chapter,
5298 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
5299 course described in Subsection (1)(e)(iv); and
5300 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
5301 division-administered examination if the applicant is a business entity;
5302 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
5303 (e) if an applicant for a contractor's license:
5304 (i) produce satisfactory evidence of financial responsibility, except for a construction
5305 trades instructor for whom evidence of financial responsibility is not required;
5306 (ii) produce satisfactory evidence of:
5307 (A) except as provided in Subsection (2)(a), and except that no employment experience
5308 is required for licensure as a specialty contractor, two years full-time paid employment
5309 experience in the construction industry, which employment experience, unless more
5310 specifically described in this section, may be related to any contracting classification and does
5311 not have to include supervisory experience; and
5312 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
5313 necessary for the protection of the public health, safety, and welfare;
5314 (iii) except as otherwise provided by rule by the commission with the concurrence of
5315 the director, complete a 25-hour course established by rule by the commission with the
5316 concurrence of the director, which is taught by an approved prelicensure course provider, and
5317 which course may include:
5318 (A) construction business practices;
5319 (B) bookkeeping fundamentals;
5320 (C) mechanics lien fundamentals;
5321 (D) other aspects of business and construction principles considered important by the
5322 commission with the concurrence of the director; and

5323 (E) for no additional fee, a provider-administered examination at the end of the
5324 25-hour course;
5325 (iv) complete a five-hour business and law course established by rule by the
5326 commission with the concurrence of the director, which is taught by an approved prelicensure
5327 course provider, if an applicant for licensure as a general building contractor, general
5328 engineering contractor, residential and small commercial contractor, general plumbing
5329 contractor, residential plumbing contractor, general electrical contractor, or residential
5330 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
5331 completed before July 1, 2019, the applicant does not need to take the business and law course;
5332 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
5333 license or a licensed master residential electrician if an applicant for a residential electrical
5334 contractor's license;
5335 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
5336 a licensed master residential plumber if an applicant for a residential plumbing contractor's
5337 license; or
5338 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
5339 experience as an elevator mechanic if an applicant for an elevator contractor's license; and
5340 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
5341 individuals who hold an ownership interest in the applicant as of the day on which the
5342 application is filed that includes for each individual:
5343 (A) the individual's name, address, birth date, and social security number; and
5344 (B) whether the individual will engage in a construction trade; and
5345 (f) if an applicant for a construction trades instructor license, satisfy any additional
5346 requirements established by rule.
5347 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
5348 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
5349 evidence of two years full-time paid employment experience as a building inspector, which
5350 shall include at least one year full-time experience as a licensed combination inspector.
5351 (b) The applicant shall file the following with the division before the division issues the
5352 license:
5353 (i) proof of workers' compensation insurance which covers employees of the applicant

5354 in accordance with applicable Utah law;
5355 (ii) proof of public liability insurance in coverage amounts and form established by rule
5356 except for a construction trades instructor for whom public liability insurance is not required;
5357 and
5358 (iii) proof of registration as required by applicable law with the:
5359 (A) Department of Commerce;
5360 (B) Division of Corporations and Commercial Code;
5361 (C) Unemployment Insurance Division in the Department of Workforce Services, for
5362 purposes of Title 35A, Chapter 4, Employment Security Act;
5363 (D) State Tax Commission; and
5364 (E) Internal Revenue Service.
5365 (3) In addition to the general requirements for each applicant in Subsection (1),
5366 applicants shall comply with the following requirements to be licensed in the following
5367 classifications:
5368 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:
5369 (A) has been a licensed journeyman plumber for at least two years and had two years of
5370 supervisory experience as a licensed journeyman plumber in accordance with division rule;
5371 (B) has received at least an associate of applied science degree or similar degree
5372 following the completion of a course of study approved by the division and had one year of
5373 supervisory experience as a licensed journeyman plumber in accordance with division rule; or
5374 (C) meets the qualifications for expedited licensure as established by rules made by the
5375 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5376 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5377 and skills to be a licensed master plumber.
5378 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
5379 least four years of practical experience as a licensed apprentice under the supervision of a
5380 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
5381 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
5382 master plumber license under this chapter, and satisfies the requirements of this Subsection
5383 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.
5384 (iii) An individual holding a valid plumbing contractor's license or residential

5385 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
5386 2008:
5387 (A) considered to hold a current master plumber license under this chapter if licensed
5388 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
5389 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
5390 58-55-303; and
5391 (B) considered to hold a current residential master plumber license under this chapter if
5392 licensed as a residential plumbing contractor and a residential journeyman plumber, and
5393 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
5394 that license under Section 58-55-303.
5395 (b) A master residential plumber applicant shall produce satisfactory evidence that the
5396 applicant:
5397 (i) has been a licensed residential journeyman plumber for at least two years and had
5398 two years of supervisory experience as a licensed residential journeyman plumber in
5399 accordance with division rule; or
5400 (ii) meets the qualifications for expedited licensure as established by rules made by the
5401 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5402 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5403 and skills to be a licensed master residential plumber.
5404 (c) A journeyman plumber applicant shall produce satisfactory evidence of:
5405 (i) successful completion of the equivalent of at least four years of full-time training
5406 and instruction as a licensed apprentice plumber under supervision of a licensed master
5407 plumber or journeyman plumber and in accordance with a planned program of training
5408 approved by the division;
5409 (ii) at least eight years of full-time experience approved by the division in collaboration
5410 with the Plumbers Licensing Board; or
5411 (iii) meeting the qualifications for expedited licensure as established by rules made by
5412 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5413 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5414 and skills to be a licensed journeyman plumber.
5415 (d) A residential journeyman plumber shall produce satisfactory evidence of:

5416 (i) completion of the equivalent of at least three years of full-time training and
5417 instruction as a licensed apprentice plumber under the supervision of a licensed residential
5418 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
5419 accordance with a planned program of training approved by the division;
5420 (ii) completion of at least six years of full-time experience in a maintenance or repair
5421 trade involving substantial plumbing work; or
5422 (iii) meeting the qualifications for expedited licensure as established by rules made by
5423 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5424 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5425 and skills to be a licensed residential journeyman plumber.
5426 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
5427 in accordance with the following:
5428 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
5429 under the immediate supervision of a licensed master plumber, licensed residential master
5430 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;
5431 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
5432 apprentice plumber may work without supervision for a period not to exceed eight hours in any
5433 24-hour period; and
5434 (iii) rules made by the commission, with the concurrence of the director, in accordance
5435 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5436 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5437 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5438 immediate supervision of a licensed supervisor.
5439 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:
5440 (i) is a graduate electrical engineer of an accredited college or university approved by
5441 the division and has one year of practical electrical experience as a licensed apprentice
5442 electrician;
5443 (ii) is a graduate of an electrical trade school, having received an associate of applied
5444 sciences degree following successful completion of a course of study approved by the division,
5445 and has two years of practical experience as a licensed journeyman electrician;
5446 (iii) has four years of practical experience as a journeyman electrician; or

5447 (iv) meets the qualifications for expedited licensure as established by rules made by the
5448 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5449 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5450 and skills to be a licensed master electrician.
5451 (g) A master residential electrician applicant shall produce satisfactory evidence that
5452 the applicant:
5453 (i) has at least two years of practical experience as a residential journeyman electrician;
5454 or
5455 (ii) meets the qualifications for expedited licensure as established by rules made by the
5456 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5457 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5458 and skills to be a master residential electrician.
5459 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
5460 applicant:
5461 (i) has successfully completed at least four years of full-time training and instruction as
5462 a licensed apprentice electrician under the supervision of a master electrician or journeyman
5463 electrician and in accordance with a planned training program approved by the division;
5464 (ii) has at least eight years of full-time experience approved by the division in
5465 collaboration with the Electricians Licensing Board; or
5466 (iii) meets the qualifications for expedited licensure as established by rules made by the
5467 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5468 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5469 and skills to be a licensed journeyman electrician.
5470 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
5471 that the applicant:
5472 (i) has successfully completed two years of training in an electrical training program
5473 approved by the division;
5474 (ii) has four years of practical experience in wiring, installing, and repairing electrical
5475 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
5476 journeyman, residential master, or residential journeyman electrician; or
5477 (iii) meets the qualifications for expedited licensure as established by rules made by the

5478 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5479 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5480 and skills to be a licensed residential journeyman electrician.
5481 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
5482 be in accordance with the following:
5483 (i) A licensed apprentice electrician shall be under the immediate supervision of a
5484 licensed master, journeyman, residential master, or residential journeyman electrician;
5485 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
5486 apprentice electrician may work without supervision for a period not to exceed eight hours in
5487 any 24-hour period;
5488 (iii) rules made by the commission, with the concurrence of the director, in accordance
5489 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5490 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5491 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5492 immediate supervision of a licensed supervisor; and
5493 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
5494 residential project, or more if established by rules made by the commission, in concurrence
5495 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5496 Act.
5497 (k) An alarm company applicant shall:
5498 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
5499 the applicant who:
5500 (A) demonstrates 6,000 hours of experience in the alarm company business;
5501 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
5502 company business or in a construction business; and
5503 (C) passes an examination component established by rule by the commission with the
5504 concurrence of the director;
5505 (ii) if a corporation, provide:
5506 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5507 of all corporate officers, directors, and those responsible management personnel employed
5508 within the state or having direct responsibility for managing operations of the applicant within

5509 the state; and
5510 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5511 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
5512 shall not be required if the stock is publicly listed and traded;
5513 (iii) if a limited liability company, provide:
5514 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5515 of all company officers, and those responsible management personnel employed within the
5516 state or having direct responsibility for managing operations of the applicant within the state;
5517 and
5518 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5519 of all individuals owning 5% or more of the equity of the company;
5520 (iv) if a partnership, provide the names, addresses, dates of birth, social security
5521 numbers, and fingerprint cards of all general partners, and those responsible management
5522 personnel employed within the state or having direct responsibility for managing operations of
5523 the applicant within the state;
5524 (v) if a proprietorship, provide the names, addresses, dates of birth, social security
5525 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
5526 employed within the state or having direct responsibility for managing operations of the
5527 applicant within the state;
5528 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and
5529 fingerprint cards of the trustee, and those responsible management personnel employed within
5530 the state or having direct responsibility for managing operations of the applicant within the
5531 state;
5532 [~~(vii) be of good moral character in that officers, directors, shareholders described in~~
5533 ~~Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel~~
5534 ~~have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other~~
5535 ~~crime that when considered with the duties and responsibilities of an alarm company is~~
5536 ~~considered by the board to indicate that the best interests of the public are served by granting~~
5537 ~~the applicant a license;~~]
5538 [~~(viii)~~] (vii) document that none of the applicant's officers, directors, shareholders
5539 described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible

5540 management personnel have been declared by any court of competent jurisdiction incompetent
5541 by reason of mental defect or disease and not been restored;
5542 [~~(ix)~~] (viii) document that none of the applicant's officers, directors, shareholders
5543 described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management
5544 personnel are currently suffering from habitual drunkenness or from drug addiction or
5545 dependence;
5546 [~~(x)~~] (ix) file and maintain with the division evidence of:
5547 (A) comprehensive general liability insurance in form and in amounts to be established
5548 by rule by the commission with the concurrence of the director;
5549 (B) workers' compensation insurance that covers employees of the applicant in
5550 accordance with applicable Utah law; and
5551 (C) registration as is required by applicable law with the:
5552 (I) Division of Corporations and Commercial Code;
5553 (II) Unemployment Insurance Division in the Department of Workforce Services, for
5554 purposes of Title 35A, Chapter 4, Employment Security Act;
5555 (III) State Tax Commission; and
5556 (IV) Internal Revenue Service; and
5557 [~~(xi)~~] (x) meet with the division and board.
5558 (l) Each applicant for licensure as an alarm company agent shall:
5559 (i) submit an application in a form prescribed by the division accompanied by
5560 fingerprint cards;
5561 (ii) pay a fee determined by the department under Section 63J-1-504;
5562 [~~(iii) be of good moral character in that the applicant has not been convicted of a~~
5563 ~~felony, a misdemeanor involving moral turpitude, or any other crime that when considered with~~
5564 ~~the duties and responsibilities of an alarm company agent is considered by the board to indicate~~
5565 ~~that the best interests of the public are served by granting the applicant a license;~~]
5566 [~~(iv)~~] (iii) not have been declared by any court of competent jurisdiction incompetent
5567 by reason of mental defect or disease and not been restored;
5568 [~~(v)~~] (iv) not be currently suffering from habitual drunkenness or from drug addiction
5569 or dependence; and
5570 [~~(vi)~~] (v) meet with the division and board if requested by the division or the board.

5571 (m) (i) Each applicant for licensure as an elevator mechanic shall:
5572 (A) provide documentation of experience and education credits of not less than three
5573 years work experience in the elevator industry, in construction, maintenance, or service and
5574 repair; and
5575 (B) satisfactorily complete a written examination administered by the division
5576 established by rule under Section 58-1-203; or
5577 (C) provide certificates of completion of an apprenticeship program for elevator
5578 mechanics, having standards substantially equal to those of this chapter and registered with the
5579 United States Department of Labor Bureau Apprenticeship and Training or a state
5580 apprenticeship council.
5581 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
5582 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
5583 repairing, or maintaining an elevator, the contractor may:
5584 (I) notify the division of the unavailability of licensed personnel; and
5585 (II) request the division issue a temporary elevator mechanic license to an individual
5586 certified by the contractor as having an acceptable combination of documented experience and
5587 education to perform the work described in this Subsection (3)(m)(ii)(A).
5588 (B) (I) The division may issue a temporary elevator mechanic license to an individual
5589 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
5590 the appropriate fee as determined by the department under Section 63J-1-504.
5591 (II) The division shall specify the time period for which the license is valid and may
5592 renew the license for an additional time period upon its determination that a shortage of
5593 licensed elevator mechanics continues to exist.
5594 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5595 division may make rules establishing when Federal Bureau of Investigation records shall be
5596 checked for applicants as an alarm company or alarm company agent.
5597 (5) [~~To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and~~
5598 ~~(3)(l)(iii)~~] For each applicant described in Subsection (3)(k) or (l), the division shall provide an
5599 appropriate number of copies of fingerprint cards to the Department of Public Safety with the
5600 division's request to:
5601 (a) conduct a search of records of the Department of Public Safety for criminal history

5602 information relating to each applicant for licensure as an alarm company or alarm company
5603 agent and each applicant's officers, directors, shareholders described in Subsection
5604 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
5605 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
5606 requiring a check of records of the Federal Bureau of Investigation for criminal history
5607 information under this section.
5608 (6) The Department of Public Safety shall send to the division:
5609 (a) a written record of criminal history, or certification of no criminal history record, as
5610 contained in the records of the Department of Public Safety in a timely manner after receipt of
5611 a fingerprint card from the division and a request for review of Department of Public Safety
5612 records; and
5613 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
5614 a timely manner after receipt of information from the Federal Bureau of Investigation.
5615 (7) (a) The division shall charge each applicant for licensure as an alarm company or
5616 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
5617 performing the records reviews under this section.
5618 (b) The division shall pay the Department of Public Safety the costs of all records
5619 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
5620 costs of records reviews under this section.
5621 (8) Information obtained by the division from the reviews of criminal history records of
5622 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
5623 disseminated by the division only for the purpose of determining if an applicant for licensure as
5624 an alarm company or alarm company agent is qualified for licensure.
5625 (9) (a) An application for licensure under this chapter shall be denied if:
5626 (i) the applicant has had a previous license, which was issued under this chapter,
5627 suspended or revoked within two years before the date of the applicant's application;
5628 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
5629 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5630 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5631 status, performing similar functions, or directly or indirectly controlling the applicant has
5632 served in any similar capacity with any person or entity which has had a previous license,

5633 which was issued under this chapter, suspended or revoked within two years before the date of
5634 the applicant's application;
5635 (iii) (A) the applicant is an individual or sole proprietorship; and
5636 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5637 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
5638 this chapter, suspended or revoked within two years before the date of the applicant's
5639 application; or
5640 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
5641 an unincorporated entity at the time the entity's license under this chapter was revoked; and
5642 (B) the application for licensure is filed within 60 months after the revocation of the
5643 unincorporated entity's license.
5644 (b) An application for licensure under this chapter shall be reviewed by the appropriate
5645 licensing board prior to approval if:
5646 (i) the applicant has had a previous license, which was issued under this chapter,
5647 suspended or revoked more than two years before the date of the applicant's application;
5648 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
5649 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5650 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5651 status, performing similar functions, or directly or indirectly controlling the applicant has
5652 served in any similar capacity with any person or entity which has had a previous license,
5653 which was issued under this chapter, suspended or revoked more than two years before the date
5654 of the applicant's application; or
5655 (iii) (A) the applicant is an individual or sole proprietorship; and
5656 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5657 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
5658 this chapter, suspended or revoked more than two years before the date of the applicant's
5659 application.
5660 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
5661 report with the division every 30 days after the day on which the license is issued if the licensee
5662 has more than five owners who are individuals who:
5663 (A) own an interest in the contractor that is an unincorporated entity;

5664 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
5665 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
5666 unincorporated entity; and
5667 (C) engage, or will engage, in a construction trade in the state as owners of the
5668 contractor described in Subsection (10)(a)(i)(A).
5669 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
5670 licensee shall provide the ownership status report with an application for renewal of licensure.
5671 (b) An ownership status report required under this Subsection (10) shall:
5672 (i) specify each addition or deletion of an owner:
5673 (A) for the first ownership status report, after the day on which the unincorporated
5674 entity is licensed under this chapter; and
5675 (B) for a subsequent ownership status report, after the day on which the previous
5676 ownership status report is filed;
5677 (ii) be in a format prescribed by the division that includes for each owner, regardless of
5678 the owner's percentage ownership in the unincorporated entity, the information described in
5679 Subsection (1)(e)(vi);
5680 (iii) list the name of:
5681 (A) each officer or manager of the unincorporated entity; and
5682 (B) each other individual involved in the operation, supervision, or management of the
5683 unincorporated entity; and
5684 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
5685 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).
5686 (c) The division may, at any time, audit an ownership status report under this
5687 Subsection (10):
5688 (i) to determine if financial responsibility has been demonstrated or maintained as
5689 required under Section 58-55-306; and
5690 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
5691 Subsection 58-55-502(8) or (9).
5692 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
5693 chapter by providing an individual who owns an interest in the unincorporated entity to engage
5694 in a construction trade in Utah shall file with the division:

5695 (i) before the individual who owns an interest in the unincorporated entity engages in a
5696 construction trade in Utah, a current list of the one or more individuals who hold an ownership
5697 interest in the unincorporated entity that includes for each individual:
5698 (A) the individual's name, address, birth date, and social security number; and
5699 (B) whether the individual will engage in a construction trade; and
5700 (ii) every 30 days after the day on which the unincorporated entity provides the list
5701 described in Subsection (11)(a)(i), an ownership status report containing the information that
5702 would be required under Subsection (10) if the unincorporated entity were a licensed
5703 contractor.
5704 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
5705 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
5706 the division in accordance with Section 63J-1-504.
5707 (12) This chapter may not be interpreted to create or support an express or implied
5708 independent contractor relationship between an unincorporated entity described in Subsection
5709 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
5710 withholding.
5711 (13) A social security number provided under Subsection (1)(e)(vi) is a private record
5712 under Subsection 63G-2-302(1)(i).
5713 Section 88. Section **58-55-502** is amended to read:
5714 **58-55-502. Unprofessional conduct.**
5715 Unprofessional conduct includes:
5716 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed
5717 as a contractor under this chapter;
5718 (2) disregarding or violating through gross negligence or a pattern of negligence:
5719 (a) the building or construction laws of this state or any political subdivision;
5720 (b) the safety and labor laws applicable to a project;
5721 (c) any provision of the health laws applicable to a project;
5722 (d) the workers' compensation insurance laws of this state applicable to a project;
5723 (e) the laws governing withholdings for employee state and federal income taxes,
5724 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
5725 (f) any reporting, notification, and filing laws of this state or the federal government;

5726 (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a
5727 licensee's direction which causes material injury to another;
5728 (4) contract violations that pose a threat or potential threat to the public health, safety,
5729 and welfare including:
5730 (a) willful, deliberate, or grossly negligent departure from or disregard for plans or
5731 specifications, or abandonment or failure to complete a project without the consent of the
5732 owner or the owner's duly authorized representative or the consent of any other person entitled
5733 to have the particular project completed in accordance with the plans, specifications, and
5734 contract terms;
5735 (b) failure to deposit funds to the benefit of an employee as required under any written
5736 contractual obligation the licensee has to the employee;
5737 (c) failure to maintain in full force and effect any health insurance benefit to an
5738 employee that was extended as a part of any written contractual obligation or representation by
5739 the licensee, unless the employee is given written notice of the licensee's intent to cancel or
5740 reduce the insurance benefit at least 45 days before the effective date of the cancellation or
5741 reduction;
5742 (d) failure to reimburse the Residence Lien Recovery Fund as required by Section
5743 38-11-207;
5744 (e) failure to provide, when applicable, the information required by Section 38-11-108;
5745 and
5746 (f) willfully or deliberately misrepresenting or omitting a material fact in connection
5747 with an application to claim recovery from the Residence Lien Recovery Fund under Section
5748 38-11-204;
5749 (5) failing as an alarm company to notify the division of the cessation of performance
5750 of its qualifying agent, or failing to replace its qualifying agent as required under Section
5751 58-55-304;
5752 (6) failing as an alarm company agent to carry or display a copy of the licensee's
5753 license as required under Section 58-55-311;
5754 (7) failing to comply with operating standards established by rule in accordance with
5755 Section 58-55-308;
5756 (8) an unincorporated entity licensed under this chapter having an individual who owns

5757 an interest in the unincorporated entity engage in a construction trade in Utah while not
5758 lawfully present in the United States;
5759 (9) an unincorporated entity failing to provide the following for an individual who
5760 engages, or will engage, in a construction trade in Utah for the unincorporated entity:
5761 (a) workers' compensation coverage to the extent required by Title 34A, Chapter 2,
5762 Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and
5763 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
5764 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
5765 interest in the unincorporated entity, as defined by rule made by the division in accordance with
5766 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [~~or~~]
5767 (10) the failure of an alarm company or alarm company agent to inform a potential
5768 customer, before the customer's purchase of an alarm system or alarm service from the alarm
5769 company, of the policy of the county, city, or town within which the customer resides relating
5770 to priority levels for responding to an alarm signal transmitted by the alarm system that the
5771 alarm company provides the customer[~~.~~]; or
5772 (11) failing to continuously maintain insurance and registration as required under
5773 Subsection 58-55-302(2).
5774 Section 89. Section **58-55-503** is amended to read:
5775 **58-55-503. Penalty for unlawful conduct -- Citations.**
5776 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
5777 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
5778 (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under
5779 this section after it is final, is guilty of a class A misdemeanor.
5780 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
5781 individual and does not include a sole proprietorship, joint venture, corporation, limited
5782 liability company, association, or organization of any type.
5783 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
5784 awarded and may not accept a contract for the performance of the work.
5785 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
5786 infraction unless the violator did so with the intent to deprive the person to whom money is to
5787 be paid of the money received, in which case the violator is guilty of theft, as classified in

5788 Section 76-6-412.
5789 (3) Grounds for immediate suspension of a licensee's license by the division and the
5790 commission include:
5791 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
5792 58-55-501, or Subsection 58-55-504(2); and
5793 (b) the failure by a licensee to make application to, report to, or notify the division with
5794 respect to any matter for which application, notification, or reporting is required under this
5795 chapter or rules adopted under this chapter, including:
5796 (i) applying to the division for a new license to engage in a new specialty classification
5797 or to do business under a new form of organization or business structure;
5798 (ii) filing a current financial statement with the division; and
5799 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.
5800 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
5801 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
5802 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), [~~or~~] (28), Subsection
5803 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to
5804 these subsections, and that disciplinary action is appropriate, the director or the director's
5805 designee from within the division shall promptly issue a citation to the person according to this
5806 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person
5807 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
5808 Administrative Procedures Act.
5809 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
5810 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),
5811 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
5812 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
5813 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
5814 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
5815 (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection
5816 58-55-504(2).
5817 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
5818 58-55-401 may not be assessed through a citation.

5819 (b) (i) A citation shall be in writing and describe with particularity the nature of the
5820 violation, including a reference to the provision of the chapter, rule, or order alleged to have
5821 been violated.
5822 (ii) A citation shall clearly state that the recipient must notify the division in writing
5823 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
5824 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.
5825 (iii) A citation shall clearly explain the consequences of failure to timely contest the
5826 citation or to make payment of any fines assessed by the citation within the time specified in
5827 the citation.
5828 (c) A citation issued under this section, or a copy of a citation, may be served upon a
5829 person upon whom a summons may be served:
5830 (i) in accordance with the Utah Rules of Civil Procedure;
5831 (ii) personally or upon the person's agent by a division investigator or by a person
5832 specially designated by the director; or
5833 (iii) by mail.
5834 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
5835 to whom the citation was issued fails to request a hearing to contest the citation, the citation
5836 becomes the final order of the division and is not subject to further agency review.
5837 (ii) The period to contest a citation may be extended by the division for cause.
5838 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
5839 the license of a licensee who fails to comply with a citation after the citation becomes final.
5840 (f) The failure of an applicant for licensure to comply with a citation after the citation
5841 becomes final is a ground for denial of license.
5842 (g) A citation may not be issued under this section after the expiration of one year
5843 following the date on which the violation that is the subject of the citation is reported to the
5844 division.
5845 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's
5846 designee shall assess a fine in accordance with the following:
5847 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $1,000;
5848 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $2,000;
5849 and

5850 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
5851 $2,000 for each day of continued offense.
5852 (ii) Except as provided in Subsection (5), if a person violates Subsection
5853 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in
5854 accordance with the following:
5855 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $2,000;
5856 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $4,000;
5857 and
5858 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
5859 $4,000 for each day of continued offense.
5860 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
5861 Subsection (4)(h), an offense constitutes a second or subsequent offense if:
5862 (A) the division previously issued a final order determining that a person committed a
5863 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
5864 (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection
5865 58-55-504(2); or
5866 (B) (I) the division initiated an action for a first or second offense;
5867 (II) a final order has not been issued by the division in the action initiated under
5868 Subsection (4)(i)(i)(B)(I);
5869 (III) the division determines during an investigation that occurred after the initiation of
5870 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
5871 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
5872 (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection
5873 58-55-504(2); and
5874 (IV) after determining that the person committed a second or subsequent offense under
5875 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
5876 Subsection (4)(i)(i)(B)(I).
5877 (ii) In issuing a final order for a second or subsequent offense under Subsection
5878 (4)(i)(i), the division shall comply with the requirements of this section.
5879 (j) In addition to any other licensure sanction or fine imposed under this section, the
5880 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)

5881 two or more times within a 12-month period, unless, with respect to a violation of Subsection
5882 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
5883 legal working status of the individual who was the subject of the violation using a status
5884 verification system, as defined in Section 13-47-102.
5885 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
5886 for each individual is considered a separate violation.
5887 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
5888 subsequent violation of a previous violation if the violation occurs five years or more after the
5889 day on which the person committed the previous violation.
5890 (6) If, after an investigation, the division determines that a person has committed
5891 multiple of the same type of violation of Section 58-55-501, the division may treat each
5892 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
5893 each violation.
5894 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
5895 into the Commerce Service Account created by Section 13-1-2.
5896 (b) A penalty that is not paid may be collected by the director by either referring the
5897 matter to a collection agency or bringing an action in the district court of the county in which
5898 the person against whom the penalty is imposed resides or in the county where the office of the
5899 director is located.
5900 (c) A county attorney or the attorney general of the state shall provide legal assistance
5901 and advice to the director in an action to collect a penalty.
5902 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
5903 fees and costs to the prevailing party.
5904 Section 90. Section **58-56-2** is amended to read:
5905 **58-56-2. Chapter administration.**
5906 The provisions of this chapter shall be administered by the Division of [~~Occupational~~
5907 ~~and~~] Professional Licensing.
5908 Section 91. Section **58-57-14** is amended to read:
5909 **58-57-14. Unlawful conduct -- Penalty.**
5910 (1) Beginning January 1, 2007, "unlawful conduct" includes:
5911 (a) using the following titles, names, or initials, if the user is not properly licensed

5912 under this chapter:
5913 (i) respiratory care practitioner;
5914 (ii) respiratory therapist; and
5915 (iii) respiratory technician; and
5916 (b) using any other name, title, or initials that would cause a reasonable person to
5917 believe the user is licensed under this chapter if the user is not properly licensed under this
5918 chapter.
5919 (2) Any person who violates the unlawful conduct provision specifically defined in
5920 Subsection 58-1-501(1)(a) is guilty of a third degree felony.
5921 (3) Any person who violates any of the unlawful conduct provisions specifically
5922 defined in Subsections 58-1-501(1)(b) through (f) and Subsection (1) of this section is guilty of
5923 a class A misdemeanor.
5924 (4) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures
5925 Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
5926 division may assess administrative penalties for acts of unprofessional or unlawful conduct or
5927 any other appropriate administrative action.
5928 Section 92. Section **58-61-704** is amended to read:
5929 **58-61-704. Term of license or registration.**
5930 (1) (a) The division shall issue each license under this part with a two-year renewal
5931 cycle established by division rule.
5932 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
5933 to stagger the renewal cycles it administers.
5934 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of
5935 renewal requirements as required under this part.
5936 (3) Each license or registration expires on the expiration date shown on the license
5937 unless renewed by the licensed individual in accordance with Section 58-1-308.
5938 (4) (a) A registration as a registered behavior specialist or a registered assistant
5939 behavior specialist:
5940 (i) expires on the day the individual is no longer employed in accordance with
5941 Subsection 58-61-705(5)(d) or (6)(d); and
5942 (ii) may not be renewed.

5943 (b) The Department of Human Services, or an organization contracted with a division
5944 of the Department of Human Services, shall notify the Division of [~~Occupational and~~]
5945 Professional Licensing when a person registered under this part is no longer employed as a
5946 registered behavior specialist or a registered assistant behavior specialist.
5947 Section 93. Section **58-63-102** is amended to read:
5948 **58-63-102. Definitions.**
5949 In addition to the definitions in Section 58-1-102, as used in this chapter:
5950 (1) "Agreement for services" means a written and signed agreement between a security
5951 service provider and a client that:
5952 (a) contains clear language that addresses and assigns financial responsibility;
5953 (b) describes the length, duties, and scope of the security services that will be provided;
5954 and
5955 (c) describes the compensation that will be paid by the client for the security services,
5956 including the compensation for each security officer.
5957 (2) "Armed courier service" means a person engaged in business as a contract security
5958 company who transports or offers to transport tangible personal property from one place or
5959 point to another under the control of an armed security officer employed by that service.
5960 (3) "Armed private security officer" means an individual:
5961 (a) employed by a contract security company;
5962 (b) whose primary duty is:
5963 (i) guarding personal or real property; or
5964 (ii) providing protection or security to the life and well being of humans or animals;
5965 and
5966 (c) who wears, carries, possesses, or has immediate access to a firearm in the
5967 performance of the individual's duties.
5968 (4) "Armored car company" means a person engaged in business under contract to
5969 others who transports or offers to transport tangible personal property, currency, valuables,
5970 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that
5971 require secured delivery from one place to another under the control of an armored car security
5972 officer employed by the company using a specially equipped motor vehicle offering a high
5973 degree of security.

5974 (5) "Armored car security officer" means an individual:
5975 (a) employed by an armored car company;
5976 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
5977 SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured
5978 delivery from one place to another; and
5979 (c) who wears, carries, possesses, or has immediate access to a firearm in the
5980 performance of the individual's duties.
5981 (6) "Board" means the Security Services Licensing Board created in Section
5982 58-63-201.
5983 (7) "Client" means a person, company, or entity that contracts for and receives security
5984 services from a contract security company or an armored car company.
5985 (8) "Contract security company" means a company that is registered with the Division
5986 of Corporations and Commercial Code and is engaged in business to provide security services
5987 to another person, business, or entity on a contractual basis by assignment of an armed or
5988 unarmed private security officer.
5989 (9) "Corporate officer" means an individual who is on file with the Division of
5990 Corporations and Commercial Code as:
5991 (a) a corporate officer of a contract security company or an armored car company that
5992 is a corporation; or
5993 (b) a sole proprietor of a contract security company or an armored car company that is
5994 not a corporation.
5995 (10) "Financial responsibility," when referring to a contract security company, means
5996 that a contract security company may only provide security services to a client if the contract
5997 security company:
5998 (a) enters into an agreement for services with the client;
5999 (b) maintains a current general liability insurance policy with:
6000 (i) at least an annual $1,000,000 per occurrence limit;
6001 (ii) at least an annual $2,000,000 aggregate limit; and
6002 (iii) the following riders:
6003 (A) general liability;
6004 (B) assault and battery;

6005 (C) personal injury;
6006 (D) false arrest;
6007 (E) libel and slander;
6008 (F) invasion of privacy;
6009 (G) broad form property damage;
6010 (H) damage to property in the care, custody, or control of the security service provider;
6011 and
6012 (I) errors and omissions;
6013 (c) maintains a workers' compensation insurance policy with at least a $1,000,000 per
6014 occurrence limit and that covers each security officer employed by the contract security
6015 company; and
6016 (d) maintains a federal employer identification number and an unemployment
6017 insurance employer account as required under state and federal law.
6018 (11) "Identification card" means a personal pocket or wallet size card issued by the
6019 division to each armored car and armed or unarmed private security officer licensed under this
6020 chapter.
6021 (12) "Law enforcement agency" means the same as that term is defined in Section
6022 53-1-102.
6023 (13) "Owner" means an individual who is listed with the Division of Corporations and
6024 Commercial Code as a majority stockholder of a company, a general partner of a partnership,
6025 or the proprietor of a sole proprietorship.
6026 (14) "Peace officer" means a person who:
6027 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer
6028 Classifications; and
6029 (b) derives total or special law enforcement powers from, and is an employee of, the
6030 federal government, the state, or a political subdivision, agency, department, branch, or service
6031 of either, of a municipality, or a unit of local government.
6032 (15) "Regular basis" means at least 20 hours per month.
6033 (16) "Responsible management personnel" means an individual who is responsible for
6034 managing an applicant's operations.
6035 [~~(16)~~] (17) (a) "Security officer" means an individual who is licensed as an armed or

6036 unarmed private security officer under this chapter and who:
6037 (i) is employed by a contract security company securing, guarding, or otherwise
6038 protecting tangible personal property, real property, or the life and well being of human or
6039 animal life against:
6040 (A) trespass or other unlawful intrusion or entry;
6041 (B) larceny;
6042 (C) vandalism or other abuse;
6043 (D) arson or other criminal activity; or
6044 (E) personal injury caused by another person or as a result of an act or omission by
6045 another person;
6046 (ii) is controlling, regulating, or directing the flow of movements of an individual or
6047 vehicle; or
6048 (iii) providing street patrol service.
6049 (b) "Security officer" does not include an individual whose duties include taking
6050 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
6051 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
6052 convention center, fairgrounds, public assembly facility, or mass gathering location if:
6053 (i) the individual carries out these duties without the use of specialized equipment;
6054 (ii) the authority of the individual is limited to denying entry or passage of another
6055 individual into or within the facility; and
6056 (iii) the individual is not authorized to use physical force in the performance of the
6057 individual's duties under this Subsection [~~(16)~~] (17)(b).
6058 [~~(17)~~] (18) "Security service provider" means a contract security company or an
6059 armored car company licensed under this chapter.
6060 [~~(18)~~] (19) "Security system" means equipment, a device, or an instrument installed
6061 for:
6062 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
6063 the premises protected by the system; or
6064 (b) signaling the commission of criminal activity at the election of an individual having
6065 control of the features of the security system.
6066 [~~(19)~~] (20) "Specialized resource, motor vehicle, or equipment" means an item of

6067 tangible personal property specifically designed for use in law enforcement or in providing
6068 security or guard services, or that is specially equipped with a device or feature designed for
6069 use in providing law enforcement, security, or guard services, but does not include:
6070 (a) standardized clothing, whether or not bearing a company name or logo, if the
6071 clothing does not bear the words "security" or "guard"; or
6072 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
6073 may be used without modification in providing security or guard services.
6074 [~~(20)~~] (21) "Street patrol service" means a contract security company that provides
6075 patrols by means of foot, vehicle, or other method of transportation using public streets,
6076 thoroughfares, or property in the performance of the company's duties and responsibilities.
6077 [~~(21)~~] (22) "Unarmed private security officer" means an individual:
6078 (a) employed by a contract security company;
6079 (b) whose primary duty is guarding personal or real property or providing protection or
6080 security to the life and well being of humans or animals;
6081 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
6082 performance of the individual's duties; and
6083 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
6084 emblem, insignia, or other device that identifies the individual as a security officer.
6085 [~~(22)~~] (23) "Unlawful conduct" means the same as that term is defined in Sections
6086 58-1-501 and 58-63-501.
6087 [~~(23)~~] (24) "Unprofessional conduct" means the same as that term is defined in
6088 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.
6089 Section 94. Section **58-63-302** is amended to read:
6090 **58-63-302. Qualifications for licensure.**
6091 (1) Each applicant for licensure as an armored car company or a contract security
6092 company shall:
6093 (a) submit an application in a form prescribed by the division;
6094 (b) pay a fee determined by the department under Section 63J-1-504;
6095 (c) have a qualifying agent who:
6096 (i) shall meet with the division and the board and demonstrate that the applicant and
6097 the qualifying agent meet the requirements of this section;

6098 (ii) is a resident of the state and is [~~a corporate officer~~] responsible management
6099 personnel or an owner of the applicant;
6100 (iii) exercises material day-to-day authority in the conduct of the applicant's business
6101 by making substantive technical and administrative decisions and whose primary employment
6102 is with the applicant;
6103 (iv) is not concurrently acting as a qualifying agent or employee of another armored car
6104 company or contract security company and is not engaged in any other employment on a
6105 regular basis;
6106 (v) is not involved in any activity that would conflict with the qualifying agent's duties
6107 and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's
6108 performance under this chapter does not jeopardize the health or safety of the general public;
6109 (vi) is not an employee of a government agency;
6110 (vii) passes an examination component established by rule by the division in
6111 collaboration with the board; and
6112 (viii) (A) demonstrates 6,000 hours of compensated experience as a manager,
6113 supervisor, or administrator of an armored car company or a contract security company; or
6114 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
6115 collaboration with the board with a federal, United States military, state, county, or municipal
6116 law enforcement agency;
6117 (d) if a corporation, provide:
6118 (i) the names, addresses, dates of birth, and social security numbers of all corporate
6119 officers, directors, and [~~those~~] responsible management personnel [~~employed within the state or~~
6120 ~~having direct responsibility for managing operations of the applicant within the state~~]; and
6121 (ii) the names, addresses, dates of birth, and social security numbers, of all
6122 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
6123 the division if the stock is publicly listed and traded;
6124 (e) if a limited liability company, provide:
6125 (i) the names, addresses, dates of birth, and social security numbers of all company
6126 officers, and [~~those~~] responsible management personnel [~~employed within the state or having~~
6127 ~~direct responsibility for managing operations of the applicant within the state~~]; and
6128 (ii) the names, addresses, dates of birth, and social security numbers of all individuals

6129 owning 5% or more of the equity of the company;
6130 (f) if a partnership, provide the names, addresses, dates of birth, and social security
6131 numbers of all general partners, and [~~those~~] responsible management personnel [~~employed~~
6132 ~~within the state or having direct responsibility for managing operations of the applicant within~~
6133 ~~the state~~];
6134 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
6135 numbers of the proprietor, and [~~those~~] responsible management personnel [~~employed within~~
6136 ~~the state or having direct responsibility for managing operations of the applicant within the~~
6137 ~~state~~];
6138 (h) have good moral character in that officers, directors, shareholders described in
6139 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
6140 been convicted of:
6141 (i) a felony;
6142 (ii) a misdemeanor involving moral turpitude; or
6143 (iii) a crime that when considered with the duties and responsibilities of a contract
6144 security company or an armored car company by the division and the board indicates that the
6145 best interests of the public are not served by granting the applicant a license;
6146 (i) document that none of the applicant's officers, directors, shareholders described in
6147 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:
6148 (i) have been declared by a court of competent jurisdiction incompetent by reason of
6149 mental defect or disease and not been restored; and
6150 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
6151 (j) file and maintain with the division evidence of:
6152 (i) comprehensive general liability insurance in a form and in amounts established by
6153 rule by the division in collaboration with the board;
6154 (ii) workers' compensation insurance that covers employees of the applicant in
6155 accordance with applicable Utah law;
6156 (iii) registration with the Division of Corporations and Commercial Code; and
6157 (iv) registration as required by applicable law with the:
6158 (A) Unemployment Insurance Division in the Department of Workforce Services, for
6159 purposes of Title 35A, Chapter 4, Employment Security Act;

6160 (B) State Tax Commission; and
6161 (C) Internal Revenue Service; and
6162 (k) meet with the division and board if requested by the division or board.
6163 (2) Each applicant for licensure as an armed private security officer shall:
6164 (a) submit an application in a form prescribed by the division;
6165 (b) pay a fee determined by the department under Section 63J-1-504;
6166 (c) have good moral character in that the applicant has not been convicted of:
6167 (i) a felony;
6168 (ii) a misdemeanor involving moral turpitude; or
6169 (iii) a crime that when considered with the duties and responsibilities of an armed
6170 private security officer by the division and the board indicates that the best interests of the
6171 public are not served by granting the applicant a license;
6172 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
6173 922(g);
6174 (e) not have been declared incompetent by a court of competent jurisdiction by reason
6175 of mental defect or disease and not been restored;
6176 (f) not be currently suffering from habitual drunkenness or from drug addiction or
6177 dependence;
6178 (g) successfully complete basic education and training requirements established by rule
6179 by the division in collaboration with the board, which shall include a minimum of eight hours
6180 of classroom or online curriculum;
6181 (h) successfully complete firearms training requirements established by rule by the
6182 division in collaboration with the board, which shall include a minimum of 12 hours of
6183 training;
6184 (i) pass the examination requirement established by rule by the division in
6185 collaboration with the board; and
6186 (j) meet with the division and board if requested by the division or the board.
6187 (3) Each applicant for licensure as an unarmed private security officer shall:
6188 (a) submit an application in a form prescribed by the division;
6189 (b) pay a fee determined by the department under Section 63J-1-504;
6190 (c) have good moral character in that the applicant has not been convicted of:

6191 (i) a felony;
6192 (ii) a misdemeanor involving moral turpitude; or
6193 (iii) a crime that when considered with the duties and responsibilities of an unarmed
6194 private security officer by the division and the board indicates that the best interests of the
6195 public are not served by granting the applicant a license;
6196 (d) not have been declared incompetent by a court of competent jurisdiction by reason
6197 of mental defect or disease and not been restored;
6198 (e) not be currently suffering from habitual drunkenness or from drug addiction or
6199 dependence;
6200 (f) successfully complete basic education and training requirements established by rule
6201 by the division in collaboration with the board, which shall include a minimum of eight hours
6202 of classroom or online curriculum;
6203 (g) pass the examination requirement established by rule by the division in
6204 collaboration with the board; and
6205 (h) meet with the division and board if requested by the division or board.
6206 (4) Each applicant for licensure as an armored car security officer shall:
6207 (a) submit an application in a form prescribed by the division;
6208 (b) pay a fee determined by the department under Section 63J-1-504;
6209 (c) have good moral character in that the applicant has not been convicted of:
6210 (i) a felony;
6211 (ii) a misdemeanor involving moral turpitude; or
6212 (iii) a crime that when considered with the duties and responsibilities of an armored car
6213 security officer by the division and the board indicates that the best interests of the public are
6214 not served by granting the applicant a license;
6215 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
6216 922(g);
6217 (e) not have been declared incompetent by a court of competent jurisdiction by reason
6218 of mental defect or disease and not been restored;
6219 (f) not be currently suffering from habitual drunkenness or from drug addiction or
6220 dependence;
6221 (g) successfully complete basic education and training requirements established by rule

6222 by the division in collaboration with the board;
6223 (h) successfully complete firearms training requirements established by rule by the
6224 division in collaboration with the board;
6225 (i) pass the examination requirements established by rule by the division in
6226 collaboration with the board; and
6227 (j) meet with the division and board if requested by the division or the board.
6228 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6229 division may make a rule establishing when the division shall request a Federal Bureau of
6230 Investigation records' review for an applicant who is applying for licensure or licensure renewal
6231 under this chapter.
6232 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
6233 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
6234 cards to the Department of Public Safety with the division's request to:
6235 (a) conduct a search of records of the Department of Public Safety for criminal history
6236 information relating to each applicant for licensure under this chapter and each applicant's
6237 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
6238 responsible management personnel; and
6239 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
6240 requiring a check of records of the FBI for criminal history information under this section.
6241 (7) The Department of Public Safety shall send the division:
6242 (a) a written record of criminal history, or certification of no criminal history record, as
6243 contained in the records of the Department of Public Safety in a timely manner after receipt of
6244 a fingerprint card from the division and a request for review of Department of Public Safety
6245 records; and
6246 (b) the results of the FBI review concerning an applicant in a timely manner after
6247 receipt of information from the FBI.
6248 (8) (a) The division shall charge each applicant a fee, in accordance with Section
6249 63J-1-504, equal to the cost of performing the records reviews under this section.
6250 (b) The division shall pay the Department of Public Safety the costs of all records
6251 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
6252 under this chapter.

6253 (9) The division shall use or disseminate the information it obtains from the reviews of
6254 criminal history records of the Department of Public Safety and the FBI only to determine if an
6255 applicant for licensure or licensure renewal under this chapter is qualified for licensure.
6256 Section 95. Section **58-67-503** is amended to read:
6257 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**
6258 **conduct.**
6259 (1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or
6260 Section 58-1-501 is guilty of a third degree felony.
6261 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6262 conduct by:
6263 (i) assessing administrative penalties; or
6264 (ii) taking other appropriate administrative action.
6265 (b) A monetary administrative penalty imposed under this section shall be deposited
6266 [~~in~~] into the Physician Education Fund created in Section 58-67a-1.
6267 (3) If a licensee has been convicted of unlawful conduct, described in Section
6268 58-67-501, before an administrative proceeding regarding the same conduct, the division may
6269 not assess an additional administrative fine under this chapter for the same conduct.
6270 (4) (a) If the division concludes that an individual has violated provisions of Section
6271 58-67-501, Section 58-67-502, Chapter 1, Division of [~~Occupational and~~] Professional
6272 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6273 respect to these provisions, and disciplinary action is appropriate, the director or director's
6274 designee shall:
6275 (i) issue a citation to the individual;
6276 (ii) attempt to negotiate a stipulated settlement; or
6277 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6278 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6279 appear.
6280 (b) The division may take the following action against an individual who is in violation
6281 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6282 stipulated settlement, or a finding of violation in an adjudicative proceeding:
6283 (i) assess a fine of up to $10,000 per single violation or up to $2,000 per day of

6284 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;
6285 or
6286 (ii) order to cease and desist from the behavior that constitutes a violation of the
6287 provisions described in Subsection (4)(a).
6288 (c) An individual's license may not be suspended or revoked through a citation.
6289 (d) Each citation issued under this section shall:
6290 (i) be in writing;
6291 (ii) clearly describe or explain:
6292 (A) the nature of the violation, including a reference to the provision of the chapter,
6293 rule, or order alleged to have been violated;
6294 (B) that the recipient must notify the division in writing within 20 calendar days from
6295 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6296 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
6297 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6298 the citation within the time specified in the citation; and
6299 (iii) be served in accordance with the Utah Rules of Civil Procedure.
6300 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6301 the citation within 20 calendar days from the day on which the citation is served, the citation
6302 becomes the final order of the division and is not subject to further agency review. The period
6303 to contest the citation may be extended by the division for cause.
6304 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6305 the license of an individual who fails to comply with a citation after the citation becomes final.
6306 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6307 final is a ground for denial of license.
6308 (h) No citation may be issued under this section after the expiration of one year
6309 following the date on which the violation that is the subject of the citation is reported to the
6310 division.
6311 (5) (a) The director may collect a penalty imposed under this section that is not paid by:
6312 (i) referring the matter to a collection agency; or
6313 (ii) bringing an action in the district court of the county where the person against whom
6314 the penalty is imposed resides or in the county where the office of the director is located.

6315 (b) A county attorney or the attorney general of the state shall provide legal assistance
6316 and advice to the director in an action to collect a penalty.
6317 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6318 action brought by the division to collect a penalty.
6319 Section 96. Section **58-68-503** is amended to read:
6320 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**
6321 **conduct.**
6322 (1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or
6323 Section 58-1-501 is guilty of a third degree felony.
6324 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6325 conduct by:
6326 (i) assessing administrative penalties; or
6327 (ii) taking any other appropriate administrative action.
6328 (b) A monetary administrative penalty imposed under this section shall be deposited
6329 [~~in~~] into the Physician Education Fund described in Section 58-67a-1.
6330 (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501,
6331 before an administrative proceeding regarding the same conduct, the licensee may not be
6332 assessed an administrative fine under this chapter for the same conduct.
6333 (4) (a) If the division concludes that an individual has violated the provisions of
6334 Section 58-68-501, Section 58-68-502, Chapter 1, Division of [~~Occupational and~~] Professional
6335 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6336 respect to these provisions, and disciplinary action is appropriate, the director or director's
6337 designee shall:
6338 (i) issue a citation to the individual;
6339 (ii) attempt to negotiate a stipulated settlement; or
6340 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6341 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6342 appear.
6343 (b) The division may take the following action against an individual who is in violation
6344 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6345 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6346 (i) assess a fine of up to $10,000 per single violation or $2,000 per day of ongoing
6347 violation, whichever is greater, in accordance with a fine schedule established by rule; or
6348 (ii) order to cease and desist from the behavior that constitutes a violation of provisions
6349 described in Subsection (4)(a).
6350 (c) Except for an administrative fine and a cease and desist order, the licensure
6351 sanctions cited in Section 58-1-401 may not be assessed through a citation.
6352 (d) Each citation issued under this section shall:
6353 (i) be in writing;
6354 (ii) clearly describe or explain:
6355 (A) the nature of the violation, including a reference to the provision of the chapter,
6356 rule, or order alleged to have been violated;
6357 (B) that the recipient must notify the division in writing within 20 calendar days from
6358 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6359 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
6360 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6361 the citation within the time specified in the citation; and
6362 (iii) be served in accordance with the requirements of the Utah Rules of Civil
6363 Procedure.
6364 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6365 the citation within 20 calendar days from the day on which the citation is served, the citation
6366 becomes the final order of the division and is not subject to further agency review. The period
6367 to contest the citation may be extended by the division for cause.
6368 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6369 the license of an individual who fails to comply with a citation after the citation becomes final.
6370 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6371 final is a ground for denial of a license.
6372 (h) No citation may be issued under this section after the expiration of one year
6373 following the date on which the violation that is the subject of the citation is reported to the
6374 division.
6375 (5) (a) The director may collect a penalty imposed under this section that is not paid by:
6376 (i) referring the matter to a collection agency; or

6377 (ii) bringing an action in the district court of the county where the person against whom
6378 the penalty is imposed resides or in the county where the office of the director is located.
6379 (b) A county attorney or the attorney general of the state shall provide legal assistance
6380 and advice to the director in an action to collect a penalty.
6381 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6382 action brought by the division to collect a penalty.
6383 Section 97. Section **58-71-402** is amended to read:
6384 **58-71-402. Authority to assess penalty.**
6385 (1) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act,
6386 and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
6387 division may impose administrative penalties of up to $10,000 for acts of unprofessional
6388 conduct or unlawful conduct under this chapter.
6389 (2) Assessment of a penalty under this section does not affect any other action the
6390 division is authorized to take regarding a license issued under this chapter.
6391 Section 98. Section **58-73-302** is amended to read:
6392 **58-73-302. Qualifications for licensure.**
6393 (1) Each applicant for licensure as a chiropractic physician, other than those applying
6394 for a license based on licensure as a chiropractor or chiropractic physician in another
6395 jurisdiction, shall:
6396 (a) submit an application in a form prescribed by the division;
6397 (b) pay a fee determined by the department under Section 63J-1-504;
6398 (c) demonstrate satisfactory completion of at least two years of general study in a
6399 college or university;
6400 (d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic
6401 college or university that at the time the degree was conferred was accredited by the Council on
6402 Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the
6403 United States Department of Education and by the division rule made in collaboration with the
6404 board;
6405 (e) demonstrate successful completion of:
6406 (i) the National Chiropractic Boards:
6407 (A) Parts I and II;

6408 (B) Written Clinical Competency Examination; and
6409 (C) [~~Physical Therapy~~] Physiotherapy;
6410 (ii) the Utah Chiropractic Law and Rules Examination; and
6411 (iii) a practical examination approved by the division in collaboration with the board;
6412 and
6413 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
6414 qualifications for licensure.
6415 (2) Each applicant for licensure as a chiropractic physician based on licensure as a
6416 chiropractor or chiropractic physician in another jurisdiction shall:
6417 (a) submit an application in the form prescribed by the division;
6418 (b) pay a fee determined by the department under Section 63J-1-504;
6419 (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in
6420 another state under education requirements which were equivalent to the education
6421 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
6422 the applicant obtained the license in the other state;
6423 (d) demonstrate successful completion of:
6424 (i) the Utah Chiropractic Law and Rules Examination; and
6425 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
6426 of Chiropractic Examiners;
6427 (e) have been actively engaged in the practice of chiropractic for not less than two
6428 years immediately preceding application for licensure in this state; and
6429 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
6430 qualifications for licensure.
6431 Section 99. Section **58-73-501** is amended to read:
6432 **58-73-501. Unprofessional conduct.**
6433 Unprofessional conduct is as defined in Section 58-1-501, as defined by division rule,
6434 and also includes:
6435 (1) engaging in practice as a chiropractic physician after electing to place his license on
6436 inactive status, without having established with the board that he has initiated or completed
6437 continuing education necessary to reinstate active status of his license;
6438 (2) failing to complete required continuing professional education;

6439 (3) violating any of the scope of practice standards set forth in Section 58-73-601;
6440 (4) failing to maintain patient records in sufficient detail to clearly substantiate a
6441 diagnosis, all treatment rendered to the patient in accordance with the recognized standard of
6442 chiropractic care, and fees charged for professional services;
6443 (5) refusing to divulge to the division on demand the means, methods, device, or
6444 instrumentality used in the treatment of a disease, injury, ailment, or infirmity, unless that
6445 information is protected by the physician-patient privilege of Utah and the patient has not
6446 waived that privilege;
6447 (6) refusing the division or [~~its~~] the division's employees access to his office,
6448 instruments, laboratory equipment, appliances, or supplies at reasonable times for purposes of
6449 inspection;
6450 (7) fraudulently representing that curable disease, sickness, or injury can be cured in a
6451 stated time, or knowingly making any false statement in connection with the practice of
6452 chiropractic;
6453 (8) offering, undertaking, or agreeing to cure or treat a disease, injury, ailment, or
6454 infirmity by a secret means, method, device, or instrumentality;
6455 (9) willfully and intentionally making any false statement or entry in any chiropractic
6456 office records or other chiropractic records or reports;
6457 (10) knowingly engaging in billing practices which are abusive and represent charges
6458 which are fraudulent or grossly excessive for services rendered;
6459 (11) performing, procuring, or agreeing to procure or perform, or advising, aiding in or
6460 abetting, or offering or attempting to procure or aid or abet in the procuring of a criminal
6461 abortion;
6462 (12) willfully betraying or disclosing a professional confidence or violation of a
6463 privileged communication, except:
6464 (a) as required by law; or
6465 (b) to assist the division by fully and freely exchanging information concerning
6466 applicants or licensees with the licensing or disciplinary boards of other states or foreign
6467 countries, the Utah chiropractic associations, their component societies, or chiropractic
6468 societies of other states, countries, districts, territories, or foreign countries;
6469 (13) directly or indirectly giving or receiving any fee, commission, rebate, or other

6470 compensation for professional services not actually rendered or supervised, but this subsection
6471 does not preclude the legal relationships within lawful professional partnerships, corporations,
6472 or associations; [~~and~~]
6473 (14) knowingly failing to transfer a copy of pertinent and necessary medical records or
6474 a summary of them to another physician when requested to do so by the subject patient or his
6475 designated representative[~~.~~];
6476 (15) making a false entry in, or altering, a medical record with the intent to conceal:
6477 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
6478 or an individual under the direction or control of an individual licensed under this chapter; or
6479 (b) conduct described in Subsections (1) through (14) or Subsection 58-1-501(1);
6480 (16) sharing professional fees with a person who is not licensed under this chapter; and
6481 (17) paying a person for a patient referral.
6482 Section 100. Section **58-83-102** is amended to read:
6483 **58-83-102. Definitions.**
6484 In addition to the definitions in Section 58-1-102, as used in this chapter:
6485 (1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing
6486 Board created in Section 58-83-201.
6487 (2) "Branching questionnaire" means an adaptive and progressive assessment tool
6488 approved by the board.
6489 (3) "Delivery of online pharmaceutical services" means the process in which a
6490 prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized
6491 by Section 58-83-306, using:
6492 (a) a branching questionnaire or other assessment tool approved by the division for the
6493 purpose of diagnosing and assessing a patient's health status;
6494 (b) an Internet contract pharmacy to:
6495 (i) dispense the prescribed drug; or
6496 (ii) transfer the prescription to another pharmacy; and
6497 (c) an Internet facilitator to facilitate the practices described in Subsections (3)(a) and
6498 (b).
6499 (4) "Division" means the [~~Utah~~] Division of [~~Occupational and~~] Professional
6500 Licensing.

6501 (5) "Internet facilitator" means a licensed provider of a web-based system for electronic
6502 communication between and among an online prescriber, the online prescriber's patient, and
6503 the online contract pharmacy.
6504 (6) "Online contract pharmacy" means a pharmacy licensed and in good standing under
6505 Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed
6506 Door Pharmacy and licensed under this chapter to fulfill prescriptions issued by an online
6507 prescriber through a specific Internet facilitator.
6508 (7) "Online prescriber" means a person:
6509 (a) licensed under another chapter of this title;
6510 (b) whose license under another chapter of this title includes assessing, diagnosing, and
6511 prescribing authority for humans; and
6512 (c) who has obtained a license under this chapter to engage in online prescribing.
6513 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-83-501.
6514 (9) "Unprofessional conduct" is as defined in Sections 58-1-203 and 58-83-502, and as
6515 further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative
6516 Rulemaking Act.
6517 Section 101. Section **58-83-302** is amended to read:
6518 **58-83-302. Qualifications for licensure.**
6519 (1) Each applicant for licensure as an online prescriber under this chapter shall:
6520 (a) submit an application in a form prescribed by the division;
6521 (b) pay a fee determined by the department under Section 63J-1-504;
6522 [~~(c) be of good moral character;~~]
6523 [~~(d)~~] (c) document that the applicant holds a Utah license that is active and in good
6524 standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of
6525 human ailments and the prescription of medications;
6526 [~~(e)~~] (d) document that any other professional license the applicant possesses from
6527 other jurisdictions is in good standing;
6528 [~~(f)~~] (e) (i) submit to the division an outline of the applicant's proposed online
6529 assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and
6530 (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the
6531 board and establish to the board's satisfaction that the utilization of that assessment tool to

6532 facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305
6533 does not compromise the public's health, safety, or welfare;
6534 [~~(g)~~] (f) submit policies and procedures that address patient confidentiality, including
6535 measures that will be taken to ensure that the age and other identifying information of the
6536 person completing the online branching questionnaire are accurate;
6537 [~~(h)~~] (g) describe the mechanism by which the online prescriber and patient will
6538 communicate with one another, including electronic and telephonic communication;
6539 [~~(i)~~] (h) describe how the online prescriber/patient relationship will be established and
6540 maintained;
6541 [~~(j)~~] (i) submit the name, address, and contact person of the Internet facilitator with
6542 whom the online prescriber has contracted to provide services that the online prescriber will
6543 use to engage in online assessment, diagnosis, and prescribing; and
6544 [~~(k)~~] (j) submit documentation satisfactory to the board regarding public health, safety,
6545 and welfare demonstrating:
6546 (i) how the online prescriber will comply with the requirements of Section 58-83-305;
6547 (ii) the contractual services arrangement between the online prescriber and:
6548 (A) the Internet facilitator; and
6549 (B) the online contract pharmacy; and
6550 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
6551 audits in accordance with Section 58-83-308.
6552 (2) An online prescriber may not use the services of an Internet facilitator or online
6553 contract pharmacy whose license is not active and in good standing.
6554 (3) Each applicant for licensure as an online contract pharmacy under this chapter
6555 shall:
6556 (a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B
6557 Closed Door Pharmacy;
6558 (b) submit a written application in the form prescribed by the division;
6559 (c) pay a fee as determined by the department under Section 63J-1-504;
6560 (d) submit any contract between the applicant and the Internet facilitator with which
6561 the applicant is or will be affiliated;
6562 (e) submit proof of liability insurance acceptable to the division that expressly covers

6563 all activities the online contract pharmacy will engage in under this chapter, which coverage
6564 shall be in a minimum amount of $1,000,000 per occurrence with a policy limit of not less than
6565 $3,000,000;
6566 (f) submit a signed affidavit to the division attesting that the online contract pharmacy
6567 will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of
6568 online pharmaceutical services under the provisions of this chapter unless:
6569 (i) the drug is specifically approved by the division under Section 58-83-306; and
6570 (ii) both the prescribing and the dispensing of the drug were facilitated by the Internet
6571 facilitator with whom the Internet contract pharmacy is associated under Subsection
6572 [~~58-83-302~~](3)(d);
6573 (g) document that any other professional license the applicant possesses from other
6574 jurisdictions is active and in good standing; and
6575 (h) demonstrate to the division that the applicant has satisfied any background check
6576 required by Section 58-17b-307, and each owner, officer, or manager of the applicant online
6577 contract pharmacy has not engaged in any act, practice, or omission, which when considered
6578 with the duties and responsibilities of a licensee under this chapter indicates there is cause to
6579 believe that issuing a license under this chapter is inconsistent with the public's health, safety,
6580 or welfare.
6581 (4) Each applicant for licensure as an Internet facilitator under this chapter shall:
6582 (a) submit a written application in the form prescribed by the division;
6583 (b) pay a fee as determined by the department under Section 63J-1-504;
6584 (c) submit any contract between the applicant and the following with which the
6585 applicant will be affiliated:
6586 (i) each online prescriber; and
6587 (ii) the single online contract pharmacy;
6588 (d) submit written policies and procedures satisfactory to the division that:
6589 (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and
6590 164, Health Insurance Portability and Accountability Act of 1996;
6591 (ii) ensure compliance with all applicable laws by health care personnel and the online
6592 prescriber who will process patient communications;
6593 (iii) list the hours of operation;

6594 (iv) describe the types of services that will be permitted electronically;
6595 (v) describe the required patient information to be included in the communication, such
6596 as patient name, identification number, and type of transaction;
6597 (vi) establish procedures for archiving and retrieving information; and
6598 (vii) establish quality oversight mechanisms;
6599 (e) submit written documentation of the applicant's security measures to ensure the
6600 confidentiality and integrity of any user-identifiable medical information;
6601 (f) submit a description of the mechanism for:
6602 (i) patients to access, supplement, and amend patient-provided personal health
6603 information;
6604 (ii) back-up regarding the Internet facilitator electronic interface;
6605 (iii) the quality of information and services provided via the interface; and
6606 (iv) patients to register complaints regarding the Internet facilitator, the online
6607 prescriber, or the online contract pharmacy;
6608 (g) submit a copy of the Internet facilitator's website;
6609 (h) sign an affidavit attesting that:
6610 (i) the applicant will not access any medical records or information contained in the
6611 medical record except as necessary to administer the website and the branching questionnaire;
6612 and
6613 (ii) the applicant and its principals, and any entities affiliated with them, will only use
6614 the services of a single online contract pharmacy named on the license approved by the
6615 division; and
6616 (i) submit any other information required by the division.
6617 Section 102. Section **58-83-401** is amended to read:
6618 **58-83-401. Grounds for denial of license -- Disciplinary proceedings --**
6619 **Termination of authority to prescribe -- Immediate and significant danger.**
6620 (1) Grounds for refusing to issue a license to an applicant, for refusing to renew the
6621 license of a licensee, for revoking, suspending, restricting, or placing on probation the license
6622 of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist
6623 order:
6624 (a) shall be in accordance with Section 58-1-401; and

6625 (b) includes:
6626 (i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not
6627 approved by the board under Section 58-83-306; or
6628 (ii) any other violation of this chapter.
6629 (2) The termination or expiration of a license under this chapter for any reason does not
6630 limit the division's authority to start or continue any investigation or adjudicative proceeding.
6631 (3) (a) Because of the working business relationship between and among the online
6632 prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to
6633 comply with this chapter may depend in some respects on the actions of the others.
6634 (b) It is possible that a particular action or inaction by the online prescriber, the Internet
6635 facilitator, or the online contract pharmacy could have the effect of causing the other licensed
6636 entities to be out of compliance with this chapter, and each entity may, therefore, be held
6637 accountable for any related party's non-compliance, if the party knew or reasonably should
6638 have known of the other person's non-compliance.
6639 (4) (a) An online prescriber may lose the practitioner's professional license to prescribe
6640 any drug under this title if the online prescriber knew or reasonably should have known that the
6641 provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the
6642 online contract pharmacy.
6643 (b) It is not a defense to an alleged violation under this chapter that the alleged
6644 violation was a result of an action or inaction not by the charged party but by the related online
6645 prescriber, the online contract pharmacy, or the Internet facilitator.
6646 (5) The following actions may result in an immediate suspension of the online
6647 prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license,
6648 and each is considered an immediate and significant danger to the public health, safety, or
6649 welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate
6650 the delivery of online pharmaceutical services by the licensee:
6651 (a) online prescribing, dispensing, or facilitation with respect to:
6652 (i) a person [~~under the age of~~] who is younger than 18 years old;
6653 (ii) a legend drug not authorized by the division in accordance with Section 58-83-306;
6654 and
6655 (iii) any controlled substance;

6656 (b) violating this chapter after having been given reasonable opportunity to cure the
6657 violation;
6658 (c) using the name or official seal of the state, the [~~Utah Department of Commerce~~]
6659 department, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or
6660 their boards, in an unauthorized manner; or
6661 (d) failing to respond to a request from the division within the time frame requested
6662 for:
6663 (i) an audit of the website; or
6664 (ii) records of the online prescriber, the Internet facilitator, or the online contract
6665 pharmacy.
6666 Section 103. Section **58-83-502** is amended to read:
6667 **58-83-502. Unprofessional conduct.**
6668 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501 and
6669 as may be further defined by administrative rule:
6670 (1) except as provided in Section 58-83-306, online prescribing, dispensing, or
6671 facilitation with respect to a person [~~under the age of~~] who is younger than 18 years old;
6672 (2) using the name or official seal of the state, the [~~Utah Department of Commerce~~]
6673 division, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or their
6674 boards, in an unauthorized manner;
6675 (3) failing to respond promptly to a request by the division for information including:
6676 (a) an audit of the website; or
6677 (b) records of the online prescriber, the Internet facilitator, or the online contract
6678 pharmacy;
6679 (4) using an online prescriber, online contract pharmacy, or Internet facilitator without
6680 approval of the division;
6681 (5) failing to inform a patient of the patient's freedom of choice in selecting who will
6682 dispense a prescription in accordance with Subsection 58-83-305(1)(n);
6683 (6) failing to keep the division informed of the name and contact information of the
6684 Internet facilitator or online contract pharmacy;
6685 (7) violating the dispensing and labeling requirements of Chapter 17b, Part 8,
6686 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

6687 (8) falsely making an entry in, or altering, a medical record with the intent to conceal:
6688 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
6689 or an individual under the direction or control of an individual licensed under this chapter; or
6690 (b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).
6691 Section 104. Section **58-87-103** is amended to read:
6692 **58-87-103. Administration -- Rulemaking -- Service of process.**
6693 (1) (a) This chapter shall be administered by the division and is subject to the
6694 requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, so long
6695 as the requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act,
6696 are not inconsistent with the requirements of this chapter.
6697 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6698 division may make rules necessary to implement this chapter.
6699 (2) By acting as an athlete agent in this state, a nonresident individual appoints the
6700 director of the division as the individual's agent for service of process in any civil action in this
6701 state related to the individual acting as an athlete agent in this state.
6702 Section 105. Section **59-10-1111** is amended to read:
6703 **59-10-1111. Refundable tax credit for psychiatrists, psychiatric mental health**
6704 **nurse practitioners, and volunteer retired psychiatrists.**
6705 (1) As used in this section:
6706 (a) "Psychiatric mental health nurse practitioner" means the same as that term is
6707 defined in Section 58-1-111.
6708 (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.
6709 (c) "Tax credit certificate" means a certificate issued by the Division of [~~Occupational~~
6710 ~~and~~] Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a
6711 tax credit under this section.
6712 (d) "Volunteer retired psychiatrist" means the same as that term is defined in Section
6713 58-1-111.
6714 (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner
6715 and who submits a tax credit certificate issued by the Division of [~~Occupational and~~]
6716 Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:
6717 (a) as provided in this section; and

6718 (b) in the amount of $10,000.
6719 (3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner
6720 and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable
6721 tax credit:
6722 (a) as provided in this section; and
6723 (b) in the amount of $10,000.
6724 (4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit
6725 certificate under Subsection 58-1-111(5) may claim a refundable tax credit:
6726 (a) as provided in this section; and
6727 (b) in the amount of $10,000.
6728 (5) A claimant may claim a tax credit under Subsections (2) through (4) for no more
6729 than 10 taxable years for each tax credit.
6730 (6) (a) In accordance with any rules prescribed by the commission under Subsection
6731 (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this
6732 section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.
6733 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6734 commission may make rules providing procedures for making a refund to a claimant as
6735 required by Subsection (6)(a).
6736 Section 106. Section **62A-3-202** is amended to read:
6737 **62A-3-202. Definitions.**
6738 As used in this part:
6739 (1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.
6740 (2) "Auxiliary aids and services" means items, equipment, or services that assist in
6741 effective communication between an individual who has a mental, hearing, vision, or speech
6742 disability and another individual.
6743 (3) "Government agency" means any department, division, office, bureau, board,
6744 commission, authority, or any other agency or instrumentality created by the state, or to which
6745 the state is a party, or created by any county or municipality, which is responsible for the
6746 regulation, visitation, inspection, or supervision of facilities, or which provides services to
6747 patients, residents, or clients of facilities.
6748 (4) "Intermediate care facility" means the same as that term is defined in Section

6749 [~~58-15-2~~] 58-15-101.
6750 (5) (a) "Long-term care facility" means:
6751 (i) a skilled nursing facility;
6752 (ii) except as provided in Subsection (5)(b), an intermediate care facility;
6753 (iii) a nursing home;
6754 (iv) a small health care facility;
6755 (v) a small health care facility type N; or
6756 (vi) an assisted living facility.
6757 (b) "Long-term care facility" does not mean an intermediate care facility for people
6758 with an intellectual disability, as defined in Section [~~58-15-2~~] 58-15-101.
6759 (6) "Ombudsman" means the administrator of the long-term care ombudsman program,
6760 created pursuant to Section 62A-3-203.
6761 (7) "Ombudsman program" means the Long-Term Care Ombudsman Program.
6762 (8) "Resident" means an individual who resides in a long-term care facility.
6763 (9) "Skilled nursing facility" means the same as that term is defined in Section
6764 [~~58-15-2~~] 58-15-101.
6765 (10) "Small health care facility" means the same as that term is defined in Section
6766 26-21-2.
6767 (11) "Small health care facility type N" means a residence in which a licensed nurse
6768 resides and provides protected living arrangements, nursing care, and other services on a daily
6769 basis for two to three individuals who are also residing in the residence and are unrelated to the
6770 licensee.
6771 Section 107. Section **62A-3-305** is amended to read:
6772 **62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity --**
6773 **Penalties -- Nonmedical healing.**
6774 (1) Except as provided in Subsection (4), if an individual has reason to believe that a
6775 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
6776 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective
6777 Services or to the nearest peace officer or law enforcement agency.
6778 (2) (a) If a peace officer or a law enforcement agency receives a report under
6779 Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult

6780 Protective Services.
6781 (b) Adult Protective Services and the peace officer or the law enforcement agency shall
6782 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
6783 protection to the vulnerable adult.
6784 (3) When a report under Subsection (1), or a subsequent investigation by Adult
6785 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
6786 adult:
6787 (a) Adult Protective Services shall notify the nearest local law enforcement agency
6788 regarding the potential offense; and
6789 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
6790 Protective Services.
6791 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
6792 does not apply to:
6793 (a) a member of the clergy, with regard to any confession made to the member of the
6794 clergy while functioning in the ministerial capacity of the member of the clergy and without the
6795 consent of the individual making the confession, if:
6796 (i) the perpetrator made the confession directly to the member of the clergy; and
6797 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
6798 to maintain the confidentiality of that confession; or
6799 (b) an attorney, or an individual employed by the attorney, if knowledge of the
6800 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
6801 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
6802 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in
6803 accordance with Utah Rules of Professional Conduct, Rule 1.6.
6804 (5) (a) When a member of the clergy receives information about abuse, neglect, or
6805 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
6806 member of the clergy is required to report that information even though the member of the
6807 clergy may have also received information about abuse or neglect from the confession of the
6808 perpetrator.
6809 (b) Exemption of the reporting requirement for an individual described in Subsection
6810 (4) does not exempt the individual from any other efforts required by law to prevent further

6811 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.
6812 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to
6813 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
6814 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
6815 (b) The physician-patient privilege does not:
6816 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
6817 vulnerable adult under Subsection (1); or
6818 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
6819 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
6820 resulting from a report under Subsection (1).
6821 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
6822 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
6823 immune from civil and criminal liability in connection with the report or notification.
6824 (b) A covered provider or covered contractor, as defined in Section 26-21-201, that
6825 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
6826 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
6827 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
6828 exploitation of a vulnerable adult that is committed by the individual who was not reported to
6829 Adult Protective Services or to the nearest peace officer or law enforcement agency.
6830 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
6831 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
6832 Act of Utah.
6833 (8) If Adult Protective Services has substantial grounds to believe that an individual
6834 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
6835 accordance with this section, Adult Protective Services shall file a complaint with:
6836 (a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a
6837 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6838 in Section 58-60-102;
6839 (b) the appropriate law enforcement agency if the individual is a law enforcement
6840 officer, as defined in Section 53-13-103; and
6841 (c) the State Board of Education if the individual is an educator, as defined in Section

6842 53E-6-102.
6843 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
6844 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
6845 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).
6846 (b) If an individual is convicted under Subsection (9)(a), the court may order the
6847 individual, in addition to any other sentence the court imposes, to:
6848 (i) complete community service hours; or
6849 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
6850 adults.
6851 (c) In determining whether it would be appropriate to charge an individual with a
6852 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
6853 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a
6854 vulnerable adult because reporting would have placed the individual in immediate danger of
6855 death or serious bodily injury.
6856 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6857 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
6858 another offense.
6859 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
6860 within two years after the day on which the individual had knowledge of the suspected abuse,
6861 neglect, or exploitation and willfully failed to report.
6862 (10) Under circumstances not amounting to a violation of Section 76-8-508, an
6863 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
6864 attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1),
6865 the individual who made the report under Subsection (1), a witness, or any other person
6866 cooperating with an investigation conducted in accordance with this chapter.
6867 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
6868 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
6869 medical care.
6870 Section 108. Section **62A-3-311.1** is amended to read:
6871 **62A-3-311.1. Statewide database -- Restricted use and access.**
6872 (1) The division shall maintain a database for reports of vulnerable adult abuse,

6873 neglect, or exploitation made pursuant to this part.
6874 (2) The database shall include:
6875 (a) the names and identifying data of the alleged abused, neglected, or exploited
6876 vulnerable adult and the alleged perpetrator;
6877 (b) information regarding whether or not the allegation of abuse, neglect, or
6878 exploitation was found to be:
6879 (i) supported;
6880 (ii) inconclusive;
6881 (iii) without merit; or
6882 (iv) for reports for which the finding is made before May 5, 2008:
6883 (A) substantiated; or
6884 (B) unsubstantiated; and
6885 (c) any other information that may be helpful in furthering the purposes of this part, as
6886 determined by the division.
6887 (3) Information obtained from the database may be used only:
6888 (a) for statistical summaries compiled by the department that do not include names or
6889 other identifying data;
6890 (b) where identification of an individual as a perpetrator may be relevant in a
6891 determination regarding whether to grant or deny a license, privilege, or approval made by:
6892 (i) the department;
6893 (ii) the Division of [~~Occupational and~~] Professional Licensing;
6894 (iii) the Bureau of Licensing, within the Department of Health;
6895 (iv) the Bureau of Emergency Medical Services and Preparedness, within the
6896 Department of Health, or a designee of the Bureau of Emergency Medical Services and
6897 Preparedness;
6898 (v) any government agency specifically authorized by statute to access or use the
6899 information in the database; or
6900 (vi) an agency of another state that performs a similar function to an agency described
6901 in Subsections (3)(b)(i) through (iv); or
6902 (c) as otherwise specifically provided by law.
6903 Section 109. Section **62A-3-312** is amended to read:

6904 **62A-3-312. Access to information in database.**
6905 The database and the adult protection case file:
6906 (1) shall be made available to law enforcement agencies, the attorney general's office,
6907 city attorneys, the Division of [~~Occupational and~~] Professional Licensing, and county or district
6908 attorney's offices;
6909 (2) shall be released as required under Subsection 63G-2-202(4)(c); and
6910 (3) may be made available, at the discretion of the division, to:
6911 (a) subjects of a report as follows:
6912 (i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or
6913 that adult's attorney or legal guardian; and
6914 (ii) a person identified in a report as having abused, neglected, or exploited a
6915 vulnerable adult, or that person's attorney; and
6916 (b) persons involved in an evaluation or assessment of the vulnerable adult as follows:
6917 (i) an employee or contractor of the department who is responsible for the evaluation or
6918 assessment of an adult protection case file;
6919 (ii) a multidisciplinary team approved by the division to assist Adult Protective
6920 Services in the evaluation, assessment, and disposition of a vulnerable adult case;
6921 (iii) an authorized person or agency providing services to, or responsible for, the care,
6922 treatment, assessment, or supervision of a vulnerable adult named in the report as a victim,
6923 when in the opinion of the division, that information will assist in the protection of, or provide
6924 other benefits to, the victim;
6925 (iv) a licensing authority for a facility, program, or person providing care to a victim
6926 named in a report; and
6927 (v) legally authorized protection and advocacy agencies when they represent a victim
6928 or have been requested by the division to assist on a case, including:
6929 (A) the Office of Public Guardian, created in Section 62A-14-103; and
6930 (B) the Long-Term Care Ombudsman Program, created in Section 62A-3-203.
6931 Section 110. Section **62A-4a-411** is amended to read:
6932 **62A-4a-411. Failure to report -- Threats and intimidation -- Penalties.**
6933 (1) If the division has substantial grounds to believe that an individual has knowingly
6934 failed to report suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in

6935 accordance with this part, the division shall file a complaint with:
6936 (a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a
6937 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6938 in Section 58-60-102;
6939 (b) the appropriate law enforcement agency if the individual is a law enforcement
6940 officer, as defined in Section 53-13-103; and
6941 (c) the State Board of Education if the individual is an educator, as defined in Section
6942 53E-6-102.
6943 (2) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
6944 to report the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in
6945 accordance with this part.
6946 (b) If an individual is convicted under Subsection (2)(a), the court may order the
6947 individual, in addition to any other sentence the court imposes, to:
6948 (i) complete community service hours; or
6949 (ii) complete a program on preventing abuse and neglect of children.
6950 (c) In determining whether it would be appropriate to charge an individual with a
6951 violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a
6952 reasonable individual would not have reported suspected abuse or neglect of a child because
6953 reporting would have placed the individual in immediate danger of death or serious bodily
6954 injury.
6955 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6956 an individual's violation of Subsection (2)(a) as the basis for charging the individual with
6957 another offense.
6958 (e) A prosecution for failure to report under Subsection (2)(a) shall be commenced
6959 within two years after the day on which the individual had knowledge of the suspected abuse,
6960 neglect, fetal alcohol syndrome, or fetal drug dependency and willfully failed to report.
6961 (3) Under circumstances not amounting to a violation of Section 76-8-508, an
6962 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
6963 attempts to intimidate a child who is the subject of a report under this part, the individual who
6964 made the report, a witness, or any other person cooperating with an investigation conducted in
6965 accordance with this chapter.

6966 Section 111. Section **62A-4a-603** is amended to read:
6967 **62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.**
6968 (1) The Office of Licensing within the department or any interested person may
6969 commence an action in district court to enjoin any person, agency, firm, corporation, or
6970 association violating Section 62A-4a-602.
6971 (2) The Office of Licensing shall:
6972 (a) solicit information from the public relating to violations of Section 62A-4a-602;
6973 and
6974 (b) upon identifying a violation of Section 62A-4a-602:
6975 (i) send a written notice to the person who violated Section 62A-4a-602 that describes
6976 the alleged violation; and
6977 (ii) notify the following persons of the alleged violation:
6978 (A) the local county attorney; and
6979 (B) the Division of [~~Occupational and~~] Professional Licensing.
6980 (3) (a) A county attorney or the attorney general shall institute legal action as necessary
6981 to enforce the provisions of Section 62A-4a-602 after being informed of an alleged violation.
6982 (b) If a county attorney does not take action within 30 days after the day on which the
6983 county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general
6984 may be requested to take action, and shall then institute legal proceedings in place of the county
6985 attorney.
6986 (4) (a) In addition to the remedies provided in Subsections (1) and (3), any person,
6987 agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall
6988 forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil
6989 penalty of not more than $10,000 for each violation.
6990 (b) Each act in violation of Section 62A-4a-602, including each placement or
6991 attempted placement of a child, is a separate violation.
6992 (5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the
6993 General Fund of the prosecuting county, or in the state General Fund if the attorney general
6994 prosecutes.
6995 (b) If two or more governmental entities are involved in the prosecution, the penalty
6996 amounts recovered shall be apportioned by the court among the entities, according to their

6997 involvement.
6998 (6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4)
6999 is a lien when recorded in the judgment docket, and has the same effect and is subject to the
7000 same rules as a judgment for money in a civil action.
7001 Section 112. Section **62A-15-103** is amended to read:
7002 **62A-15-103. Division -- Creation -- Responsibilities.**
7003 (1) (a) There is created the Division of Substance Abuse and Mental Health within the
7004 department, under the administration and general supervision of the executive director.
7005 (b) The division is the substance abuse authority and the mental health authority for
7006 this state.
7007 (2) The division shall:
7008 (a) (i) educate the general public regarding the nature and consequences of substance
7009 abuse by promoting school and community-based prevention programs;
7010 (ii) render support and assistance to public schools through approved school-based
7011 substance abuse education programs aimed at prevention of substance abuse;
7012 (iii) promote or establish programs for the prevention of substance abuse within the
7013 community setting through community-based prevention programs;
7014 (iv) cooperate with and assist treatment centers, recovery residences, and other
7015 organizations that provide services to individuals recovering from a substance abuse disorder,
7016 by identifying and disseminating information about effective practices and programs;
7017 (v) except as provided in Section 62A-15-103.5, make rules in accordance with Title
7018 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public
7019 and private programs, minimum standards for public and private providers of substance abuse
7020 and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure
7021 of Programs and Facilities;
7022 (vi) promote integrated programs that address an individual's substance abuse, mental
7023 health, physical health, and criminal risk factors;
7024 (vii) establish and promote an evidence-based continuum of screening, assessment,
7025 prevention, treatment, and recovery support services in the community for individuals with
7026 substance use disorder and mental illness that addresses criminal risk factors;
7027 (viii) evaluate the effectiveness of programs described in this Subsection (2);

7028 (ix) consider the impact of the programs described in this Subsection (2) on:
7029 (A) emergency department utilization;
7030 (B) jail and prison populations;
7031 (C) the homeless population; and
7032 (D) the child welfare system; and
7033 (x) promote or establish programs for education and certification of instructors to
7034 educate individuals convicted of driving under the influence of alcohol or drugs or driving with
7035 any measurable controlled substance in the body;
7036 (b) (i) collect and disseminate information pertaining to mental health;
7037 (ii) provide direction over the state hospital including approval of the state hospital's
7038 budget, administrative policy, and coordination of services with local service plans;
7039 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7040 Rulemaking Act, to educate families concerning mental illness and promote family
7041 involvement, when appropriate, and with patient consent, in the treatment program of a family
7042 member; and
7043 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7044 Rulemaking Act, to direct that an individual receiving services through a local mental health
7045 authority or the Utah State Hospital be informed about and, if desired by the individual,
7046 provided assistance in the completion of a declaration for mental health treatment in
7047 accordance with Section 62A-15-1002;
7048 (c) (i) consult and coordinate with local substance abuse authorities and local mental
7049 health authorities regarding programs and services;
7050 (ii) provide consultation and other assistance to public and private agencies and groups
7051 working on substance abuse and mental health issues;
7052 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
7053 medical and social agencies, public health authorities, law enforcement agencies, education and
7054 research organizations, and other related groups;
7055 (iv) promote or conduct research on substance abuse and mental health issues, and
7056 submit to the governor and the Legislature recommendations for changes in policy and
7057 legislation;
7058 (v) receive, distribute, and provide direction over public funds for substance abuse and

7059 mental health services;
7060 (vi) monitor and evaluate programs provided by local substance abuse authorities and
7061 local mental health authorities;
7062 (vii) examine expenditures of local, state, and federal funds;
7063 (viii) monitor the expenditure of public funds by:
7064 (A) local substance abuse authorities;
7065 (B) local mental health authorities; and
7066 (C) in counties where they exist, a private contract provider that has an annual or
7067 otherwise ongoing contract to provide comprehensive substance abuse or mental health
7068 programs or services for the local substance abuse authority or local mental health authority;
7069 (ix) contract with local substance abuse authorities and local mental health authorities
7070 to provide a comprehensive continuum of services that include community-based services for
7071 individuals involved in the criminal justice system, in accordance with division policy, contract
7072 provisions, and the local plan;
7073 (x) contract with private and public entities for special statewide or nonclinical
7074 services, or services for individuals involved in the criminal justice system, according to
7075 division rules;
7076 (xi) review and approve each local substance abuse authority's plan and each local
7077 mental health authority's plan in order to ensure:
7078 (A) a statewide comprehensive continuum of substance abuse services;
7079 (B) a statewide comprehensive continuum of mental health services;
7080 (C) services result in improved overall health and functioning;
7081 (D) a statewide comprehensive continuum of community-based services designed to
7082 reduce criminal risk factors for individuals who are determined to have substance abuse or
7083 mental illness conditions or both, and who are involved in the criminal justice system;
7084 (E) compliance, where appropriate, with the certification requirements in Subsection
7085 (2)(j); and
7086 (F) appropriate expenditure of public funds;
7087 (xii) review and make recommendations regarding each local substance abuse
7088 authority's contract with the local substance abuse authority's provider of substance abuse
7089 programs and services and each local mental health authority's contract with the local mental

7090 health authority's provider of mental health programs and services to ensure compliance with
7091 state and federal law and policy;
7092 (xiii) monitor and ensure compliance with division rules and contract requirements;
7093 and
7094 (xiv) withhold funds from local substance abuse authorities, local mental health
7095 authorities, and public and private providers for contract noncompliance, failure to comply
7096 with division directives regarding the use of public funds, or for misuse of public funds or
7097 money;
7098 (d) ensure that the requirements of this part are met and applied uniformly by local
7099 substance abuse authorities and local mental health authorities across the state;
7100 (e) require each local substance abuse authority and each local mental health authority,
7101 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
7102 the division on or before May 15 of each year;
7103 (f) conduct an annual program audit and review of each local substance abuse authority
7104 and each local substance abuse authority's contract provider, and each local mental health
7105 authority and each local mental health authority's contract provider, including:
7106 (i) a review and determination regarding whether:
7107 (A) public funds allocated to the local substance abuse authority or the local mental
7108 health authorities are consistent with services rendered by the authority or the authority's
7109 contract provider, and with outcomes reported by the authority's contract provider; and
7110 (B) each local substance abuse authority and each local mental health authority is
7111 exercising sufficient oversight and control over public funds allocated for substance use
7112 disorder and mental health programs and services; and
7113 (ii) items determined by the division to be necessary and appropriate;
7114 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
7115 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
7116 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
7117 supports services to an individual with:
7118 (A) a substance use disorder;
7119 (B) a mental health disorder; or
7120 (C) a substance use disorder and a mental health disorder;

7121 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
7122 adult as a peer support specialist;
7123 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7124 Rulemaking Act, that:
7125 (A) establish training and certification requirements for a peer support specialist;
7126 (B) specify the types of services a peer support specialist is qualified to provide;
7127 (C) specify the type of supervision under which a peer support specialist is required to
7128 operate; and
7129 (D) specify continuing education and other requirements for maintaining or renewing
7130 certification as a peer support specialist; and
7131 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7132 Rulemaking Act, that:
7133 (A) establish the requirements for a person to be certified to carry out, as needed, the
7134 division's duty to train and certify an adult as a peer support specialist; and
7135 (B) specify how the division shall provide oversight of a person certified to train and
7136 certify a peer support specialist;
7137 (i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
7138 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and
7139 requirements for the provision of substance use disorder and mental health treatment to an
7140 individual who is incarcerated or who is required to participate in treatment by a court or by the
7141 Board of Pardons and Parole, including:
7142 (i) collaboration with the Department of Corrections and the Utah Substance Use and
7143 Mental Health Advisory Council to develop and coordinate the standards, including standards
7144 for county and state programs serving individuals convicted of class A and class B
7145 misdemeanors;
7146 (ii) determining that the standards ensure available treatment, including the most
7147 current practices and procedures demonstrated by recognized scientific research to reduce
7148 recidivism, including focus on the individual's criminal risk factors; and
7149 (iii) requiring that all public and private treatment programs meet the standards
7150 established under this Subsection (2)(i) in order to receive public funds allocated to the
7151 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice

7152 for the costs of providing screening, assessment, prevention, treatment, and recovery support;
7153 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
7154 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures
7155 for the certification of licensed public and private providers, including individuals licensed by
7156 the Division of [~~Occupational and~~] Professional Licensing, programs licensed by the
7157 department, and health care facilities licensed by the Department of Health, who provide, as
7158 part of their practice, substance use disorder and mental health treatment to an individual
7159 involved in the criminal justice system, including:
7160 (i) collaboration with the Department of Corrections, the Utah Substance Use and
7161 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
7162 and implement the certification process;
7163 (ii) basing the certification process on the standards developed under Subsection (2)(i)
7164 for the treatment of an individual involved in the criminal justice system; and
7165 (iii) the requirement that a public or private provider of treatment to an individual
7166 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
7167 shall renew the certification every two years, in order to qualify for funds allocated to the
7168 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
7169 on or after July 1, 2016;
7170 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
7171 provide recommendations to the Legislature regarding:
7172 (i) pretrial services and the resources needed to reduce recidivism;
7173 (ii) county jail and county behavioral health early-assessment resources needed for an
7174 offender convicted of a class A or class B misdemeanor; and
7175 (iii) the replacement of federal dollars associated with drug interdiction law
7176 enforcement task forces that are reduced;
7177 (l) (i) establish performance goals and outcome measurements for all treatment
7178 programs for which minimum standards are established under Subsection (2)(i), including
7179 recidivism data and data regarding cost savings associated with recidivism reduction and the
7180 reduction in the number of inmates, that are obtained in collaboration with the Administrative
7181 Office of the Courts and the Department of Corrections; and
7182 (ii) collect data to track and determine whether the goals and measurements are being

7183 attained and make this information available to the public;
7184 (m) in the division's discretion, use the data to make decisions regarding the use of
7185 funds allocated to the division, the Administrative Office of the Courts, and the Department of
7186 Corrections to provide treatment for which standards are established under Subsection (2)(i);
7187 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
7188 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
7189 based on the data and provide the report to the Judiciary Interim Committee, the Health and
7190 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
7191 Committee, and the related appropriations subcommittees; and
7192 (o) consult and coordinate with the Department of Health and the Division of Child
7193 and Family Services to develop and manage the operation of a program designed to reduce
7194 substance abuse during pregnancy and by parents of a newborn child that includes:
7195 (i) providing education and resources to health care providers and individuals in the
7196 state regarding prevention of substance abuse during pregnancy;
7197 (ii) providing training to health care providers in the state regarding screening of a
7198 pregnant woman or pregnant minor to identify a substance abuse disorder; and
7199 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
7200 child in need of substance abuse treatment services to a facility that has the capacity to provide
7201 the treatment services.
7202 (3) In addition to the responsibilities described in Subsection (2), the division shall,
7203 within funds appropriated by the Legislature for this purpose, implement and manage the
7204 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
7205 of Criminal Identification created in Section 53-10-201, including:
7206 (a) coordinating with the Department of Health, local mental health and substance
7207 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
7208 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
7209 represents firearm owners, to:
7210 (i) produce and periodically review and update a firearm safety brochure and other
7211 educational materials with information about the safe handling and use of firearms that
7212 includes:
7213 (A) information on safe handling, storage, and use of firearms in a home environment;

7214 (B) information about at-risk individuals and individuals who are legally prohibited
7215 from possessing firearms;
7216 (C) information about suicide prevention awareness; and
7217 (D) information about the availability of firearm safety packets;
7218 (ii) procure cable-style gun locks for distribution under this section;
7219 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
7220 cable-style gun lock described in this Subsection (3); and
7221 (iv) create a suicide prevention education course that:
7222 (A) provides information for distribution regarding firearm safety education;
7223 (B) incorporates current information on how to recognize suicidal behaviors and
7224 identify individuals who may be suicidal; and
7225 (C) provides information regarding crisis intervention resources;
7226 (b) distributing, free of charge, the firearm safety packet to the following persons, who
7227 shall make the firearm safety packet available free of charge:
7228 (i) health care providers, including emergency rooms;
7229 (ii) mobile crisis outreach teams;
7230 (iii) mental health practitioners;
7231 (iv) other public health suicide prevention organizations;
7232 (v) entities that teach firearm safety courses;
7233 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents
7234 of students in the school district; and
7235 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;
7236 (c) creating and administering a rebate program that includes a rebate that offers
7237 between $10 and $200 off the purchase price of a firearm safe from a participating firearms
7238 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;
7239 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7240 making rules that establish procedures for:
7241 (i) producing and distributing the suicide prevention education course and the firearm
7242 safety brochures and packets;
7243 (ii) procuring the cable-style gun locks for distribution; and
7244 (iii) administering the rebate program; and

7245 (e) reporting to the Health and Human Services Interim Committee regarding
7246 implementation and success of the firearm safety program and suicide prevention education
7247 course at or before the November meeting each year.
7248 (4) (a) The division may refuse to contract with and may pursue legal remedies against
7249 any local substance abuse authority or local mental health authority that fails, or has failed, to
7250 expend public funds in accordance with state law, division policy, contract provisions, or
7251 directives issued in accordance with state law.
7252 (b) The division may withhold funds from a local substance abuse authority or local
7253 mental health authority if the authority's contract provider of substance abuse or mental health
7254 programs or services fails to comply with state and federal law or policy.
7255 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
7256 or local mental health authority, the division shall review and determine whether the local
7257 substance abuse authority or local mental health authority is complying with the oversight and
7258 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
7259 17-43-309.
7260 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
7261 liability described in Section 17-43-303 and to the responsibility and liability described in
7262 Section 17-43-203.
7263 (6) In carrying out the division's duties and responsibilities, the division may not
7264 duplicate treatment or educational facilities that exist in other divisions or departments of the
7265 state, but shall work in conjunction with those divisions and departments in rendering the
7266 treatment or educational services that those divisions and departments are competent and able
7267 to provide.
7268 (7) The division may accept in the name of and on behalf of the state donations, gifts,
7269 devises, or bequests of real or personal property or services to be used as specified by the
7270 donor.
7271 (8) The division shall annually review with each local substance abuse authority and
7272 each local mental health authority the authority's statutory and contract responsibilities
7273 regarding:
7274 (a) use of public funds;
7275 (b) oversight of public funds; and

7276 (c) governance of substance use disorder and mental health programs and services.
7277 (9) The Legislature may refuse to appropriate funds to the division upon the division's
7278 failure to comply with the provisions of this part.
7279 (10) If a local substance abuse authority contacts the division under Subsection
7280 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
7281 minor, the division shall:
7282 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
7283 capacity to provide the treatment services; or
7284 (b) otherwise ensure that treatment services are made available to the pregnant woman
7285 or pregnant minor.
7286 (11) The division shall employ a school-based mental health specialist to be housed at
7287 the State Board of Education who shall work with the State Board of Education to:
7288 (a) provide coordination between a local education agency and local mental health
7289 authority;
7290 (b) recommend evidence-based and evidence informed mental health screenings and
7291 intervention assessments for a local education agency; and
7292 (c) coordinate with the local community, including local departments of health, to
7293 enhance and expand mental health related resources for a local education agency.
7294 Section 113. Section **63G-2-305** is amended to read:
7295 **63G-2-305. Protected records.**
7296 The following records are protected if properly classified by a governmental entity:
7297 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
7298 has provided the governmental entity with the information specified in Section 63G-2-309;
7299 (2) commercial information or nonindividual financial information obtained from a
7300 person if:
7301 (a) disclosure of the information could reasonably be expected to result in unfair
7302 competitive injury to the person submitting the information or would impair the ability of the
7303 governmental entity to obtain necessary information in the future;
7304 (b) the person submitting the information has a greater interest in prohibiting access
7305 than the public in obtaining access; and
7306 (c) the person submitting the information has provided the governmental entity with

7307 the information specified in Section 63G-2-309;
7308 (3) commercial or financial information acquired or prepared by a governmental entity
7309 to the extent that disclosure would lead to financial speculations in currencies, securities, or
7310 commodities that will interfere with a planned transaction by the governmental entity or cause
7311 substantial financial injury to the governmental entity or state economy;
7312 (4) records, the disclosure of which could cause commercial injury to, or confer a
7313 competitive advantage upon a potential or actual competitor of, a commercial project entity as
7314 defined in Subsection 11-13-103(4);
7315 (5) test questions and answers to be used in future license, certification, registration,
7316 employment, or academic examinations;
7317 (6) records, the disclosure of which would impair governmental procurement
7318 proceedings or give an unfair advantage to any person proposing to enter into a contract or
7319 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
7320 Subsection (6) does not restrict the right of a person to have access to, after the contract or
7321 grant has been awarded and signed by all parties:
7322 (a) a bid, proposal, application, or other information submitted to or by a governmental
7323 entity in response to:
7324 (i) an invitation for bids;
7325 (ii) a request for proposals;
7326 (iii) a request for quotes;
7327 (iv) a grant; or
7328 (v) other similar document; or
7329 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
7330 (7) information submitted to or by a governmental entity in response to a request for
7331 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
7332 the right of a person to have access to the information, after:
7333 (a) a contract directly relating to the subject of the request for information has been
7334 awarded and signed by all parties; or
7335 (b) (i) a final determination is made not to enter into a contract that relates to the
7336 subject of the request for information; and
7337 (ii) at least two years have passed after the day on which the request for information is

7338 issued;
7339 (8) records that would identify real property or the appraisal or estimated value of real
7340 or personal property, including intellectual property, under consideration for public acquisition
7341 before any rights to the property are acquired unless:
7342 (a) public interest in obtaining access to the information is greater than or equal to the
7343 governmental entity's need to acquire the property on the best terms possible;
7344 (b) the information has already been disclosed to persons not employed by or under a
7345 duty of confidentiality to the entity;
7346 (c) in the case of records that would identify property, potential sellers of the described
7347 property have already learned of the governmental entity's plans to acquire the property;
7348 (d) in the case of records that would identify the appraisal or estimated value of
7349 property, the potential sellers have already learned of the governmental entity's estimated value
7350 of the property; or
7351 (e) the property under consideration for public acquisition is a single family residence
7352 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
7353 the property as required under Section 78B-6-505;
7354 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
7355 compensated transaction of real or personal property including intellectual property, which, if
7356 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
7357 of the subject property, unless:
7358 (a) the public interest in access is greater than or equal to the interests in restricting
7359 access, including the governmental entity's interest in maximizing the financial benefit of the
7360 transaction; or
7361 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
7362 the value of the subject property have already been disclosed to persons not employed by or
7363 under a duty of confidentiality to the entity;
7364 (10) records created or maintained for civil, criminal, or administrative enforcement
7365 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
7366 release of the records:
7367 (a) reasonably could be expected to interfere with investigations undertaken for
7368 enforcement, discipline, licensing, certification, or registration purposes;

7369 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
7370 proceedings;
7371 (c) would create a danger of depriving a person of a right to a fair trial or impartial
7372 hearing;
7373 (d) reasonably could be expected to disclose the identity of a source who is not
7374 generally known outside of government and, in the case of a record compiled in the course of
7375 an investigation, disclose information furnished by a source not generally known outside of
7376 government if disclosure would compromise the source; or
7377 (e) reasonably could be expected to disclose investigative or audit techniques,
7378 procedures, policies, or orders not generally known outside of government if disclosure would
7379 interfere with enforcement or audit efforts;
7380 (11) records the disclosure of which would jeopardize the life or safety of an
7381 individual;
7382 (12) records the disclosure of which would jeopardize the security of governmental
7383 property, governmental programs, or governmental recordkeeping systems from damage, theft,
7384 or other appropriation or use contrary to law or public policy;
7385 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
7386 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
7387 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
7388 (14) records that, if disclosed, would reveal recommendations made to the Board of
7389 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
7390 Board of Pardons and Parole, or the Department of Human Services that are based on the
7391 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
7392 jurisdiction;
7393 (15) records and audit workpapers that identify audit, collection, and operational
7394 procedures and methods used by the State Tax Commission, if disclosure would interfere with
7395 audits or collections;
7396 (16) records of a governmental audit agency relating to an ongoing or planned audit
7397 until the final audit is released;
7398 (17) records that are subject to the attorney client privilege;
7399 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,

7400 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
7401 quasi-judicial, or administrative proceeding;
7402 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
7403 from a member of the Legislature; and
7404 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
7405 legislative action or policy may not be classified as protected under this section; and
7406 (b) (i) an internal communication that is part of the deliberative process in connection
7407 with the preparation of legislation between:
7408 (A) members of a legislative body;
7409 (B) a member of a legislative body and a member of the legislative body's staff; or
7410 (C) members of a legislative body's staff; and
7411 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
7412 legislative action or policy may not be classified as protected under this section;
7413 (20) (a) records in the custody or control of the Office of Legislative Research and
7414 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
7415 legislation or contemplated course of action before the legislator has elected to support the
7416 legislation or course of action, or made the legislation or course of action public; and
7417 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
7418 Office of Legislative Research and General Counsel is a public document unless a legislator
7419 asks that the records requesting the legislation be maintained as protected records until such
7420 time as the legislator elects to make the legislation or course of action public;
7421 (21) research requests from legislators to the Office of Legislative Research and
7422 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
7423 in response to these requests;
7424 (22) drafts, unless otherwise classified as public;
7425 (23) records concerning a governmental entity's strategy about:
7426 (a) collective bargaining; or
7427 (b) imminent or pending litigation;
7428 (24) records of investigations of loss occurrences and analyses of loss occurrences that
7429 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
7430 Uninsured Employers' Fund, or similar divisions in other governmental entities;

7431 (25) records, other than personnel evaluations, that contain a personal recommendation
7432 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
7433 personal privacy, or disclosure is not in the public interest;
7434 (26) records that reveal the location of historic, prehistoric, paleontological, or
7435 biological resources that if known would jeopardize the security of those resources or of
7436 valuable historic, scientific, educational, or cultural information;
7437 (27) records of independent state agencies if the disclosure of the records would
7438 conflict with the fiduciary obligations of the agency;
7439 (28) records of an institution within the state system of higher education defined in
7440 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
7441 retention decisions, and promotions, which could be properly discussed in a meeting closed in
7442 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
7443 the final decisions about tenure, appointments, retention, promotions, or those students
7444 admitted, may not be classified as protected under this section;
7445 (29) records of the governor's office, including budget recommendations, legislative
7446 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
7447 policies or contemplated courses of action before the governor has implemented or rejected
7448 those policies or courses of action or made them public;
7449 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
7450 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
7451 recommendations in these areas;
7452 (31) records provided by the United States or by a government entity outside the state
7453 that are given to the governmental entity with a requirement that they be managed as protected
7454 records if the providing entity certifies that the record would not be subject to public disclosure
7455 if retained by it;
7456 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
7457 public body except as provided in Section 52-4-206;
7458 (33) records that would reveal the contents of settlement negotiations but not including
7459 final settlements or empirical data to the extent that they are not otherwise exempt from
7460 disclosure;
7461 (34) memoranda prepared by staff and used in the decision-making process by an

7462 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
7463 other body charged by law with performing a quasi-judicial function;
7464 (35) records that would reveal negotiations regarding assistance or incentives offered
7465 by or requested from a governmental entity for the purpose of encouraging a person to expand
7466 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
7467 person or place the governmental entity at a competitive disadvantage, but this section may not
7468 be used to restrict access to a record evidencing a final contract;
7469 (36) materials to which access must be limited for purposes of securing or maintaining
7470 the governmental entity's proprietary protection of intellectual property rights including patents,
7471 copyrights, and trade secrets;
7472 (37) the name of a donor or a prospective donor to a governmental entity, including an
7473 institution within the state system of higher education defined in Section 53B-1-102, and other
7474 information concerning the donation that could reasonably be expected to reveal the identity of
7475 the donor, provided that:
7476 (a) the donor requests anonymity in writing;
7477 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
7478 classified protected by the governmental entity under this Subsection (37); and
7479 (c) except for an institution within the state system of higher education defined in
7480 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
7481 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
7482 over the donor, a member of the donor's immediate family, or any entity owned or controlled
7483 by the donor or the donor's immediate family;
7484 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
7485 73-18-13;
7486 (39) a notification of workers' compensation insurance coverage described in Section
7487 34A-2-205;
7488 (40) (a) the following records of an institution within the state system of higher
7489 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
7490 or received by or on behalf of faculty, staff, employees, or students of the institution:
7491 (i) unpublished lecture notes;
7492 (ii) unpublished notes, data, and information:

7493 (A) relating to research; and
7494 (B) of:
7495 (I) the institution within the state system of higher education defined in Section
7496 53B-1-102; or
7497 (II) a sponsor of sponsored research;
7498 (iii) unpublished manuscripts;
7499 (iv) creative works in process;
7500 (v) scholarly correspondence; and
7501 (vi) confidential information contained in research proposals;
7502 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
7503 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
7504 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
7505 (41) (a) records in the custody or control of the Office of the Legislative Auditor
7506 General that would reveal the name of a particular legislator who requests a legislative audit
7507 prior to the date that audit is completed and made public; and
7508 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
7509 Office of the Legislative Auditor General is a public document unless the legislator asks that
7510 the records in the custody or control of the Office of the Legislative Auditor General that would
7511 reveal the name of a particular legislator who requests a legislative audit be maintained as
7512 protected records until the audit is completed and made public;
7513 (42) records that provide detail as to the location of an explosive, including a map or
7514 other document that indicates the location of:
7515 (a) a production facility; or
7516 (b) a magazine;
7517 (43) information:
7518 (a) contained in the statewide database of the Division of Aging and Adult Services
7519 created by Section 62A-3-311.1; or
7520 (b) received or maintained in relation to the Identity Theft Reporting Information
7521 System (IRIS) established under Section 67-5-22;
7522 (44) information contained in the Licensing Information System described in Title
7523 62A, Chapter 4a, Child and Family Services;

7524 (45) information regarding National Guard operations or activities in support of the
7525 National Guard's federal mission;
7526 (46) records provided by any pawn or secondhand business to a law enforcement
7527 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
7528 Secondhand Merchandise Transaction Information Act;
7529 (47) information regarding food security, risk, and vulnerability assessments performed
7530 by the Department of Agriculture and Food;
7531 (48) except to the extent that the record is exempt from this chapter pursuant to Section
7532 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
7533 prepared or maintained by the Division of Emergency Management, and the disclosure of
7534 which would jeopardize:
7535 (a) the safety of the general public; or
7536 (b) the security of:
7537 (i) governmental property;
7538 (ii) governmental programs; or
7539 (iii) the property of a private person who provides the Division of Emergency
7540 Management information;
7541 (49) records of the Department of Agriculture and Food that provides for the
7542 identification, tracing, or control of livestock diseases, including any program established under
7543 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
7544 of Animal Disease;
7545 (50) as provided in Section 26-39-501:
7546 (a) information or records held by the Department of Health related to a complaint
7547 regarding a child care program or residential child care which the department is unable to
7548 substantiate; and
7549 (b) information or records related to a complaint received by the Department of Health
7550 from an anonymous complainant regarding a child care program or residential child care;
7551 (51) unless otherwise classified as public under Section 63G-2-301 and except as
7552 provided under Section 41-1a-116, an individual's home address, home telephone number, or
7553 personal mobile phone number, if:
7554 (a) the individual is required to provide the information in order to comply with a law,

7555 ordinance, rule, or order of a government entity; and
7556 (b) the subject of the record has a reasonable expectation that this information will be
7557 kept confidential due to:
7558 (i) the nature of the law, ordinance, rule, or order; and
7559 (ii) the individual complying with the law, ordinance, rule, or order;
7560 (52) the portion of the following documents that contains a candidate's residential or
7561 mailing address, if the candidate provides to the filing officer another address or phone number
7562 where the candidate may be contacted:
7563 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
7564 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
7565 20A-9-408.5, 20A-9-502, or 20A-9-601;
7566 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
7567 (c) a notice of intent to gather signatures for candidacy, described in Section
7568 20A-9-408;
7569 (53) the name, home address, work addresses, and telephone numbers of an individual
7570 that is engaged in, or that provides goods or services for, medical or scientific research that is:
7571 (a) conducted within the state system of higher education, as defined in Section
7572 53B-1-102; and
7573 (b) conducted using animals;
7574 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
7575 Evaluation Commission concerning an individual commissioner's vote on whether or not to
7576 recommend that the voters retain a judge including information disclosed under Subsection
7577 78A-12-203(5)(e);
7578 (55) information collected and a report prepared by the Judicial Performance
7579 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
7580 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
7581 the information or report;
7582 (56) records provided or received by the Public Lands Policy Coordinating Office in
7583 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;
7584 (57) information requested by and provided to the 911 Division under Section
7585 63H-7a-302;

7586 (58) in accordance with Section 73-10-33:
7587 (a) a management plan for a water conveyance facility in the possession of the Division
7588 of Water Resources or the Board of Water Resources; or
7589 (b) an outline of an emergency response plan in possession of the state or a county or
7590 municipality;
7591 (59) the following records in the custody or control of the Office of Inspector General
7592 of Medicaid Services, created in Section 63A-13-201:
7593 (a) records that would disclose information relating to allegations of personal
7594 misconduct, gross mismanagement, or illegal activity of a person if the information or
7595 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
7596 through other documents or evidence, and the records relating to the allegation are not relied
7597 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
7598 report or final audit report;
7599 (b) records and audit workpapers to the extent they would disclose the identity of a
7600 person who, during the course of an investigation or audit, communicated the existence of any
7601 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
7602 regulation adopted under the laws of this state, a political subdivision of the state, or any
7603 recognized entity of the United States, if the information was disclosed on the condition that
7604 the identity of the person be protected;
7605 (c) before the time that an investigation or audit is completed and the final
7606 investigation or final audit report is released, records or drafts circulated to a person who is not
7607 an employee or head of a governmental entity for the person's response or information;
7608 (d) records that would disclose an outline or part of any investigation, audit survey
7609 plan, or audit program; or
7610 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
7611 investigation or audit;
7612 (60) records that reveal methods used by the Office of Inspector General of Medicaid
7613 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
7614 abuse;
7615 (61) information provided to the Department of Health or the Division of
7616 [~~Occupational and~~] Professional Licensing under Subsections 58-67-304(3) and (4) and

7617 Subsections 58-68-304(3) and (4);
7618 (62) a record described in Section 63G-12-210;
7619 (63) captured plate data that is obtained through an automatic license plate reader
7620 system used by a governmental entity as authorized in Section 41-6a-2003;
7621 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
7622 victim, including:
7623 (a) a victim's application or request for benefits;
7624 (b) a victim's receipt or denial of benefits; and
7625 (c) any administrative notes or records made or created for the purpose of, or used to,
7626 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
7627 Reparations Fund;
7628 (65) an audio or video recording created by a body-worn camera, as that term is
7629 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
7630 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
7631 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
7632 that term is defined in Section 62A-2-101, except for recordings that:
7633 (a) depict the commission of an alleged crime;
7634 (b) record any encounter between a law enforcement officer and a person that results in
7635 death or bodily injury, or includes an instance when an officer fires a weapon;
7636 (c) record any encounter that is the subject of a complaint or a legal proceeding against
7637 a law enforcement officer or law enforcement agency;
7638 (d) contain an officer involved critical incident as defined in Subsection
7639 76-2-408(1)(f); or
7640 (e) have been requested for reclassification as a public record by a subject or
7641 authorized agent of a subject featured in the recording;
7642 (66) a record pertaining to the search process for a president of an institution of higher
7643 education described in Section 53B-2-102, except for application materials for a publicly
7644 announced finalist;
7645 (67) an audio recording that is:
7646 (a) produced by an audio recording device that is used in conjunction with a device or
7647 piece of equipment designed or intended for resuscitating an individual or for treating an

7648 individual with a life-threatening condition;
7649 (b) produced during an emergency event when an individual employed to provide law
7650 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
7651 (i) is responding to an individual needing resuscitation or with a life-threatening
7652 condition; and
7653 (ii) uses a device or piece of equipment designed or intended for resuscitating an
7654 individual or for treating an individual with a life-threatening condition; and
7655 (c) intended and used for purposes of training emergency responders how to improve
7656 their response to an emergency situation;
7657 (68) records submitted by or prepared in relation to an applicant seeking a
7658 recommendation by the Research and General Counsel Subcommittee, the Budget
7659 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
7660 employment position with the Legislature;
7661 (69) work papers as defined in Section 31A-2-204;
7662 (70) a record made available to Adult Protective Services or a law enforcement agency
7663 under Section 61-1-206;
7664 (71) a record submitted to the Insurance Department in accordance with Section
7665 31A-37-201;
7666 (72) a record described in Section 31A-37-503;
7667 (73) any record created by the Division of [~~Occupational and~~] Professional Licensing
7668 as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
7669 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
7670 involving an amusement ride;
7671 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
7672 on a political petition, or on a request to withdraw a signature from a political petition,
7673 including a petition or request described in the following titles:
7674 (a) Title 10, Utah Municipal Code;
7675 (b) Title 17, Counties;
7676 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
7677 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
7678 (e) Title 20A, Election Code;

7679 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
7680 a voter registration record;
7681 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
7682 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
7683 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
7684 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
7685 5, Victims Guidelines for Prosecutors Act;
7686 (79) a record submitted to the Insurance Department under Subsection
7687 31A-48-103(1)(b);
7688 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
7689 prohibited under Section 63G-26-103;
7690 (81) (a) an image taken of an individual during the process of booking the individual
7691 into jail, unless:
7692 (i) the individual is convicted of a criminal offense based upon the conduct for which
7693 the individual was incarcerated at the time the image was taken;
7694 (ii) a law enforcement agency releases or disseminates the image after determining
7695 that:
7696 (A) the individual is a fugitive or an imminent threat to an individual or to public
7697 safety; and
7698 (B) releasing or disseminating the image will assist in apprehending the individual or
7699 reducing or eliminating the threat; or
7700 (iii) a judge orders the release or dissemination of the image based on a finding that the
7701 release or dissemination is in furtherance of a legitimate law enforcement interest.
7702 (82) a record:
7703 (a) concerning an interstate claim to the use of waters in the Colorado River system;
7704 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
7705 representative from another state or the federal government as provided in Section
7706 63M-14-205; and
7707 (c) the disclosure of which would:
7708 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
7709 Colorado River system;

7710 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
7711 negotiate the best terms and conditions regarding the use of water in the Colorado River
7712 system; or
7713 (iii) give an advantage to another state or to the federal government in negotiations
7714 regarding the use of water in the Colorado River system; and
7715 (83) any part of an application described in Section 63N-16-201 that the Governor's
7716 Office of Economic Opportunity determines is nonpublic, confidential information that if
7717 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
7718 not be used to restrict access to a record evidencing a final contract or approval decision.
7719 Section 114. Section **63I-1-258** is amended to read:
7720 **63I-1-258. Repeal dates, Title 58.**
7721 (1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July
7722 1, 2026.
7723 [~~(2) Section 58-11a-302.5 is repealed July 1, 2022.~~]
7724 [~~(3)~~] (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
7725 repealed July 1, 2026.
7726 [~~(4)~~] (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1,
7727 2025.
7728 [~~(5)~~] (4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
7729 2028.
7730 [~~(6)~~] (5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of
7731 Legislative Research and General Counsel is authorized to renumber the remaining subsections
7732 accordingly.
7733 [~~(7)~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
7734 [~~2023~~] 2033.
7735 [~~(8)~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
7736 Act, is repealed July 1, 2029.
7737 [~~(9)~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
7738 2025.
7739 [~~(10)~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
7740 repealed July 1, 2023.

7741 [~~(11)~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
7742 2024.
7743 [~~(12)~~] (11) Subsection 58-55-201(2), which creates the Alarm System and Security
7744 Licensing Advisory Board, is repealed July 1, 2027.
7745 [~~(13)~~] (12) Subsection 58-60-405(3), regarding certain educational qualifications for
7746 licensure and reporting, is repealed July 1, 2022.
7747 [~~(14)~~] (13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
7748 July 1, 2026.
7749 [~~(15)~~] (14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.
7750 [~~(16)~~] (15) The following sections are repealed on July 1, 2022:
7751 (a) Section 58-5a-502;
7752 (b) Section 58-31b-502.5;
7753 (c) Section 58-67-502.5;
7754 (d) Section 58-68-502.5; and
7755 (e) Section 58-69-502.5.
7756 Section 115. Section **63J-1-602.1** is amended to read:
7757 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**
7758 Appropriations made from the following accounts or funds are nonlapsing:
7759 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
7760 and Leadership Restricted Account created in Section 4-42-102.
7761 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.
7762 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
7763 Section 9-18-102.
7764 (4) The National Professional Men's Soccer Team Support of Building Communities
7765 Restricted Account created in Section 9-19-102.
7766 (5) Funds collected for directing and administering the C-PACE district created in
7767 Section 11-42a-106.
7768 (6) Money received by the Utah Inland Port Authority, as provided in Section
7769 11-58-105.
7770 (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.
7771 (8) The Clean Air Support Restricted Account created in Section 19-1-109.

7772 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
7773 Section 19-2a-106.
7774 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
7775 Section 19-5-126.
7776 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
7777 Section 23-14-13.5.
7778 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
7779 Section 24-4-117.
7780 (13) Funds collected from the program fund for local health department expenses
7781 incurred in responding to a local health emergency under Section 26-1-38.
7782 (14) The Children with Cancer Support Restricted Account created in Section
7783 26-21a-304.
7784 (15) State funds for matching federal funds in the Children's Health Insurance Program
7785 as provided in Section 26-40-108.
7786 (16) The Children with Heart Disease Support Restricted Account created in Section
7787 26-58-102.
7788 (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.
7789 (18) The Technology Development Restricted Account created in Section 31A-3-104.
7790 (19) The Criminal Background Check Restricted Account created in Section
7791 31A-3-105.
7792 (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except
7793 to the extent that Section 31A-3-304 makes the money received under that section free revenue.
7794 (21) The Title Licensee Enforcement Restricted Account created in Section
7795 31A-23a-415.
7796 (22) The Health Insurance Actuarial Review Restricted Account created in Section
7797 31A-30-115.
7798 (23) The Insurance Fraud Investigation Restricted Account created in Section
7799 31A-31-108.
7800 (24) The Underage Drinking Prevention Media and Education Campaign Restricted
7801 Account created in Section 32B-2-306.
7802 (25) The School Readiness Restricted Account created in Section 35A-15-203.

7803 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
7804 products or services, as provided in Section 35A-13-202.
7805 (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
7806 (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.
7807 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
7808 40-6-23.
7809 (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to
7810 the Motor Vehicle Division.
7811 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
7812 created by Section 41-3-110 to the State Tax Commission.
7813 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
7814 Section 53-1-120.
7815 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
7816 Management, as provided in Section 53-2a-603.
7817 (34) The Department of Public Safety Restricted Account to the Department of Public
7818 Safety, as provided in Section 53-3-106.
7819 (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
7820 53-8-303.
7821 (36) The DNA Specimen Restricted Account created in Section 53-10-407.
7822 (37) The Canine Body Armor Restricted Account created in Section 53-16-201.
7823 (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.
7824 (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.
7825 (40) A certain portion of money collected for administrative costs under the School
7826 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.
7827 (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
7828 subject to Subsection 54-5-1.5(4)(d).
7829 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
7830 electronic reference library, as provided in Section 58-3a-105.
7831 (43) Certain fines collected by the Division of [~~Occupational and~~] Professional
7832 Licensing for violation of unlawful or unprofessional conduct that are used for education and
7833 enforcement purposes, as provided in Section 58-17b-505.

7834 (44) Funds collected from a surcharge fee to provide certain licensees with access to an
7835 electronic reference library, as provided in Section 58-22-104.
7836 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
7837 electronic reference library, as provided in Section 58-55-106.
7838 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
7839 electronic reference library, as provided in Section 58-56-3.5.
7840 (47) Certain fines collected by the Division of [~~Occupational and~~] Professional
7841 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
7842 provided in Section 58-63-103.
7843 (48) The Relative Value Study Restricted Account created in Section 59-9-105.
7844 (49) The Cigarette Tax Restricted Account created in Section 59-14-204.
7845 (50) Funds paid to the Division of Real Estate for the cost of a criminal background
7846 check for a mortgage loan license, as provided in Section 61-2c-202.
7847 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
7848 check for principal broker, associate broker, and sales agent licenses, as provided in Section
7849 61-2f-204.
7850 (52) Certain funds donated to the Department of Human Services, as provided in
7851 Section 62A-1-111.
7852 (53) The National Professional Men's Basketball Team Support of Women and
7853 Children Issues Restricted Account created in Section 62A-1-202.
7854 (54) Certain funds donated to the Division of Child and Family Services, as provided
7855 in Section 62A-4a-110.
7856 (55) The Choose Life Adoption Support Restricted Account created in Section
7857 62A-4a-608.
7858 (56) Funds collected by the Office of Administrative Rules for publishing, as provided
7859 in Section 63G-3-402.
7860 (57) The Immigration Act Restricted Account created in Section 63G-12-103.
7861 (58) Money received by the military installation development authority, as provided in
7862 Section 63H-1-504.
7863 (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.
7864 (60) The Unified Statewide 911 Emergency Service Account created in Section

7865 63H-7a-304.
7866 (61) The Utah Statewide Radio System Restricted Account created in Section
7867 63H-7a-403.
7868 (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
7869 (63) The Motion Picture Incentive Account created in Section 63N-8-103.
7870 (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
7871 as provided under Section 63N-10-301.
7872 (65) Funds collected by the housing of state probationary inmates or state parole
7873 inmates, as provided in Subsection 64-13e-104(2).
7874 (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
7875 and State Lands, as provided in Section 65A-8-103.
7876 (67) The Transportation of Veterans to Memorials Support Restricted Account created
7877 in Section 71-14-102.
7878 (68) The Amusement Ride Safety Restricted Account, as provided in Section
7879 72-16-204.
7880 (69) Certain funds received by the Office of the State Engineer for well drilling fines or
7881 bonds, as provided in Section 73-3-25.
7882 (70) The Water Resources Conservation and Development Fund, as provided in
7883 Section 73-23-2.
7884 (71) Funds donated or paid to a juvenile court by private sources, as provided in
7885 Subsection 78A-6-203(1)(c).
7886 (72) Fees for certificate of admission created under Section 78A-9-102.
7887 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,
7888 78B-6-144, and 78B-6-144.5.
7889 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
7890 Utah Indigent Defense Commission.
7891 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
7892 Section 79-3-403.
7893 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
7894 Park, and Green River State Park, as provided under Section 79-4-403.
7895 (77) Certain funds received by the Division of State Parks from the sale or disposal of

7896 buffalo, as provided under Section 79-4-1001.
7897 (78) The Drinking While Pregnant Prevention Media and Education Campaign
7898 Restricted Account created in Section 32B-2-308.
7899 Section 116. Section **63N-1b-301** is amended to read:
7900 **63N-1b-301. Talent, Education, and Industry Alignment Subcommittee --**
7901 **Creation -- Membership -- Expenses -- Duties.**
7902 (1) There is created a subcommittee of the commission called the Talent, Education,
7903 and Industry Alignment Subcommittee composed of the following members:
7904 (a) the state superintendent of public instruction or the superintendent's designee;
7905 (b) the commissioner of higher education or the commissioner of higher education's
7906 designee;
7907 (c) the chair of the State Board of Education or the chair's designee;
7908 (d) the executive director of the Department of Workforce Services or the executive
7909 director of the department's designee;
7910 (e) the executive director of the GO Utah office or the executive director's designee;
7911 (f) the director of the Division of [~~Occupational and~~] Professional Licensing or the
7912 director's designee;
7913 (g) the governor's education advisor or the advisor's designee;
7914 (h) one member of the Senate, appointed by the president of the Senate;
7915 (i) one member of the House of Representatives, appointed by the speaker of the House
7916 of Representatives;
7917 (j) the president of the Salt Lake Chamber or the president's designee;
7918 (k) three representatives of private industry chosen by the commission;
7919 (l) a representative of the technology industry chosen by the commission;
7920 (m) the lieutenant governor or the lieutenant governor's designee; and
7921 (n) any additional individuals appointed by the commission who represent:
7922 (i) one or more individual educational institutions; or
7923 (ii) education or industry professionals.
7924 (2) The commission shall select a chair and vice chair from among the members of the
7925 talent subcommittee.
7926 (3) The talent subcommittee shall meet at least quarterly.

7927 (4) Attendance of a majority of the members of the talent subcommittee constitutes a
7928 quorum for the transaction of official talent subcommittee business.
7929 (5) Formal action by the talent subcommittee requires the majority vote of a quorum.
7930 (6) A member of the talent subcommittee:
7931 (a) may not receive compensation or benefits for the member's service; and
7932 (b) who is not a legislator may receive per diem and travel expenses in accordance
7933 with:
7934 (i) Section 63A-3-106;
7935 (ii) Section 63A-3-107; and
7936 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7937 63A-3-107.
7938 (7) The talent subcommittee shall:
7939 (a) (i) review and develop metrics to measure the progress, performance, effectiveness,
7940 and scope of any state operation, activity, program, or service that primarily involves
7941 employment training or placement; and
7942 (ii) ensure that the metrics described in Subsection (7)(a) are consistent and
7943 comparable for each state operation, activity, program, or service that primarily involves
7944 employment training or placement;
7945 (b) make recommendations to the commission regarding how to better align training
7946 and education in the state with industry demand;
7947 (c) make recommendations to the commission regarding how to better align technical
7948 education with current and future workforce needs; and
7949 (d) coordinate with the commission to meet the responsibilities described in Subsection
7950 63N-1b-302(4).
7951 Section 117. Section **76-10-3201** is enacted to read:
7952 **76-10-3201. Health care lien prohibition.**
7953 (1) As used in this section:
7954 (a) "Debt or lien" means a debt or lien arising from a health service a patient receives.
7955 (b) "Financial interest" means:
7956 (i) ownership of a share; or
7957 (ii) receipt of a profit or compensation.

7958 (c) "Health care provider" means the same as that term is defined in Section
7959 78B-3-403.
7960 (2) (a) A health care provider may not purchase or acquire a debt or a lien from another
7961 health care provider if:
7962 (i) the patient has filed a claim or intends to file a claim for damages from an injury
7963 that led to the creation of the debt or lien; and
7964 (ii) the health care provider provided any health service to the patient in relation to the
7965 claim for damages.
7966 (b) An actor may not have a financial interest in a health care provider that purchases
7967 or acquires a debt or a lien from another health care provider if:
7968 (i) the patient subject to the debt or lien has filed a claim or intends to file a claim for
7969 damages from an injury that led to the creation of the debt or lien; and
7970 (ii) the health care provider in which the actor has a financial interest provides any
7971 health service to the patient in relation to the claim for damages.
7972 (3) A violation of Subsection (2)(a) or (b) is a third degree felony.
7973 Section 118. Section **76-10-3202** is enacted to read:
7974 **76-10-3202. Prohibition on kickbacks.**
7975 (1) As used in this section, "kickback or bribe" means a rebate, compensation, or any
7976 other form of remuneration, that is:
7977 (a) direct or indirect;
7978 (b) overt or covert; or
7979 (c) in cash or in kind.
7980 (2) An actor may not solicit, receive, offer, or pay a kickback or bribe in return for or to
7981 induce the referral of a person to another person for the furnishing of any good or service that
7982 relates to any insurance claim or a claim for damages.
7983 (3) A violation of Subsection (2) is a third degree felony.
7984 Section 119. Section **78B-3-403** is amended to read:
7985 **78B-3-403. Definitions.**
7986 As used in this part:
7987 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
7988 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

7989 (2) "Certified social worker" means a person licensed to practice as a certified social
7990 worker under Section 58-60-205.
7991 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
7992 Title 58, Chapter 73, Chiropractic Physician Practice Act.
7993 (4) "Clinical social worker" means a person licensed to practice as a clinical social
7994 worker under Section 58-60-205.
7995 (5) "Commissioner" means the commissioner of insurance as provided in Section
7996 31A-2-102.
7997 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
7998 hygiene as defined in Section 58-69-102.
7999 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined
8000 in Section 58-69-102.
8001 (8) "Division" means the Division of [~~Occupational and~~] Professional Licensing
8002 created in Section 58-1-103.
8003 (9) "Future damages" includes a judgment creditor's damages for future medical
8004 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
8005 suffering.
8006 (10) "Health care" means any act or treatment performed or furnished, or which should
8007 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
8008 during the patient's medical care, treatment, or confinement.
8009 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
8010 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
8011 ambulatory surgical facilities, small health care facilities, health care facilities owned or
8012 operated by health maintenance organizations, and end stage renal disease facilities.
8013 (12) "Health care provider" includes any person, partnership, association, corporation,
8014 or other facility or institution who causes to be rendered or who renders health care or
8015 professional services as a hospital, health care facility, physician, physician assistant, registered
8016 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental
8017 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical
8018 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic
8019 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,

8020 speech-language pathologist, clinical social worker, certified social worker, social service
8021 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or
8022 others rendering similar care and services relating to or arising out of the health needs of
8023 persons or groups of persons and officers, employees, or agents of any of the above acting in
8024 the course and scope of their employment.
8025 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
8026 21, Health Care Facility Licensing and Inspection Act.
8027 (14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,
8028 Athletic Trainer Licensing Act.
8029 (15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry
8030 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
8031 58-77-102.
8032 (16) "Licensed practical nurse" means a person licensed to practice as a licensed
8033 practical nurse as provided in Section 58-31b-301.
8034 (17) "Malpractice action against a health care provider" means any action against a
8035 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
8036 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
8037 or which should have been rendered by the health care provider.
8038 (18) "Marriage and family therapist" means a person licensed to practice as a marriage
8039 therapist or family therapist under Sections 58-60-305 and 58-60-405.
8040 (19) "Naturopathic physician" means a person licensed to engage in the practice of
8041 naturopathic medicine as defined in Section 58-71-102.
8042 (20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
8043 under Section 58-44a-301.
8044 (21) "Optometrist" means a person licensed to practice optometry under Title 58,
8045 Chapter 16a, Utah Optometry Practice Act.
8046 (22) "Osteopathic physician" means a person licensed to practice osteopathy under
8047 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
8048 (23) "Patient" means a person who is under the care of a health care provider, under a
8049 contract, express or implied.
8050 (24) "Periodic payments" means the payment of money or delivery of other property to

8051 a judgment creditor at intervals ordered by the court.
8052 (25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section
8053 58-17b-301.
8054 (26) "Physical therapist" means a person licensed to practice physical therapy under
8055 Title 58, Chapter 24b, Physical Therapy Practice Act.
8056 (27) "Physical therapist assistant" means a person licensed to practice physical therapy,
8057 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical
8058 Therapy Practice Act.
8059 (28) "Physician" means a person licensed to practice medicine and surgery under Title
8060 58, Chapter 67, Utah Medical Practice Act.
8061 (29) "Physician assistant" means a person licensed to practice as a physician assistant
8062 under Title 58, Chapter 70a, Utah Physician Assistant Act.
8063 (30) "Podiatric physician" means a person licensed to practice podiatry under Title 58,
8064 Chapter 5a, Podiatric Physician Licensing Act.
8065 (31) "Practitioner of obstetrics" means a person licensed to practice as a physician in
8066 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,
8067 Utah Osteopathic Medical Practice Act.
8068 (32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist
8069 Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.
8070 (33) "Registered nurse" means a person licensed to practice professional nursing as
8071 provided in Section 58-31b-301.
8072 (34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother,
8073 child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term
8074 includes relationships that are created as a result of adoption.
8075 (35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,
8076 person designated to make decisions on behalf of a patient under a medical power of attorney,
8077 or other legal agent of the patient.
8078 (36) "Social service worker" means a person licensed to practice as a social service
8079 worker under Section 58-60-205.
8080 (37) "Speech-language pathologist" means a person licensed to practice
8081 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and

8082 Audiology Licensing Act.
8083 (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or
8084 omission proximately causing injury or damage to another.
8085 (39) "Unanticipated outcome" means the outcome of a medical treatment or procedure
8086 that differs from an expected result.
8087 Section 120. **Repealer.**
8088 This bill repeals:
8089 Section **58-1-101**, **Short title.**
8090 Section **58-5a-305**, **License by endorsement.**
8091 Section **58-15-1**, **Title.**
8092 Section 121. **Revisor instructions.**
8093 The Legislature intends that the Office of Legislative Research and General Counsel, in
8094 preparing the Utah Code database for publication, make the following changes in any new
8095 language added to the Utah Code by legislation passed during the 2022 General Session:
8096 (1) replace "Division of Occupational and Professional Licensing" with "Division of
8097 Professional Licensing"; and
8098 (2) replace "Division of Occupational and Professional Licensing Act" with "Division
8099 of Professional Licensing Act."