

Representative Joel Ferry 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 This bill provides a coordination clause.

49 **Utah Code Sections Affected:**

50 AMENDS:

51 13-1-2, as last amended by Laws of Utah 2021, Chapter 345

52 13-23-2, as last amended by Laws of Utah 2021, Chapter 266

53 15A-1-102, as last amended by Laws of Utah 2020, Chapter 43

54 15A-3-402, as last amended by Laws of Utah 2020, Chapter 441

55 17-21-18.5, as last amended by Laws of Utah 2019, Chapter 302

56 17-22-30, as last amended by Laws of Utah 2021, Chapter 148

- 57 [17-23-17](#), as last amended by Laws of Utah 2016, Chapter 303
- 58 [26-2-2](#), as last amended by Laws of Utah 2020, Chapter 251
- 59 [26-4-10.5](#), as enacted by Laws of Utah 2016, Chapter 104
- 60 [26-6-27](#), as last amended by Laws of Utah 2021, Chapter 345
- 61 [26-7-13](#), as enacted by Laws of Utah 2020, Chapter 201
- 62 [26-8a-310](#), as last amended by Laws of Utah 2021, Chapters 237 and 262
- 63 [26-15-3](#), as last amended by Laws of Utah 2011, Chapter 14
- 64 [26-21-22](#), as enacted by Laws of Utah 1998, Chapter 288
- 65 [26-21-26](#), as last amended by Laws of Utah 2016, Chapter 99
- 66 [26-21-204](#), as last amended by Laws of Utah 2021, Chapter 262
- 67 [26-49-205](#), as enacted by Laws of Utah 2008, Chapter 242
- 68 [26-55-105](#), as enacted by Laws of Utah 2016, Chapter 208 and last amended by
- 69 Coordination Clause, Laws of Utah 2016, Chapter 202
- 70 [26-55-108](#), as last amended by Laws of Utah 2018, Chapter 38
- 71 [26-60-104](#), as enacted by Laws of Utah 2017, Chapter 241
- 72 [26-61-202](#), as last amended by Laws of Utah 2020, Chapter 12
- 73 [26-61a-103](#), as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350
- 74 [26-61a-106](#), as last amended by Laws of Utah 2021, Chapters 337 and 350
- 75 [26-61a-303](#), as last amended by Laws of Utah 2021, Chapters 84 and 345
- 76 [26-61a-401](#), as last amended by Laws of Utah 2021, Chapter 337
- 77 [26-61a-403](#), as last amended by Laws of Utah 2021, Chapters 337 and 350
- 78 [26-61a-501](#), as last amended by Laws of Utah 2021, Chapters 337 and 350
- 79 [26-61a-503](#), as last amended by Laws of Utah 2021, Chapter 337
- 80 [26-61a-506](#), as last amended by Laws of Utah 2020, Chapter 12
- 81 [26-61a-605](#), as last amended by Laws of Utah 2021, Chapter 350
- 82 [26-61a-606](#), as last amended by Laws of Utah 2021, Chapter 350
- 83 [26-64-102](#), as enacted by Laws of Utah 2018, Chapter 295
- 84 [26A-1-113](#), as last amended by Laws of Utah 2011, Chapter 14
- 85 [26A-1-114](#), as last amended by Laws of Utah 2021, Chapter 437
- 86 [26A-1-126](#), as last amended by Laws of Utah 2013, Chapter 44
- 87 [31A-22-642](#), as last amended by Laws of Utah 2019, Chapter 332

- 88 [32B-4-305](#), as last amended by Laws of Utah 2021, Chapter 260
- 89 [34-38-13](#), as last amended by Laws of Utah 2004, Chapter 152
- 90 [35A-6-105](#), as last amended by Laws of Utah 2021, Chapters 282 and 301
- 91 [36-23-102](#), as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
- 92 [36-23-107](#), as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
- 93 [38-1a-102](#), as last amended by Laws of Utah 2019, Chapter 250
- 94 [38-1b-102](#), as last amended by Laws of Utah 2016, Chapter 350
- 95 [38-11-102](#), as last amended by Laws of Utah 2020, Chapters 154 and 339
- 96 [38-11-103](#), as last amended by Laws of Utah 1995, Chapter 172
- 97 [41-6a-502](#), as last amended by Laws of Utah 2020, Chapter 177
- 98 [41-6a-502.5](#), as last amended by Laws of Utah 2021, Chapter 79
- 99 [53-2a-1205](#), as enacted by Laws of Utah 2014, Chapter 376
- 100 [53-10-114](#), as enacted by Laws of Utah 1998, Chapter 101
- 101 [53B-24-304](#), as renumbered and amended by Laws of Utah 2013, Chapter 28
- 102 [53F-2-305](#), as last amended by Laws of Utah 2020, Chapters 308 and 408
- 103 [53F-2-405](#), as last amended by Laws of Utah 2020, Chapters 308 and 408
- 104 [58-1-102](#), as last amended by Laws of Utah 2016, Chapter 127
- 105 [58-1-103](#), as renumbered and amended by Laws of Utah 1993, Chapter 297
- 106 [58-1-202](#), as last amended by Laws of Utah 2018, Chapter 129
- 107 [58-1-301](#), as last amended by Laws of Utah 2019, Chapter 133
- 108 [58-1-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 109 [58-3a-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 110 [58-9-302](#), as last amended by Laws of Utah 2018, Chapter 326
- 111 [58-16a-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 112 [58-17b-504](#), as last amended by Laws of Utah 2020, Chapter 339
- 113 [58-20b-102](#), as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 114 [58-22-102](#), as last amended by Laws of Utah 2020, Chapter 339
- 115 [58-28-304](#), as last amended by Laws of Utah 2020, Chapter 339
- 116 [58-28-503](#), as last amended by Laws of Utah 2018, Chapter 318
- 117 [58-31b-303](#), as last amended by Laws of Utah 2006, Chapter 291
- 118 [58-31b-503](#), as last amended by Laws of Utah 2020, Chapter 339

119 58-37-2, as last amended by Laws of Utah 2020, Chapter 12
120 58-37-6, as last amended by Laws of Utah 2021, Chapters 23, 165, and 262
121 58-37-8, as last amended by Laws of Utah 2021, Chapter 236
122 58-37c-5, as repealed and reenacted by Laws of Utah 1992, Chapter 155
123 58-37c-6, as last amended by Laws of Utah 2008, Chapter 382
124 58-37c-21, as last amended by Laws of Utah 1999, Chapter 21
125 58-37d-9, as last amended by Laws of Utah 1999, Chapter 21
126 58-38a-201, as last amended by Laws of Utah 2020, Chapter 26
127 58-41-4, as last amended by Laws of Utah 2019, Chapter 349
128 58-44a-302, as last amended by Laws of Utah 2016, Chapter 238
129 58-44a-402, as last amended by Laws of Utah 2018, Chapter 318
130 58-55-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
131 58-55-302, as last amended by Laws of Utah 2020, Chapter 339
132 58-55-502, as last amended by Laws of Utah 2011, Chapters 170 and 413
133 58-55-503, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
134 58-56-2, as enacted by Laws of Utah 1989, Chapter 269
135 58-57-14, as last amended by Laws of Utah 2008, Chapter 382
136 58-61-704, as last amended by Laws of Utah 2020, Chapter 339
137 58-63-102, as last amended by Laws of Utah 2017, Chapter 197
138 58-63-302, as last amended by Laws of Utah 2020, Chapter 339
139 58-67-503, as last amended by Laws of Utah 2020, Chapter 339
140 58-68-503, as last amended by Laws of Utah 2020, Chapter 339
141 58-71-402, as last amended by Laws of Utah 2008, Chapter 382
142 58-73-302, as last amended by Laws of Utah 2020, Chapter 339
143 58-73-501, as last amended by Laws of Utah 1998, Chapter 26
144 58-83-102, as enacted by Laws of Utah 2010, Chapter 180
145 58-83-302, as enacted by Laws of Utah 2010, Chapter 180
146 58-83-401, as last amended by Laws of Utah 2011, Chapter 367
147 58-83-502, as last amended by Laws of Utah 2020, Chapter 25
148 58-87-103, as renumbered and amended by Laws of Utah 2017, Chapter 225
149 59-10-1111, as enacted by Laws of Utah 2016, Chapter 407

150 **62A-3-202**, as last amended by Laws of Utah 2018, Chapter 60
151 **62A-3-305**, as last amended by Laws of Utah 2021, Chapter 419
152 **62A-3-311.1**, as last amended by Laws of Utah 2017, Chapter 195
153 **62A-3-312**, as last amended by Laws of Utah 2017, Chapter 176
154 **62A-4a-411**, as last amended by Laws of Utah 2021, Chapter 419
155 **62A-4a-603**, as last amended by Laws of Utah 2020, Chapter 250
156 **62A-15-103**, as last amended by Laws of Utah 2021, Chapters 231 and 277
157 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
158 and 382
159 **63I-1-258**, as last amended by Laws of Utah 2021, Chapter 32
160 **63J-1-602.1**, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
161 **63N-1b-301**, as renumbered and amended by Laws of Utah 2021, Chapter 282
162 **78B-3-403**, as last amended by Laws of Utah 2019, Chapter 349
163 ENACTS:
164 **76-10-3201**, Utah Code Annotated 1953
165 **76-10-3202**, Utah Code Annotated 1953
166 RENUMBERS AND AMENDS:
167 **58-15-101**, (Renumbered from 58-15-2, as last amended by Laws of Utah 2016,
168 Chapter 238)
169 **58-15-201**, (Renumbered from 58-15-3, as last amended by Laws of Utah 2011,
170 Chapter 366)
171 **58-15-301**, (Renumbered from 58-15-4, as last amended by Laws of Utah 2009,
172 Chapter 183)
173 **58-15-302**, (Renumbered from 58-15-4.5, as enacted by Laws of Utah 1993, Chapter
174 297)
175 **58-15-303**, (Renumbered from 58-15-11, as last amended by Laws of Utah 2020,
176 Chapter 339)
177 **58-15-401**, (Renumbered from 58-15-12, as enacted by Laws of Utah 1993, Chapter
178 297)
179 **58-15-501**, (Renumbered from 58-15-10, as repealed and reenacted by Laws of Utah
180 1993, Chapter 297)

181 REPEALS:

182 **58-1-101**, as renumbered and amended by Laws of Utah 1993, Chapter 297

183 **58-5a-305**, as last amended by Laws of Utah 1996, Chapter 232

184 **58-15-1**, as enacted by Laws of Utah 1985, Chapter 49

185 **Utah Code Sections Affected by Coordination Clause:**

186 **26-69-405**, Utah Code Annotated 1953



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

189 Section 1. Section **13-1-2** is amended to read:

190 **13-1-2. Creation and functions of department -- Divisions created -- Fees --**

191 **Commerce Service Account.**

192 (1) (a) There is created the Department of Commerce.

193 (b) The department shall:

194 (i) execute and administer state laws regulating business activities and occupations
195 affecting the public interest; and

196 (ii) ensure that any training or certification required of a public official or public
197 employee, as those terms are defined in Section **63G-22-102**, complies with Title 63G, Chapter
198 22, State Training and Certification Requirements, if the training or certification is required:

199 (A) under this title;

200 (B) by the department; or

201 (C) by an agency or division within the department.

202 (2) Within the department the following divisions are created:

203 (a) the Division of [~~Occupational and~~] Professional Licensing;

204 (b) the Division of Real Estate;

205 (c) the Division of Securities;

206 (d) the Division of Public Utilities;

207 (e) the Division of Consumer Protection; and

208 (f) the Division of Corporations and Commercial Code.

209 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
210 fees assessed for services provided by the department by following the procedures and
211 requirements of Section **63J-1-504**.

212 (b) The department shall submit each fee established in this manner to the Legislature
213 for [its] the Legislature's approval as part of the department's annual appropriations request.

214 (c) (i) There is created a restricted account within the General Fund known as the
215 "Commerce Service Account."

216 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by
217 each division and by the department.

218 (iii) The undesignated account balance may not exceed \$1,000,000 at the end of each
219 fiscal year.

220 (iv) At the end of each fiscal year, the director of the Division of Finance shall transfer
221 into the General Fund any undesignated funds in the account that exceed the amount necessary
222 to maintain the undesignated account balance at \$1,000,000.

223 (d) The department may not charge or collect a fee or expend money from the
224 restricted account without approval by the Legislature.

225 (4) (a) As used in this Subsection (4):

226 (i) "Business entity" means a sole proprietorship, partnership, limited partnership,
227 limited liability company, corporation, or other entity or association used to carry on a business
228 for profit.

229 (ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in
230 Subsection (4)(c).

231 (iii) "Renewal fee" means a fee that the Division of Corporations and Commercial
232 Code, established in Section 13-1a-1, is authorized or required to charge a business entity in
233 connection with the business entity's periodic renewal of [its] the business entity's status with
234 the Division of Corporations and Commercial Code.

235 (iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the
236 establishment and maintenance of the single sign-on business portal.

237 (v) "Single sign-on business portal" means the same as that term is defined in Section
238 63A-16-802.

239 (b) (i) The schedule of fees adopted by the department under Subsection (3) shall
240 include a single sign-on fee, not to exceed \$5, as part of a renewal fee.

241 (ii) The department shall deposit all single sign-on fee revenue into the fund.

242 (c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

- 243 (ii) The fund consists of:
- 244 (A) money that the department collects from the single sign-on fee; and
- 245 (B) money that the Legislature appropriates to the fund.
- 246 (d) The department shall use the money in the fund to pay for costs:
- 247 (i) to design, create, operate, and maintain the single sign-on business portal; and
- 248 (ii) incurred by:
- 249 (A) the Department of Technology Services, created in Section 63A-16-103; or
- 250 (B) a third-party vendor working under a contract with the Department of Technology
- 251 Services.
- 252 (e) The department shall report on fund revenues and expenditures to the Public
- 253 Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any
- 254 other time requested by the committee.

255 Section 2. Section 13-23-2 is amended to read:

256 **13-23-2. Definitions.**

257 As used in this chapter:

- 258 (1) "Business enterprise" means a sole proprietorship, partnership, association, joint
- 259 venture, corporation, limited liability company, or other entity used in carrying on a business.
- 260 (2) "Consumer" means a purchaser of health spa services for consideration.
- 261 (3) "Consumer's primary location" means the health spa facility that a health spa
- 262 designates in a contract for health spa services as the health spa facility the consumer will
- 263 primarily use for health spa services.
- 264 (4) "Division" means the Division of Consumer Protection.
- 265 (5) (a) "Health spa" means a business enterprise that provides access to a facility:
- 266 (i) for a charge or a fee; and
- 267 (ii) for the development or preservation of physical fitness or well-being, through
- 268 exercise, weight control, or athletics.
- 269 (b) "Health spa" does not include:
- 270 (i) a licensed physician who operates a facility at which the physician engages in the
- 271 practice of medicine;
- 272 (ii) a hospital, intermediate care facility, or skilled nursing care facility;
- 273 (iii) a public or private school, college, or university;

- 274 (iv) the state or a political subdivision of the state;
- 275 (v) the United States or a political subdivision of the United States;
- 276 (vi) a person offering instruction if the person does not:
 - 277 (A) utilize an employee or independent contractor; or
 - 278 (B) grant a consumer the use of a facility containing exercise equipment;
- 279 (vii) a business enterprise, the primary operation of which is to teach self-defense or a
- 280 martial art, including kickboxing, judo, or karate;
- 281 (viii) a business enterprise, the primary operation of which is to teach or allow an
- 282 individual to develop a specific skill rather than develop or preserve physical fitness, including
- 283 gymnastics, tennis, rock climbing, or a winter sport;
- 284 (ix) a business enterprise, the primary operation of which is to teach or allow an
- 285 individual to practice yoga or Pilates;
- 286 (x) a private employer who owns and operates a facility exclusively for the benefit of
- 287 the employer's employees, retirees, or family members, if the operation of the facility:
 - 288 (A) is only incidental to the overall function and purpose of the employer's business;
 - 289 and
 - 290 (B) is offered on a nonprofit basis;
- 291 (xi) an individual providing professional services within the scope of the individual's
- 292 license with the Division of [~~Occupational and~~] Professional Licensing;
- 293 (xii) a country club;
- 294 (xiii) a nonprofit religious, ethnic, or community organization;
- 295 (xiv) a residential weight reduction center;
- 296 (xv) a business enterprise that only offers virtual services;
- 297 (xvi) a business enterprise that only offers a credit for a service that a separate business
- 298 enterprise offers;
- 299 (xvii) the owner of a lodging establishment, as defined in Section [29-2-102](#), if the
- 300 owner only provides access to the lodging establishment's facility to:
 - 301 (A) a guest, as defined in Section [29-2-102](#); or
 - 302 (B) an operator or employee of the lodging establishment;
- 303 (xviii) an association, declarant, owner, lessor, or developer of a residential housing
- 304 complex, planned community, or development, if at least 80% of the individuals accessing the

305 facility reside in the housing complex, planned community, or development; or

306 (xix) a person offering a personal training service exclusively as an employee or
307 independent contractor of a health spa.

308 (6) "Health spa facility" means a facility to which a business entity provides access:

309 (a) for a charge or a fee; and

310 (b) for the development or preservation of physical fitness or well-being, through
311 exercise, weight control, or athletics.

312 (7) (a) "Health spa service" means instruction, a service, a privilege, or a right that a
313 health spa offers for sale.

314 (b) "Health spa service" includes a personal training service.

315 (8) "Personal training service" means the personalized instruction, training,
316 supervision, or monitoring of an individual's physical fitness or well-being, through exercise,
317 weight control, or athletics.

318 Section 3. Section **15A-1-102** is amended to read:

319 **15A-1-102. Definitions.**

320 As used in this title:

321 (1) "Board" means the Utah Fire Prevention Board created in Section [53-7-203](#).

322 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
323 created in Section [58-1-103](#), except as provided in:

324 (a) Part 4, State Fire Code Administration Act; and

325 (b) Chapter 5, State Fire Code Act.

326 (3) "State Construction Code" means the State Construction Code adopted by:

327 (a) Chapter 2, Adoption of State Construction Code;

328 (b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as
329 Part of State Construction Code;

330 (c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;

331 (d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code;

332 and

333 (e) Chapter 6, Additional Construction Requirements.

334 (4) "State Fire Code" means the State Fire Code adopted by Chapter 5, State Fire Code
335 Act.

336 (5) "Utah Code" means the Utah Code Annotated (1953), as amended.

337 Section 4. Section **15A-3-402** is amended to read:

338 **15A-3-402. Amendments to Chapters 1 through 5 of IMC.**

339 (1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:

340 "h. 1. A nail salon shall provide each manicure station where a nail technician files or
341 shapes an acrylic nail, as defined by rule by the Division of [~~Occupational and~~] Professional
342 Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
343 with:

344 a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and
345 an activated carbon filter that is capable of filtering and recirculating air to inside space at a
346 rate not less than 50 cfm per station; or

347 b. a source capture system capable of exhausting not less than 50 cfm per station.

348 c. A nail salon that complies with Note h. 1a or h. 1b is not required to comply with the
349 labeling, listing, or testing requirements described in International Mechanical Code sections
350 301.7 or 301.8.

351 2. For a source capture system described in paragraph 1, the source capture system
352 inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

353 3. Where one or more exhausting source capture systems described in paragraph 1
354 operate continuously during occupancy, the source capture system exhaust rate shall be
355 permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

356 4. The requirements of this note apply to:

357 a. an existing nail salon that remodels the nail salon after July 1, 2017;

358 b. a new nail salon that begins construction after July 1, 2017; and

359 c. all nail salons beginning on July 1, 2020."

360 (2) In IMC, Section 502.20 is deleted and rewritten as follows:

361 "502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide
362 each manicure station with a source capture system in accordance with Table 403.3.1.1, note h.
363 For a manicure table that does not have factory-installed source capture system inlets for
364 recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for
365 recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and
366 vertically from the point of any acrylic chemical application.

367 Exception: Section 502.20 applies to a manicure station in:

368 a. an existing nail salon that remodels the nail salon after July 1, 2017;

369 b. a new nail salon that begins construction after July 1, 2017; and

370 c. all nail salons beginning on July 1, 2020."

371 Section 5. Section **17-21-18.5** is amended to read:

372 **17-21-18.5. Fees of county recorder.**

373 (1) The county recorder shall receive the following fees:

374 (a) for recording any instrument, not otherwise provided for, other than bonds of public
375 officers, \$40;

376 (b) for recording any instrument, including those provided for under Title 70A,
377 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
378 for, \$40, and if an instrument contains more than 10 descriptions, \$2 for each additional
379 description;

380 (c) for recording mining location notices and affidavits of labor affecting mining
381 claims, \$40; and

382 (d) for an affidavit or proof of labor which contains more than 10 mining claims, \$2 for
383 each additional mining claim.

384 (2) (a) Each county recorder shall record the mining rules of the several mining
385 districts in each county without fee.

386 (b) Certified copies of these records shall be received in all tribunals and before all
387 officers of this state as prima facie evidence of the rules.

388 (3) The county recorder shall receive the following fees:

389 (a) for copies of any record or document, a reasonable fee as determined by the county
390 legislative body;

391 (b) for each certificate under seal, \$5;

392 (c) for recording any plat, \$50 for each sheet and \$2 for each lot or unit designation;

393 (d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2
394 for each additional name;

395 (e) for recording any license issued by the Division of [~~Occupational and~~] Professional
396 Licensing, \$40; and

397 (f) for recording a federal tax lien, \$40, and for the discharge of the lien, \$40.

398 (4) A county recorder may not charge more than one recording fee for each instrument,
399 regardless of whether the instrument bears multiple descriptive titles or includes one or more
400 attachments as part of the instrument.

401 (5) By January 1, 2022, each county shall accept and provide for electronic recording
402 of instruments.

403 (6) The county may determine and collect a fee for all services not enumerated in this
404 section.

405 (7) A county recorder may not be required to collect a fee for services that are
406 unrelated to the county recorder's office.

407 Section 6. Section 17-22-30 is amended to read:

408 **17-22-30. Prohibition on providing copy of booking photograph -- Statement**
409 **required -- Criminal liability for false statement -- Remedy for failure to remove or**
410 **delete.**

411 (1) As used in this section:

412 (a) "Booking photograph" means a photograph or image of an individual that is
413 generated:

414 (i) for identification purposes; and

415 (ii) when the individual is booked into a county jail.

416 (b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or
417 website that requires the payment of a fee or other consideration in order to remove or delete a
418 booking photograph from the publication or website.

419 (2) A sheriff may not provide a copy of a booking photograph in any format to a person
420 requesting a copy of the booking photograph if:

421 (a) the booking photograph will be placed in a publish-for-pay publication or posted to
422 a publish-for-pay website; or

423 (b) the booking photograph is a protected record under Subsection

424 [63G-2-305](#)~~(82)~~(81).

425 (3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at
426 the time of making the request, submit a statement signed by the person affirming that the
427 booking photograph will not be placed in a publish-for-pay publication or posted to a
428 publish-for-pay website.

429 (b) A person who submits a false statement under Subsection (3)(a) is subject to
430 criminal liability as provided in Section 76-8-504.

431 (4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a
432 publish-for-pay website shall remove and destroy a booking photograph of an individual who
433 submits a request for removal and destruction within 30 calendar days after the day on which
434 the individual makes the request.

435 (b) A publish-for-pay publication or publish-for-pay website described in Subsection
436 (4)(a) may not condition removal or destruction of the booking photograph on the payment of a
437 fee in an amount greater than \$50.

438 (c) If the publish-for-pay publication or publish-for-pay website described in
439 Subsection (4)(a) does not remove and destroy the booking photograph in accordance with
440 Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

441 (i) all costs, including reasonable attorney fees, resulting from any legal action the
442 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
443 website to remove and destroy the booking photograph; and

444 (ii) a civil penalty of \$50 per day for each day after the 30-day deadline described in
445 Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the
446 publish-for-pay publication or on the publish-for-pay website.

447 (5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and
448 destroy a booking photograph of an individual who submits a request for removal and
449 destruction within seven calendar days after the day on which the individual makes the request
450 if:

451 (i) the booking photograph relates to a criminal charge:

452 (A) on which the individual was acquitted or not prosecuted; or

453 (B) that was expunged, vacated, or pardoned; and

454 (ii) the individual submits, in relation to the request, evidence of a disposition
455 described in Subsection (5)(a)(i).

456 (b) If the publish-for-pay publication or publish-for-pay website described in
457 Subsection (5)(a) does not remove and destroy the booking photograph in accordance with
458 Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

459 (i) all costs, including reasonable attorney fees, resulting from any legal action that the

460 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
461 website to remove and destroy the booking photograph; and

462 (ii) a civil penalty of \$100 per day for each day after the seven-day deadline described
463 in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the
464 publish-for-pay publication or on the publish-for-pay website.

465 (c) An act of a publish-for-pay publication or publish-for-pay website described in
466 Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on
467 the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

468 Section 7. Section 17-23-17 is amended to read:

469 **17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking**
470 **of monuments -- Record of corner changes -- Penalties.**

471 (1) As used in this section:

472 (a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this
473 state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land
474 Surveyors Licensing Act.

475 (b) (i) "Township" means a term used in the context of identifying a geographic area in
476 common surveyor practice.

477 (ii) "Township" does not mean a metro township as that term is defined in Section
478 10-2a-403.

479 (2) (a) (i) Each land surveyor making a boundary survey of lands within this state to
480 establish or reestablish a boundary line or to obtain data for constructing a map or plat showing
481 a boundary line shall file a map of the survey that meets the requirements of this section with
482 the county surveyor or designated office within 90 days of the establishment or reestablishment
483 of a boundary.

484 (ii) A land surveyor who fails to file a map of the survey as required by Subsection
485 (2)(a)(i) is guilty of an infraction.

486 (iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a
487 separate violation.

488 (b) The county surveyor or designated office shall file and index the map of the survey.

489 (c) The map shall be a public record in the office of the county surveyor or designated
490 office.

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

522 registered business name or the letters "L.S." followed by the registration number of the
523 surveyor in charge.

524 (b) If the monument is set by a licensed land surveyor who is a public officer, it shall
525 be marked with the official title of the office.

526 (7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the
527 section corner or quarter-section corner, or their accessories, the surveyor shall complete and
528 submit to the county surveyor or designated office a record of the changes made.

529 (b) The record shall be submitted within 45 days of the corner visits and shall include
530 the surveyor's seal, business name, and address.

531 (8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the
532 license of any land surveyor who fails to comply with the requirements of this section,
533 according to the procedures set forth in Title 58, Chapter 1, Division of [~~Occupational and~~]
534 Professional Licensing Act.

535 (9) Each federal or state agency, board, or commission, local district, special service
536 district, or municipal corporation that makes a boundary survey of lands within this state shall
537 comply with this section.

538 Section 8. Section ~~26-2-2~~ is amended to read:

539 **26-2-2. Definitions.**

540 As used in this chapter:

541 (1) "Adoption document" means an adoption-related document filed with the office, a
542 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
543 in support of a supplementary birth certificate.

544 (2) "Certified nurse midwife" means an individual who:

545 (a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a,
546 Nurse Midwife Practice Act; and

547 (b) has completed an education program regarding the completion of a certificate of
548 death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah
549 Administrative Rulemaking Act.

550 [~~2~~] (3) "Custodial funeral service director" means a funeral service director who:

551 (a) is employed by a licensed funeral establishment; and

552 (b) has custody of a dead body.

553 ~~[(3)]~~ (4) "Dead body" or "decedent" means a human body or parts of the human body
554 from the condition of which it reasonably may be concluded that death occurred.

555 ~~[(4)]~~ (5) "Dead fetus" means a product of human conception, other than those
556 circumstances described in Subsection [76-7-301](#)(1):

557 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
558 period began to the date of delivery; and

559 (b) that was not born alive.

560 ~~[(5)]~~ (6) "Declarant father" means a male who claims to be the genetic father of a child,
561 and, along with the biological mother, signs a voluntary declaration of paternity to establish the
562 child's paternity.

563 ~~[(6)]~~ (7) "Dispositioner" means:

564 (a) a person designated in a written instrument, under Subsection [58-9-602](#)(1), as
565 having the right and duty to control the disposition of the decedent, if the person voluntarily
566 acts as the dispositioner; or

567 (b) the next of kin of the decedent, if:

568 (i) (A) a person has not been designated as described in Subsection ~~[(6)]~~ (7)(a); or

569 (B) the person described in Subsection ~~[(6)]~~ (7)(a) is unable or unwilling to exercise
570 the right and duty described in Subsection ~~[(6)]~~ (7)(a); and

571 (ii) the next of kin voluntarily acts as the dispositioner.

572 ~~[(7)]~~ (8) "Fetal remains" means:

573 (a) an aborted fetus as that term is defined in Section [26-21-33](#); or

574 (b) a miscarried fetus as that term is defined in Section [26-21-34](#).

575 ~~[(8)]~~ (9) "File" means the submission of a completed certificate or other similar
576 document, record, or report as provided under this chapter for registration by the state registrar
577 or a local registrar.

578 ~~[(9)]~~ (10) "Funeral service director" means the same as that term is defined in Section
579 [58-9-102](#).

580 ~~[(10)]~~ (11) "Health care facility" means the same as that term is defined in Section
581 [26-21-2](#).

582 ~~[(11)]~~ (12) "Health care professional" means a physician, physician assistant, ~~[or]~~ nurse
583 practitioner, or certified nurse midwife.

584 ~~[(12)]~~ (13) "Licensed funeral establishment" means:

585 (a) if located in Utah, a funeral service establishment, as that term is defined in Section
586 [58-9-102](#), that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

587 (b) if located in a state, district, or territory of the United States other than Utah, a
588 funeral service establishment that complies with the licensing laws of the jurisdiction where the
589 establishment is located.

590 ~~[(13)]~~ (14) "Live birth" means the birth of a child who shows evidence of life after the
591 child is entirely outside of the mother.

592 ~~[(14)]~~ (15) "Local registrar" means a person appointed under Subsection [26-2-3\(3\)\(b\)](#).

593 ~~[(15)]~~ (16) "Nurse practitioner" means an individual who:

594 (a) is licensed to practice as an advanced practice registered nurse under Title 58,
595 Chapter 31b, Nurse Practice Act; and

596 (b) has completed an education program regarding the completion of a certificate of
597 death developed by the department by administrative rule made in accordance with Title 63G,
598 Chapter 3, Utah Administrative Rulemaking Act.

599 ~~[(16)]~~ (17) "Office" means the Office of Vital Records and Statistics within the
600 Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

601 ~~[(17)]~~ (18) "Physician" means a person licensed to practice as a physician or osteopath
602 in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,
603 Utah Osteopathic Medical Practice Act.

604 ~~[(18)]~~ (19) "Physician assistant" means an individual who:

605 (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah
606 Physician Assistant Act; and

607 (b) has completed an education program regarding the completion of a certificate of
608 death developed by the department by administrative rule made in accordance with Title 63G,
609 Chapter 3, Utah Administrative Rulemaking Act.

610 ~~[(19)]~~ (20) "Presumed father" means the father of a child conceived or born during a
611 marriage as defined in Section [30-1-17.2](#).

612 ~~[(20)]~~ (21) "Registration" or "register" means acceptance by the local or state registrar
613 of a certificate and incorporation of the certificate into the permanent records of the state.

614 ~~[(21)]~~ (22) "State registrar" means the state registrar of vital records appointed under

615 Subsection 26-2-3(2)(e).

616 [(22)] (23) "Vital records" means:

617 (a) registered certificates or reports of birth, death, fetal death, marriage, divorce,
618 dissolution of marriage, or annulment;

619 (b) amendments to any of the registered certificates or reports described in Subsection
620 [(22)] (23)(a);

621 (c) an adoption document; and

622 (d) other similar documents.

623 [(23)] (24) "Vital statistics" means the data derived from registered certificates and
624 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
625 dissolution of marriage, or annulment.

626 Section 9. Section 26-4-10.5 is amended to read:

627 **26-4-10.5. Medical examiner to report death caused by prescribed controlled**
628 **substance poisoning or overdose.**

629 (1) If a medical examiner determines that the death of a person who is 12 years [~~of age~~]
630 old or older at the time of death resulted from poisoning or overdose involving a prescribed
631 controlled substance, the medical examiner shall, within three business days after the day on
632 which the medical examiner determines the cause of death, send a written report to the
633 Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, that
634 includes:

635 (a) the decedent's name;

636 (b) each drug or other substance found in the decedent's system that may have
637 contributed to the poisoning or overdose, if known; and

638 (c) the name of each person the medical examiner has reason to believe may have
639 prescribed a controlled substance described in Subsection (1)(b) to the decedent.

640 (2) This section does not create a new cause of action.

641 Section 10. Section 26-6-27 is amended to read:

642 **26-6-27. Information regarding communicable or reportable diseases**
643 **confidentiality -- Exceptions.**

644 (1) Information collected pursuant to this chapter in the possession of the department
645 or local health departments relating to an individual who has or is suspected of having a disease

646 designated by the department as a communicable or reportable disease under this chapter shall
647 be held by the department and local health departments as strictly confidential. The department
648 and local health departments may not release or make public that information upon subpoena,
649 search warrant, discovery proceedings, or otherwise, except as provided by this section.

650 (2) The information described in Subsection (1) may be released by the department or
651 local health departments only in accordance with the requirements of this chapter and as
652 follows:

653 (a) specific medical or epidemiological information may be released with the written
654 consent of the individual identified in that information or, if that individual is deceased, his
655 next-of-kin;

656 (b) specific medical or epidemiological information may be released to medical
657 personnel or peace officers in a medical emergency, as determined by the department in
658 accordance with guidelines it has established, only to the extent necessary to protect the health
659 or life of the individual identified in the information, or of the attending medical personnel or
660 law enforcement or public safety officers;

661 (c) specific medical or epidemiological information may be released to authorized
662 personnel within the department, local health departments, public health authorities, official
663 health agencies in other states, the United States Public Health Service, the Centers for Disease
664 Control and Prevention (CDC), or when necessary to continue patient services or to undertake
665 public health efforts to interrupt the transmission of disease;

666 (d) if the individual identified in the information is under the age of 18, the information
667 may be released to the Division of Child and Family Services within the Department of Human
668 Services in accordance with Section [62A-4a-403](#). If that information is required in a court
669 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against
670 the Person, the information shall be disclosed in camera and sealed by the court upon
671 conclusion of the proceedings;

672 (e) specific medical or epidemiological information may be released to authorized
673 personnel in the department or in local health departments, and to the courts, to carry out the
674 provisions of this title, and rules adopted by the department in accordance with this title;

675 (f) specific medical or epidemiological information may be released to blood banks,
676 organ and tissue banks, and similar institutions for the purpose of identifying individuals with

677 communicable diseases. The department may, by rule, designate the diseases about which
678 information may be disclosed under this subsection, and may choose to release the name of an
679 infected individual to those organizations without disclosing the specific disease;

680 (g) specific medical or epidemiological information may be released in such a way that
681 no individual is identifiable;

682 (h) specific medical or epidemiological information may be released to a "health care
683 provider" as defined in Section 78B-3-403, health care personnel, and public health personnel
684 who have a legitimate need to have access to the information in order to assist the patient, or to
685 protect the health of others closely associated with the patient;

686 (i) specific medical or epidemiological information regarding a health care provider, as
687 defined in Section 78B-3-403, may be released to the department, the appropriate local health
688 department, and the Division of [~~Occupational and~~] Professional Licensing within the
689 Department of Commerce, if the identified health care provider is endangering the safety or life
690 of any individual by his continued practice of health care;

691 (j) specific medical or epidemiological information may be released in accordance with
692 Section 26-6-31 if an individual is not identifiable; and

693 (k) specific medical or epidemiological information may be released to a state agency
694 as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4)
695 if the state agency agrees to act in accordance with the requirements in this chapter.

696 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
697 intended only to aid health care providers in their treatment and containment of infectious
698 disease.

699 Section 11. Section 26-7-13 is amended to read:

700 **26-7-13. Opioid and Overdose Fatality Review Committee.**

701 (1) As used in this section:

702 (a) "Committee" means the Opioid and Overdose Fatality Review Committee created
703 in this section.

704 (b) "Opioid overdose death" means a death primarily caused by opioids or another
705 substance that closely resembles an opioid.

706 (2) The department shall establish the Opioid and Overdose Fatality Review
707 Committee.

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

739 (6) The committee shall:

740 (a) conduct a multidisciplinary review of available information regarding a decedent of
741 an opioid overdose death, which shall include:

742 (i) consideration of the decedent's points of contact with health care systems, social
743 services systems, criminal justice systems, and other systems; and

744 (ii) identification of specific factors that put the decedent at risk for opioid overdose;

745 (b) promote cooperation and coordination among government entities involved in
746 opioid misuse, abuse, or overdose prevention;

747 (c) develop an understanding of the causes and incidence of opioid overdose deaths in
748 the state;

749 (d) make recommendations for changes to law or policy that may prevent opioid
750 overdose deaths;

751 (e) inform public health and public safety entities of emerging trends in opioid
752 overdose deaths;

753 (f) monitor overdose trends on non-opioid overdose deaths; and

754 (g) review non-opioid overdose deaths in the manner described in Subsection (6)(a),
755 when the committee determines that there are a substantial number of overdose deaths in the
756 state caused by the use of a non-opioid.

757 (7) A committee may interview or request information from a staff member, a
758 provider, or any other person who may have knowledge or expertise that is relevant to the
759 review of an opioid overdose death.

760 (8) A majority vote of committee members present constitutes the action of the
761 committee.

762 (9) The committee may meet up to eight times each year.

763 (10) When an individual case is discussed in a committee meeting under Subsection
764 (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections
765 [52-4-204](#) through [52-4-206](#).

766 Section 12. Section **26-8a-310** is amended to read:

767 **26-8a-310. Background clearance for emergency medical service personnel.**

768 (1) Subject to Section [26-8a-310.5](#), the department shall determine whether to grant
769 background clearance for an individual seeking licensure or certification under Section

770 26-8a-302 from whom the department receives:

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

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

774 (2) The department shall determine whether to deny or revoke background clearance
775 for individuals for whom the department has previously granted background clearance.

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

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

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

785 (b) the other personal identification information an individual seeking licensure or
786 certification under Section 26-8a-302 must submit under Subsection (1).

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

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

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

794 (i) the applicant is under 28 years old; or

795 (ii) the applicant:

796 (A) is over 28 years old; and

797 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
798 abeyance or diversion agreement for a felony or misdemeanor;

799 (c) juvenile court arrest, adjudication, and disposition records, other than those under
800 Subsection (5)(b), as allowed under Section 78A-6-209;

- 801 (d) child abuse or neglect findings described in Section [80-3-404](#);
- 802 (e) the Department of Human Services' Division of Child and Family Services
- 803 Licensing Information System described in Section [62A-4a-1006](#);
- 804 (f) the Department of Human Services' Division of Aging and Adult Services database
- 805 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section [62A-3-311.1](#);
- 806 (g) Division of [~~Occupational and~~] Professional Licensing records of licensing and
- 807 certification under Title 58, Occupations and Professions;
- 808 (h) records in other federal criminal background databases available to the state; and
- 809 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance,
- 810 pending diversion agreements, or dispositions.
- 811 (6) Except for the Department of Public Safety, an agency may not charge the
- 812 department for information accessed under Subsection (5).
- 813 (7) When evaluating information under Subsection (3), the department shall classify a
- 814 crime committed in another state according to the closest matching crime under Utah law,
- 815 regardless of how the crime is classified in the state where the crime was committed.
- 816 (8) The department shall adopt measures to protect the security of information the
- 817 department accesses under Subsection (5), which shall include limiting access by department
- 818 employees to those responsible for acquiring, evaluating, or otherwise processing the
- 819 information.
- 820 (9) The department may disclose personal identification information the department
- 821 receives under Subsection (1) to the Department of Human Services to verify that the subject of
- 822 the information is not identified as a perpetrator or offender in the information sources
- 823 described in Subsections (5)(d) through (f).
- 824 (10) The department may charge fees, in accordance with Section [63J-1-504](#), to pay
- 825 for:
- 826 (a) the cost of obtaining, storing, and evaluating information needed under Subsection
- 827 (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke
- 828 background clearance; and
- 829 (b) other department costs related to granting, denying, or revoking background
- 830 clearance.
- 831 (11) The Criminal Investigations and Technical Services Division within the

832 Department of Public Safety shall:

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

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

837 (i) a warrant for arrest;

838 (ii) an arrest;

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

840 (iv) a pending diversion agreement.

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

844 (13) Clearance granted for an individual licensed or certified under Section 26-8a-302
845 is valid until two years after the day on which the individual is no longer licensed or certified in
846 Utah as emergency medical service personnel.

847 Section 13. Section 26-15-3 is amended to read:

848 **26-15-3. Department to advise regarding the plumbing code.**

849 (1) The department shall advise the Division of [~~Occupational and~~] Professional
850 Licensing and the Uniform Building Code Commission with respect to the adoption of a state
851 construction code under Section 15A-1-204, including providing recommendations as to:

852 (a) a specific edition of a plumbing code issued by a nationally recognized code
853 authority; and

854 (b) any amendments to a nationally recognized code.

855 (2) The department may enforce the plumbing code adopted under Section 15A-1-204.

856 (3) Section 58-56-9 does not apply to health inspectors acting under this section.

857 Section 14. Section 26-21-22 is amended to read:

858 **26-21-22. Reporting of disciplinary information -- Immunity from liability.**

859 A health care facility licensed under this chapter which reports disciplinary information
860 on a licensed nurse to the Division of [~~Occupational and~~] Professional Licensing within the
861 Department of Commerce as required by Section 58-31b-702 is entitled to the immunity from
862 liability provided by that section.

863 Section 15. Section **26-21-26** is amended to read:

864 **26-21-26. General acute hospital to report prescribed controlled substance**
865 **poisoning or overdose.**

866 (1) If a person who is 12 years [~~of age~~] old or older is admitted to a general acute
867 hospital for poisoning or overdose involving a prescribed controlled substance, the general
868 acute hospital shall, within three business days after the day on which the person is admitted,
869 send a written report to the Division of [~~Occupational and~~] Professional Licensing, created in
870 Section **58-1-103**, that includes:

871 (a) the patient's name and date of birth;

872 (b) each drug or other substance found in the person's system that may have
873 contributed to the poisoning or overdose, if known;

874 (c) the name of each person who the general acute hospital has reason to believe may
875 have prescribed a controlled substance described in Subsection (1)(b) to the person, if known;
876 and

877 (d) the name of the hospital and the date of admission.

878 (2) Nothing in this section may be construed as creating a new cause of action.

879 Section 16. Section **26-21-204** is amended to read:

880 **26-21-204. Clearance.**

881 (1) The department shall determine whether to grant clearance for each applicant for
882 whom it receives:

883 (a) the personal identification information specified by the department under
884 Subsection **26-21-204(4)(b)**; and

885 (b) any fees established by the department under Subsection **26-21-204(9)**.

886 (2) The department shall establish a procedure for obtaining and evaluating relevant
887 information concerning covered individuals, including fingerprinting the applicant and
888 submitting the prints to the Criminal Investigations and Technical Services Division of the
889 Department of Public Safety for checking against applicable state, regional, and national
890 criminal records files.

891 (3) The department may review the following sources to determine whether an
892 individual should be granted or retain clearance, which may include:

893 (a) Department of Public Safety arrest, conviction, and disposition records described in

894 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
895 information in state, regional, and national records files;

896 (b) juvenile court arrest, adjudication, and disposition records, as allowed under
897 Section [78A-6-209](#);

898 (c) federal criminal background databases available to the state;

899 (d) the Department of Human Services' Division of Child and Family Services
900 Licensing Information System described in Section [62A-4a-1006](#);

901 (e) child abuse or neglect findings described in Section [80-3-404](#);

902 (f) the Department of Human Services' Division of Aging and Adult Services
903 vulnerable adult abuse, neglect, or exploitation database described in Section [62A-3-311.1](#);

904 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

905 (h) licensing and certification records of individuals licensed or certified by the
906 Division of [~~Occupational and~~] Professional Licensing under Title 58, Occupations and
907 Professions; and

908 (i) the List of Excluded Individuals and Entities database maintained by the United
909 States Department of Health and Human Services' Office of Inspector General.

910 (4) The department shall adopt rules that:

911 (a) specify the criteria the department will use to determine whether an individual is
912 granted or retains clearance:

913 (i) based on an initial evaluation and ongoing review of information under Subsection
914 (3); and

915 (ii) including consideration of the relationship the following may have to patient and
916 resident protection:

917 (A) warrants for arrest;

918 (B) arrests;

919 (C) convictions, including pleas in abeyance;

920 (D) pending diversion agreements;

921 (E) adjudications by a juvenile court under Section [80-6-701](#) if the individual is over
922 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance
923 or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old;
924 and

925 (F) any other findings under Subsection (3); and

926 (b) specify the personal identification information that must be submitted by an
927 individual or covered body with an application for clearance, including:

928 (i) the applicant's Social Security number; and

929 (ii) fingerprints.

930 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed
931 in another state according to the closest matching crime under Utah law, regardless of how the
932 crime is classified in the state where the crime was committed.

933 (6) The Department of Public Safety, the Administrative Office of the Courts, the
934 Department of Human Services, the Division of ~~Occupational and~~ Professional Licensing,
935 and any other state agency or political subdivision of the state:

936 (a) shall allow the department to review the information the department may review
937 under Subsection (3); and

938 (b) except for the Department of Public Safety, may not charge the department for
939 access to the information.

940 (7) The department shall adopt measures to protect the security of the information it
941 reviews under Subsection (3) and strictly limit access to the information to department
942 employees responsible for processing an application for clearance.

943 (8) The department may disclose personal identification information specified under
944 Subsection (4)(b) to the Department of Human Services to verify that the subject of the
945 information is not identified as a perpetrator or offender in the information sources described in
946 Subsections (3)(d) through (f).

947 (9) The department may establish fees, in accordance with Section [63J-1-504](#), for an
948 application for clearance, which may include:

949 (a) the cost of obtaining and reviewing information under Subsection (3);

950 (b) a portion of the cost of creating and maintaining the Direct Access Clearance
951 System database under Section [26-21-209](#); and

952 (c) other department costs related to the processing of the application and the ongoing
953 review of information pursuant to Subsection (4)(a) to determine whether clearance should be
954 retained.

955 Section 17. Section [26-49-205](#) is amended to read:

956 **26-49-205. Provision of volunteer health or veterinary services -- Administrative**
957 **sanctions -- Authority of Division of Professional Licensing.**

958 (1) Subject to Subsections (2) and (3), a volunteer health practitioner shall comply with
959 the scope of practice for a similarly licensed practitioner established by the licensing
960 provisions, practice acts, or other Utah laws.

961 (2) Except as otherwise provided in Subsection (3), this chapter does not authorize a
962 volunteer health practitioner to provide services that are outside the volunteer health
963 practitioner's scope of practice, even if a similarly licensed practitioner in Utah would be
964 permitted to provide the services.

965 (3) (a) In accordance with this section and Section 58-1-405, the Division of
966 [~~Occupational and~~] Professional Licensing may issue an order modifying or restricting the
967 health or veterinary services that volunteer health practitioners may provide pursuant to this
968 chapter.

969 (b) An order under this subsection takes effect immediately, without prior notice or
970 comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative
971 Rulemaking Act, or a directive within the meaning of Title 63G, Chapter 4, Administrative
972 Procedures Act.

973 (4) A host entity may restrict the health or veterinary services that a volunteer health
974 practitioner may provide under this chapter.

975 (5) (a) A volunteer health practitioner does not engage in unauthorized practice unless
976 the volunteer health practitioner has reason to know of any limitation, modification, or
977 restriction under this chapter, Title 58, Chapter 1, Division of [~~Occupational and~~] Professional
978 Licensing Act, or that a similarly licensed practitioner in Utah would not be permitted to
979 provide the services.

980 (b) A volunteer health practitioner has reason to know of a limitation, modification, or
981 restriction, or that a similarly licensed practitioner in Utah would not be permitted to provide a
982 service, if:

983 (i) the volunteer health practitioner knows the limitation, modification, or restriction
984 exists or that a similarly licensed practitioner in Utah would not be permitted to provide the
985 service; or

986 (ii) from all the facts and circumstances known to the volunteer health practitioner at

987 the relevant time, a reasonable person would conclude that:

988 (A) the limitation, modification, or restriction exists; or

989 (B) a similarly licensed practitioner in Utah would not be permitted to provide the
990 service.

991 (6) In addition to the authority granted by law of Utah other than this chapter to
992 regulate the conduct of volunteer health practitioners, the Division of [~~Occupational and~~]
993 Professional Licensing Act or other disciplinary authority in Utah:

994 (a) may impose administrative sanctions upon a volunteer health practitioner licensed
995 in Utah for conduct outside of Utah in response to an out-of-state emergency;

996 (b) may impose administrative sanctions upon a volunteer health practitioner not
997 licensed in Utah for conduct in Utah in response to an in-state emergency; and

998 (c) shall report any administrative sanctions imposed upon a volunteer health
999 practitioner licensed in another state to the appropriate licensing board or other disciplinary
1000 authority in any other state in which the volunteer health practitioner is known to be licensed.

1001 (7) In determining whether or not to impose administrative sanctions under Subsection
1002 (6), the Division of [~~Occupational and~~] Professional Licensing Act or other disciplinary
1003 authority shall consider the circumstances in which the conduct took place, including:

1004 (a) any exigent circumstances; and

1005 (b) the volunteer health practitioner's scope of practice, education, training, experience,
1006 and specialized skill.

1007 Section 18. Section **26-55-105** is amended to read:

1008 **26-55-105. Standing prescription drug orders for an opiate antagonist.**

1009 (1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed
1010 under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may
1011 dispense the opiate antagonist:

1012 (a) pursuant to a standing prescription drug order made in accordance with Subsection
1013 (2); and

1014 (b) without any other prescription drug order from a person licensed to prescribe an
1015 opiate antagonist.

1016 (2) A physician who is licensed to prescribe an opiate antagonist, including a physician
1017 acting in the physician's capacity as an employee of the department, or a medical director of a

1018 local health department, as defined in Section 26A-1-102, may issue a standing prescription
1019 drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in
1020 accordance with a protocol that:

1021 (a) limits dispensing of the opiate antagonist to:

1022 (i) an individual who is at increased risk of experiencing an opiate-related drug
1023 overdose event;

1024 (ii) a family member of, friend of, or other person, including a person described in
1025 Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an
1026 individual who is at increased risk of experiencing an opiate-related drug overdose event; or

1027 (iii) an overdose outreach provider for:

1028 (A) furnishing to an individual who is at increased risk of experiencing an
1029 opiate-related drug overdose event, or to a family member of, friend of, or other individual who
1030 is in a position to assist an individual who is at increased risk of experiencing an opiate-related
1031 drug overdose event, as provided in Section 26-55-106; or

1032 (B) administering to an individual experiencing an opiate-related drug overdose event;

1033 (b) requires the physician to specify the persons, by professional license number,
1034 authorized to dispense the opiate antagonist;

1035 (c) requires the physician to review at least annually the dispensing practices of those
1036 authorized by the physician to dispense the opiate antagonist;

1037 (d) requires those authorized by the physician to dispense the opiate antagonist to make
1038 and retain a record of each person to whom the opiate antagonist is dispensed, which shall
1039 include:

1040 (i) the name of the person;

1041 (ii) the drug dispensed; and

1042 (iii) other relevant information; and

1043 (e) is approved by the Division of [~~Occupational and~~] Professional Licensing within
1044 the Department of Commerce by administrative rule made in accordance with Title 63G,
1045 Chapter 3, Utah Administrative Rulemaking Act.

1046 Section 19. Section 26-55-108 is amended to read:

1047 **26-55-108. Coprescription guidelines.**

1048 (1) As used in this section:

1049 (a) "Controlled substance prescriber" means the same as that term is defined in Section
1050 58-37-6.5.

1051 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a
1052 prescription for an opiate.

1053 (2) The department shall, in consultation with the Physicians Licensing Board created
1054 in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in
1055 Section 58-68-201, and the [~~Department of Occupational and~~] Division of Professional
1056 Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G,
1057 Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled
1058 substance prescribers to coprescribe an opiate antagonist to a patient.

1059 Section 20. Section 26-60-104 is amended to read:

1060 **26-60-104. Enforcement.**

1061 (1) The Division of [~~Occupational and~~] Professional Licensing created in Section
1062 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers
1063 licensed under Title 58, Occupations and Professions.

1064 (2) The department is authorized to enforce the provisions of Section 26-60-103 as it
1065 relates to providers licensed under this title.

1066 (3) The Department of Human Services created in Section 62A-1-102 is authorized to
1067 enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 62A,
1068 Chapter 2, Licensure of Programs and Facilities.

1069 Section 21. Section 26-61-202 is amended to read:

1070 **26-61-202. Cannabinoid Product Board -- Duties.**

1071 (1) The board shall review any available scientific research related to the human use of
1072 cannabis, a cannabinoid product, or an expanded cannabinoid product that:

1073 (a) was conducted under a study approved by an IRB;

1074 (b) was conducted or approved by the federal government; or

1075 (c) (i) was conducted in another country; and

1076 (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability
1077 and significance to merit the board's review.

1078 (2) Based on the research described in Subsection (1), the board shall evaluate the
1079 safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products,

1080 including:

1081 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded
1082 cannabinoid products;

1083 (b) cannabis and cannabinoid dosage amounts and medical dosage forms;

1084 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
1085 with other treatments; and

1086 (d) contraindications, adverse reactions, and potential side effects from use of cannabis,
1087 cannabinoid products, and expanded cannabinoid products.

1088 (3) Based on the board's evaluation under Subsection (2), the board shall develop
1089 guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid
1090 product that include:

1091 (a) a list of medical conditions, if any, that the board determines are appropriate for
1092 treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded
1093 cannabinoid product;

1094 (b) a list of contraindications, side effects, and adverse reactions that are associated
1095 with use of cannabis, cannabinoid products, or expanded cannabinoid products;

1096 (c) a list of potential drug-drug interactions between medications that the United States
1097 Food and Drug Administration has approved and cannabis, cannabinoid products, and
1098 expanded cannabinoid products; and

1099 (d) any other guideline the board determines appropriate.

1100 (4) The board shall submit the guidelines described in Subsection (3) to the director of
1101 the Division of [~~Occupational and~~] Professional Licensing.

1102 (5) Guidelines that the board develops under this section may not limit the availability
1103 of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4,
1104 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
1105 Cannabis Act.

1106 Section 22. Section **26-61a-103** is amended to read:

1107 **26-61a-103. Electronic verification system.**

1108 (1) The Department of Agriculture and Food, the department, the Department of Public
1109 Safety, and the Division of Technology Services shall:

1110 (a) enter into a memorandum of understanding in order to determine the function and

1111 operation of the state electronic verification system in accordance with Subsection (2);

1112 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah

1113 Procurement Code, to develop a request for proposals for a third-party provider to develop and

1114 maintain the state electronic verification system in coordination with the Division of

1115 Technology Services; and

1116 (c) select a third-party provider who:

1117 (i) meets the requirements contained in the request for proposals issued under

1118 Subsection (1)(b); and

1119 (ii) may not have any commercial or ownership interest in a cannabis production

1120 establishment or a medical cannabis pharmacy.

1121 (2) The Department of Agriculture and Food, the department, the Department of Public

1122 Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020,

1123 the state electronic verification system described in Subsection (1):

1124 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a

1125 medical cannabis guardian card, provided that the card may not become active until:

1126 (i) the relevant qualified medical provider completes the associated medical cannabis

1127 recommendation; or

1128 (ii) for a medical cannabis card related to a limited medical provider's recommendation,

1129 the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

1130 (b) allows an individual to apply to renew a medical cannabis patient card or a medical

1131 cannabis guardian card in accordance with Section [26-61a-201](#);

1132 (c) allows a qualified medical provider, or an employee described in Subsection (3)

1133 acting on behalf of the qualified medical provider, to:

1134 (i) access dispensing and card status information regarding a patient:

1135 (A) with whom the qualified medical provider has a provider-patient relationship; and

1136 (B) for whom the qualified medical provider has recommended or is considering

1137 recommending a medical cannabis card;

1138 (ii) electronically recommend, after an initial face-to-face visit with a patient described

1139 in Subsection [26-61a-201](#)(4)(b), treatment with cannabis in a medicinal dosage form or a

1140 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

1141 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or

1142 medical cannabis guardian cardholder:

1143 (A) using telehealth services, for the qualified medical provider who originally
1144 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

1145 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1146 did not originally recommend the medical cannabis treatment during a face-to-face visit; and

1147 (iv) notate a determination of physical difficulty or undue hardship, described in
1148 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

1149 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
1150 verification system is functionally capable of facility medical cannabis pharmacy recording,
1151 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in
1152 accordance with Subsection 26-61a-501(11)(a), to record:

1153 (i) a patient's recommendation from a limited medical provider, including any
1154 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
1155 and

1156 (ii) a limited medical provider's renewal of the provider's previous recommendation;

1157 (e) connects with:

1158 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1159 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1160 medicinal dosage form, or a medical cannabis device, including:

1161 (A) the time and date of each purchase;

1162 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1163 purchased;

1164 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1165 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1166 device; and

1167 (D) the personally identifiable information of the medical cannabis cardholder who
1168 made the purchase; and

1169 (ii) any commercially available inventory control system that a cannabis production
1170 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1171 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1172 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

1173 track and confirm compliance;

1174 (f) provides access to:

1175 (i) the department to the extent necessary to carry out the department's functions and

1176 responsibilities under this chapter;

1177 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1178 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

1179 41a, Cannabis Production Establishments; and

1180 (iii) the Division of [~~Occupational and~~] Professional Licensing to the extent necessary

1181 to carry out the functions and responsibilities related to the participation of the following in the

1182 recommendation and dispensing of medical cannabis:

1183 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1184 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1185 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1186 Practice Act;

1187 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

1188 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1189 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant

1190 Act;

1191 (g) provides access to and interaction with the state central patient portal;

1192 (h) communicates dispensing information from a record that a medical cannabis

1193 pharmacy submits to the state electronic verification system under Subsection

1194 [26-61a-502\(6\)\(a\)\(ii\)](#) to the controlled substance database;

1195 (i) provides access to state or local law enforcement:

1196 (i) during a law enforcement encounter, without a warrant, using the individual's driver

1197 license or state ID, only for the purpose of determining if the individual subject to the law

1198 enforcement encounter has a valid medical cannabis card; or

1199 (ii) after obtaining a warrant; and

1200 (j) creates a record each time a person accesses the system that identifies the person

1201 who accesses the system and the individual whose records the person accesses.

1202 (3) (a) Beginning on the earlier of September 1, 2021, or the date on which the

1203 electronic verification system is functionally capable of allowing employee access under this

1204 Subsection (3), an employee of a qualified medical provider may access the electronic
1205 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
1206 medical provider if:

1207 (i) the qualified medical provider has designated the employee as an individual
1208 authorized to access the electronic verification system on behalf of the qualified medical
1209 provider;

1210 (ii) the qualified medical provider provides written notice to the department of the
1211 employee's identity and the designation described in Subsection (3)(a)(i); and

1212 (iii) the department grants to the employee access to the electronic verification system.

1213 (b) An employee of a business that employs a qualified medical provider may access
1214 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1215 qualified medical provider if:

1216 (i) the qualified medical provider has designated the employee as an individual
1217 authorized to access the electronic verification system on behalf of the qualified medical
1218 provider;

1219 (ii) the qualified medical provider and the employing business jointly provide written
1220 notice to the department of the employee's identity and the designation described in Subsection
1221 (3)(b)(i); and

1222 (iii) the department grants to the employee access to the electronic verification system.

1223 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1224 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1225 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1226 Practice Act;

1227 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1228 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1229 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1230 Assistant Act.

1231 (b) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1232 verification system is functionally capable of allowing provider access under this Subsection
1233 (4), a prescribing provider may access information in the electronic verification system
1234 regarding a patient the prescribing provider treats.

- 1235 (5) The department may release limited data that the system collects for the purpose of:
1236 (a) conducting medical and other department approved research;
1237 (b) providing the report required by Section 26-61a-703; and
1238 (c) other official department purposes.

1239 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1240 Administrative Rulemaking Act, to establish:

1241 (a) the limitations on access to the data in the state electronic verification system as
1242 described in this section; and

1243 (b) standards and procedures to ensure accurate identification of an individual
1244 requesting information or receiving information in this section.

1245 (7) (a) Any person who knowingly and intentionally releases any information in the
1246 state electronic verification system in violation of this section is guilty of a third degree felony.

1247 (b) Any person who negligently or recklessly releases any information in the state
1248 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1249 (8) (a) Any person who obtains or attempts to obtain information from the state
1250 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1251 (b) Any person who obtains or attempts to obtain information from the state electronic
1252 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1253 degree felony.

1254 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1255 intentionally use, release, publish, or otherwise make available to any other person information
1256 obtained from the state electronic verification system for any purpose other than a purpose
1257 specified in this section.

1258 (b) Each separate violation of this Subsection (9) is:

1259 (i) a third degree felony; and

1260 (ii) subject to a civil penalty not to exceed \$5,000.

1261 (c) The department shall determine a civil violation of this Subsection (9) in
1262 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1263 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1264 General Fund.

1265 (e) This Subsection (9) does not prohibit a person who obtains information from the

1266 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1267 (i) including the information in the person's medical chart or file for access by a person
1268 authorized to review the medical chart or file;

1269 (ii) providing the information to a person in accordance with the requirements of the
1270 Health Insurance Portability and Accountability Act of 1996; or

1271 (iii) discussing or sharing that information about the patient with the patient.

1272 Section 23. Section **26-61a-106** is amended to read:

1273 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1274 **Treatment recommendation -- Limited medical provider.**

1275 (1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a
1276 medical cannabis treatment unless the department registers the individual as a qualified
1277 medical provider in accordance with this section.

1278 (ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist
1279 licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a
1280 medical cannabis treatment except within the course and scope of a practice of podiatry, as that
1281 term is defined in Section [58-5a-102](#).

1282 (b) Beginning on the earlier of September 1, 2021, or the date on which the department
1283 gives notice that the electronic verification system is functionally capable as described in
1284 Subsection [26-61a-103](#)(2)(d), an individual who meets the recommending qualifications may
1285 recommend a medical cannabis treatment as a limited medical provider without registering
1286 under Subsection (1)(a) if:

1287 (i) the individual recommends the use of medical cannabis to the patient through an
1288 order described in Subsection (1)(c) after:

1289 (A) a face-to-face visit for an initial recommendation or the renewal of a
1290 recommendation for a patient for whom the limited medical provider did not make the patient's
1291 original recommendation; or

1292 (B) a visit using telehealth services for a renewal of a recommendation for a patient for
1293 whom the limited medical provider made the patient's original recommendation; and

1294 (ii) the individual's recommendation or renewal would not cause the total number of
1295 the individual's patients who have a valid medical cannabis patient card or provisional patient
1296 card resulting from the individual's recommendation to exceed 15.

1297 (c) The individual described in Subsection (1)(b) shall communicate the individual's
1298 recommendation through an order for the medical cannabis pharmacy to record the individual's
1299 recommendation or renewal in the state electronic verification system under the individual's
1300 recommendation that:

1301 (i) (A) that the individual or the individual's employee sends electronically to a medical
1302 cannabis pharmacy; or

1303 (B) that the individual gives to the patient in writing for the patient to deliver to a
1304 medical cannabis pharmacy; and

1305 (ii) may include:

1306 (A) directions of use or dosing guidelines; and

1307 (B) an indication of a need for a caregiver in accordance with Subsection

1308 [26-61a-201\(3\)\(c\)](#).

1309 (d) If the limited medical provider gives the patient a written recommendation to
1310 deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical
1311 provider shall ensure that the document includes all of the information that is included on a
1312 prescription the provider would issue for a controlled substance, including:

1313 (i) the date of issuance;

1314 (ii) the provider's name, address and contact information, controlled substance license
1315 information, and signature; and

1316 (iii) the patient's name, address and contact information, age, and diagnosed qualifying
1317 condition.

1318 (e) In considering making a recommendation as a limited medical provider, an
1319 individual may consult information that the department makes available on the department's
1320 website for recommending providers.

1321 (2) (a) The department shall, within 15 days after the day on which the department
1322 receives an application from an individual, register and issue a qualified medical provider
1323 registration card to the individual if the individual:

1324 (i) provides to the department the individual's name and address;

1325 (ii) provides to the department a report detailing the individual's completion of the
1326 applicable continuing education requirement described in Subsection (3);

1327 (iii) provides to the department evidence that the individual meets the recommending

1328 qualifications;

1329 (iv) for an applicant on or after November 1, 2021, provides to the department the

1330 information described in Subsection (10)(a); and

1331 (v) pays the department a fee in an amount that:

1332 (A) the department sets, in accordance with Section 63J-1-504; and

1333 (B) does not exceed \$300 for an initial registration.

1334 (b) The department may not register an individual as a qualified medical provider if the

1335 individual is:

1336 (i) a pharmacy medical provider; or

1337 (ii) an owner, officer, director, board member, employee, or agent of a cannabis

1338 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1339 (3) (a) An individual shall complete the continuing education described in this

1340 Subsection (3) in the following amounts:

1341 (i) for an individual as a condition precedent to registration, four hours; and

1342 (ii) for a qualified medical provider as a condition precedent to renewal, four hours

1343 every two years.

1344 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1345 (i) complete continuing education:

1346 (A) regarding the topics described in Subsection (3)(d); and

1347 (B) offered by the department under Subsection (3)(c) or an accredited or approved

1348 continuing education provider that the department recognizes as offering continuing education

1349 appropriate for the recommendation of cannabis to patients; and

1350 (ii) make a continuing education report to the department in accordance with a process

1351 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

1352 Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~

1353 Professional Licensing and:

1354 (A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing

1355 Act, the Podiatric Physician Board;

1356 (B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,

1357 Nurse Practice Act, the Board of Nursing;

1358 (C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical

1359 Practice Act, the Physicians Licensing Board;

1360 (D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1361 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1362 and

1363 (E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1364 Assistant Act, the Physician Assistant Licensing Board.

1365 (c) The department may, in consultation with the Division of [~~Occupational and~~
1366 Professional Licensing, develop the continuing education described in this Subsection (3).

1367 (d) The continuing education described in this Subsection (3) may discuss:

1368 (i) the provisions of this chapter;

1369 (ii) general information about medical cannabis under federal and state law;

1370 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1371 including risks and benefits;

1372 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1373 patient in pain management, risk management, potential addiction, or palliative care; and

1374 (v) best practices for recommending the form and dosage of medical cannabis products
1375 based on the qualifying condition underlying a medical cannabis recommendation.

1376 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
1377 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's
1378 patients at the same time, as determined by the number of medical cannabis cards under the
1379 qualified medical provider's name in the state electronic verification system.

1380 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
1381 600 of the qualified medical provider's patients at any given time, as determined by the number
1382 of medical cannabis cards under the qualified medical provider's name in the state electronic
1383 verification system, if:

1384 (i) the appropriate American medical board has certified the qualified medical provider
1385 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1386 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1387 psychiatry; or

1388 (ii) a licensed business employs or contracts with the qualified medical provider for the
1389 specific purpose of providing hospice and palliative care.

1390 (5) A recommending medical provider may recommend medical cannabis to an
1391 individual under this chapter only in the course of a provider-patient relationship after the
1392 recommending medical provider has completed and documented in the patient's medical record
1393 a thorough assessment of the patient's condition and medical history based on the appropriate
1394 standard of care for the patient's condition.

1395 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
1396 individual recommends medical cannabis treatment in accordance with this chapter.

1397 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1398 website, by a qualified medical provider, does not constitute advertising:

1399 (i) a green cross;

1400 (ii) a qualifying condition that the individual treats;

1401 (iii) the individual's registration as a qualified medical provider; or

1402 (iv) a scientific study regarding medical cannabis use.

1403 (7) (a) A qualified medical provider registration card expires two years after the day on
1404 which the department issues the card.

1405 (b) The department shall renew a qualified medical provider's registration card if the
1406 provider:

1407 (i) applies for renewal;

1408 (ii) is eligible for a qualified medical provider registration card under this section,
1409 including maintaining an unrestricted license under the recommending qualifications;

1410 (iii) certifies to the department in a renewal application that the information in
1411 Subsection (2)(a) is accurate or updates the information;

1412 (iv) submits a report detailing the completion of the continuing education requirement
1413 described in Subsection (3); and

1414 (v) pays the department a fee in an amount that:

1415 (A) the department sets, in accordance with Section [63J-1-504](#); and

1416 (B) does not exceed \$50 for a registration renewal.

1417 (8) The department may revoke the registration of a qualified medical provider who
1418 fails to maintain compliance with the requirements of this section.

1419 (9) A recommending medical provider may not receive any compensation or benefit for
1420 the qualified medical provider's medical cannabis treatment recommendation from:

1421 (a) a cannabis production establishment or an owner, officer, director, board member,
1422 employee, or agent of a cannabis production establishment;

1423 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1424 employee, or agent of a medical cannabis pharmacy; or

1425 (c) a recommending medical provider or pharmacy medical provider.

1426 (10) (a) On or before November 1, 2021, a qualified medical provider shall report to
1427 the department, in a manner designated by the department:

1428 (i) if applicable, that the qualified medical provider or the entity that employs the
1429 qualified medical provider represents online or on printed material that the qualified medical
1430 provider is a qualified medical provider or offers medical cannabis recommendations to
1431 patients; and

1432 (ii) the fee amount that the qualified medical provider or the entity that employs the
1433 qualified medical provider charges a patient for a medical cannabis recommendation, either as
1434 an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

1435 (b) The department shall:

1436 (i) ensure that the following information related to qualified medical providers and
1437 entities described in Subsection (10)(a)(i) is available on the department's website or on the
1438 health care price transparency tool under Subsection (10)(b)(ii):

1439 (A) the name of the qualified medical provider and, if applicable, the name of the
1440 entity that employs the qualified medical provider;

1441 (B) the address of the qualified medical provider's office or, if applicable, the entity
1442 that employs the qualified medical provider; and

1443 (C) the fee amount described in Subsection (10)(a)(ii); and

1444 (ii) share data collected under this Subsection (10) with the state auditor for use in the
1445 health care price transparency tool described in Section 67-3-11.

1446 Section 24. Section **26-61a-303** is amended to read:

1447 **26-61a-303. Renewal.**

1448 (1) The department shall renew a license under this part every year if, at the time of
1449 renewal:

1450 (a) the licensee meets the requirements of Section 26-61a-301;

1451 (b) the licensee pays the department a license renewal fee in an amount that, subject to

1452 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

1453 (c) if the medical cannabis pharmacy changes the operating plan described in Section
1454 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the
1455 department approves the new operating plan.

1456 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
1457 pharmacy's license, the department shall publish notice of an available license:

1458 (i) in a newspaper of general circulation for the geographic area in which the medical
1459 cannabis pharmacy license is available; or

1460 (ii) on the Utah Public Notice Website established in Section 63A-16-601.

1461 (b) The department may establish criteria, in collaboration with the Division of
1462 [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with
1463 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
1464 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

1465 Section 25. Section 26-61a-401 is amended to read:

1466 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1467 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1468 cannabis pharmacy unless the department registers the individual as a medical cannabis
1469 pharmacy agent.

1470 (2) A recommending medical provider may not act as a medical cannabis pharmacy
1471 agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or
1472 have the power to direct or cause the management or control of a medical cannabis pharmacy.

1473 (3) (a) The department shall, within 15 days after the day on which the department
1474 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1475 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1476 registration card to the prospective agent if the medical cannabis pharmacy:

1477 (i) provides to the department:

1478 (A) the prospective agent's name and address;

1479 (B) the name and location of the licensed medical cannabis pharmacy where the
1480 prospective agent seeks to act as the medical cannabis pharmacy agent; and

1481 (C) the submission required under Subsection (3)(b); and

1482 (ii) pays a fee to the department in an amount that, subject to Subsection

1483 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

1484 (b) Except for an applicant reapplying for a medical cannabis pharmacy agent
1485 registration card within less than one year after the expiration of the applicant's previous
1486 medical cannabis pharmacy agent registration card, each prospective agent described in
1487 Subsection (3)(a) shall:

1488 (i) submit to the department:

1489 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

1490 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1491 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1492 Generation Identification System's Rap Back Service; and

1493 (ii) consent to a fingerprint background check by:

1494 (A) the Bureau of Criminal Identification; and

1495 (B) the Federal Bureau of Investigation.

1496 (c) The Bureau of Criminal Identification shall:

1497 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
1498 the applicable state, regional, and national criminal records databases, including the Federal
1499 Bureau of Investigation Next Generation Identification System;

1500 (ii) report the results of the background check to the department;

1501 (iii) maintain a separate file of fingerprints that prospective agents submit under
1502 Subsection (3)(b) for search by future submissions to the local and regional criminal records
1503 databases, including latent prints;

1504 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1505 Generation Identification System's Rap Back Service for search by future submissions to
1506 national criminal records databases, including the Next Generation Identification System and
1507 latent prints; and

1508 (v) establish a privacy risk mitigation strategy to ensure that the department only
1509 receives notifications for an individual with whom the department maintains an authorizing
1510 relationship.

1511 (d) The department shall:

1512 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an
1513 amount that the department sets in accordance with Section 63J-1-504 for the services that the

1514 Bureau of Criminal Identification or another authorized agency provides under this section; and
1515 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal
1516 Identification.

1517 (4) The department shall designate, on an individual's medical cannabis pharmacy
1518 agent registration card the name of the medical cannabis pharmacy where the individual is
1519 registered as an agent.

1520 (5) A medical cannabis pharmacy agent shall comply with a certification standard that
1521 the department develops in collaboration with the Division of [~~Occupational and~~] Professional
1522 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1523 designates by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1524 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1525 Administrative Rulemaking Act.

1526 (6) The department shall ensure that the certification standard described in Subsection
1527 (5) includes training in:

- 1528 (a) Utah medical cannabis law; and
- 1529 (b) medical cannabis pharmacy best practices.

1530 (7) The department may revoke the medical cannabis pharmacy agent registration card
1531 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
1532 who:

- 1533 (a) violates the requirements of this chapter; or
- 1534 (b) is convicted under state or federal law of:
 - 1535 (i) a felony; or
 - 1536 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1537 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1538 day on which the department issues or renews the card.

1539 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
1540 agent:

- 1541 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1542 section;
- 1543 (ii) certifies to the department in a renewal application that the information in
1544 Subsection (3)(a) is accurate or updates the information; and

1545 (iii) pays to the department a renewal fee in an amount that:

1546 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1547 Section 63J-1-504; and

1548 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1549 comparison to the original application process.

1550 Section 26. Section 26-61a-403 is amended to read:

1551 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

1552 (1) (a) A medical cannabis pharmacy:

1553 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
1554 Practice Act, as a pharmacy medical provider;

1555 (ii) may employ a physician who has the authority to write a prescription and is
1556 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1557 Osteopathic Medical Practice Act, as a pharmacy medical provider;

1558 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
1559 works onsite during all business hours; and

1560 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
1561 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
1562 cannabis pharmacy.

1563 (b) An individual may not serve as a pharmacy medical provider unless the department
1564 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

1565 (2) (a) The department shall, within 15 days after the day on which the department
1566 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
1567 medical provider, register and issue a pharmacy medical provider registration card to the
1568 prospective pharmacy medical provider if the medical cannabis pharmacy:

1569 (i) provides to the department:

1570 (A) the prospective pharmacy medical provider's name and address;

1571 (B) the name and location of the licensed medical cannabis pharmacy where the
1572 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

1573 (C) a report detailing the completion of the continuing education requirement described
1574 in Subsection (3); and

1575 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is

1576 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
1577 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
1578 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1579 (ii) pays a fee to the department in an amount that, subject to Subsection

1580 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

1581 (b) The department may not register a recommending medical provider or a state
1582 central patient portal medical provider as a pharmacy medical provider.

1583 (3) (a) A pharmacy medical provider shall complete the continuing education described
1584 in this Subsection (3) in the following amounts:

1585 (i) as a condition precedent to registration, four hours; and

1586 (ii) as a condition precedent to renewal of the registration, four hours every two years.

1587 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

1588 (i) complete continuing education:

1589 (A) regarding the topics described in Subsection (3)(d); and

1590 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1591 continuing education provider that the department recognizes as offering continuing education
1592 appropriate for the medical cannabis pharmacy practice; and

1593 (ii) make a continuing education report to the department in accordance with a process
1594 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1595 Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~
1596 Professional Licensing and:

1597 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
1598 Pharmacy Practice Act, the Board of Pharmacy;

1599 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
1600 Practice Act, the Physicians Licensing Board; and

1601 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
1602 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

1603 (c) The department may, in consultation with the Division of [~~Occupational and~~
1604 Professional Licensing, develop the continuing education described in this Subsection (3).

1605 (d) The continuing education described in this Subsection (3) may discuss:

1606 (i) the provisions of this chapter;

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

1638 (i) at the physical address provided to the department under Section 26-61a-301; and
1639 (ii) in accordance with the operating plan provided to the department under Section
1640 26-61a-301 and, if applicable, 26-61a-304.

1641 (b) A medical cannabis pharmacy shall notify the department before a change in the
1642 medical cannabis pharmacy's physical address or operating plan.

1643 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

1644 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

1645 (b) except as provided in Subsection (5):

1646 (i) possesses a valid:

1647 (A) medical cannabis pharmacy agent registration card;

1648 (B) pharmacy medical provider registration card; or

1649 (C) medical cannabis card;

1650 (ii) is an employee of the department or the Department of Agriculture and Food
1651 performing an inspection under Section 26-61a-504; or

1652 (iii) is another individual as the department provides.

1653 (3) A medical cannabis pharmacy may not employ an individual who is younger than
1654 21 years old.

1655 (4) A medical cannabis pharmacy may not employ an individual who has been
1656 convicted of a felony under state or federal law.

1657 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an
1658 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
1659 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
1660 the individual at all times while the individual is at the medical cannabis pharmacy and
1661 maintains a record of the individual's access.

1662 (6) A medical cannabis pharmacy shall operate in a facility that has:

1663 (a) a single, secure public entrance;

1664 (b) a security system with a backup power source that:

1665 (i) detects and records entry into the medical cannabis pharmacy; and

1666 (ii) provides notice of an unauthorized entry to law enforcement when the medical
1667 cannabis pharmacy is closed; and

1668 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a

1669 cannabis product.

1670 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1671 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
1672 26-61a-502(2).

1673 (8) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
1674 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
1675 or premises of the medical cannabis pharmacy.

1676 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
1677 first indicating on the cannabis or cannabis product label the name of the medical cannabis
1678 pharmacy.

1679 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
1680 following information regarding each recommendation underlying a transaction:

1681 (i) the recommending medical provider's name, address, and telephone number;

1682 (ii) the patient's name and address;

1683 (iii) the date of issuance;

1684 (iv) directions of use and dosing guidelines or an indication that the recommending
1685 medical provider did not recommend specific directions of use or dosing guidelines; and

1686 (v) if the patient did not complete the transaction, the name of the medical cannabis
1687 cardholder who completed the transaction.

1688 (b) (i) Except as provided in Subsection (10)(b)(iii), a medical cannabis pharmacy may
1689 not sell medical cannabis unless the medical cannabis has a label securely affixed to the
1690 container indicating the following minimum information:

1691 (A) the name, address, and telephone number of the medical cannabis pharmacy;

1692 (B) the unique identification number that the medical cannabis pharmacy assigns;

1693 (C) the date of the sale;

1694 (D) the name of the patient;

1695 (E) the name of the recommending medical provider who recommended the medical
1696 cannabis treatment;

1697 (F) directions for use and cautionary statements, if any;

1698 (G) the amount dispensed and the cannabinoid content;

1699 (H) the suggested use date;

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

1731 pharmacy medical provider for counseling.

1732 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
1733 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
1734 medical cannabis device, or medical cannabis product in a locked box or other secure
1735 receptacle within the medical cannabis pharmacy.

1736 (b) A medical cannabis pharmacy with a disposal program described in Subsection
1737 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
1738 can access deposited medical cannabis or medical cannabis products.

1739 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
1740 medical cannabis products by:

1741 (i) rendering the deposited medical cannabis or medical cannabis products unusable
1742 and unrecognizable before transporting deposited medical cannabis or medical cannabis
1743 products from the medical cannabis pharmacy; and

1744 (ii) disposing of the deposited medical cannabis or medical cannabis products in
1745 accordance with:

1746 (A) federal and state law, rules, and regulations related to hazardous waste;

1747 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

1748 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

1749 (D) other regulations that the department makes in accordance with Title 63G, Chapter
1750 3, Utah Administrative Rulemaking Act.

1751 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1752 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
1753 by a medical cannabis pharmacy.

1754 Section 28. Section **26-61a-503** is amended to read:

1755 **26-61a-503. Partial filling.**

1756 (1) As used in this section, "partially fill" means to provide less than the full amount of
1757 cannabis or cannabis product that the recommending medical provider recommends, if the
1758 recommending medical provider recommended specific dosing parameters.

1759 (2) A pharmacy medical provider may partially fill a recommendation for a medical
1760 cannabis treatment at the request of the recommending medical provider who issued the
1761 medical cannabis treatment recommendation or the medical cannabis cardholder.

1762 (3) The department shall make rules, in collaboration with the Division of
1763 [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with
1764 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date,
1765 quantity supplied, and quantity remaining of a partially filled medical cannabis treatment
1766 recommendation.

1767 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a
1768 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
1769 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical
1770 cannabis treatment recommendation if:

1771 (a) the pharmacy medical provider determined dosing parameters for the partial fill
1772 under Subsection 26-61a-502(4) or (5); and

1773 (b) the medical cannabis cardholder reports that:

1774 (i) the partial fill did not substantially affect the qualifying condition underlying the
1775 medical cannabis recommendation; or

1776 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise
1777 unable to successfully use the partial fill.

1778 Section 29. Section 26-61a-506 is amended to read:

1779 **26-61a-506. Medical cannabis transportation.**

1780 (1) Only the following individuals may transport medical cannabis under this chapter:

1781 (a) a registered medical cannabis pharmacy agent;

1782 (b) a registered medical cannabis courier agent;

1783 (c) a registered pharmacy medical provider; or

1784 (d) a medical cannabis cardholder who is transporting a medical cannabis treatment
1785 that the cardholder is authorized to transport.

1786 (2) Except for an individual with a valid medical cannabis card under this chapter who
1787 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
1788 individual described in Subsection (1) shall possess a transportation manifest that:

1789 (a) includes a unique identifier that links the cannabis or cannabis product to a relevant
1790 inventory control system;

1791 (b) includes origin and destination information for the medical cannabis that the
1792 individual is transporting; and

1793 (c) identifies the departure and arrival times and locations of the individual
1794 transporting the medical cannabis.

1795 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
1796 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1797 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1798 Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that
1799 the medical cannabis remains safe for human consumption.

1800 (b) The transportation described in Subsection (1)(a) is limited to transportation
1801 between a medical cannabis pharmacy and:

1802 (i) another medical cannabis pharmacy; or

1803 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

1804 (4) (a) It is unlawful for an individual described in Subsection (1) to make a transport
1805 described in this section with a manifest that does not meet the requirements of this section.

1806 (b) Except as provided in Subsection (4)(d), an individual who violates Subsection
1807 (4)(a) is:

1808 (i) guilty of an infraction; and

1809 (ii) subject to a \$100 fine.

1810 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
1811 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1812 underlying the violation described in Subsection (4)(b).

1813 (d) If the individual described in Subsection (4)(a) is transporting more medical
1814 cannabis than the manifest identifies, except for a de minimis administrative error:

1815 (i) this chapter does not apply; and

1816 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
1817 Substances Act.

1818 (5) An individual other than an individual described in Subsection (1) may transport a
1819 medical cannabis device within the state if the transport does not also contain medical
1820 cannabis.

1821 Section 30. Section **26-61a-605** is amended to read:

1822 **26-61a-605. Medical cannabis shipment transportation.**

1823 (1) The department shall ensure that each home delivery medical cannabis pharmacy is

1824 capable of delivering, directly or through a medical cannabis courier, medical cannabis
1825 shipments in a secure manner.

1826 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
1827 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
1828 cannabis orders that the state central patient portal facilitates.

1829 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
1830 Subsection (2)(a), the pharmacy shall:

1831 (i) impose security and personnel requirements on the medical cannabis courier
1832 sufficient to ensure the security and safety of medical cannabis shipments; and

1833 (ii) provide regular oversight of the medical cannabis courier.

1834 (3) Except for an individual with a valid medical cannabis card who transports a
1835 shipment the individual receives, an individual may not transport a medical cannabis shipment
1836 unless the individual is:

1837 (a) a registered pharmacy medical provider;

1838 (b) a registered medical cannabis pharmacy agent; or

1839 (c) a registered agent of the medical cannabis courier described in Subsection (2).

1840 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
1841 possess a physical or electronic transportation manifest that:

1842 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
1843 inventory control system;

1844 (b) includes origin and destination information for the medical cannabis shipment the
1845 individual is transporting; and

1846 (c) indicates the departure and estimated arrival times and locations of the individual
1847 transporting the medical cannabis shipment.

1848 (5) In addition to the requirements in Subsections (3) and (4), the department may
1849 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1850 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1851 Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that
1852 are related to safety for human consumption of cannabis or a cannabis product.

1853 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
1854 manifest that does not meet the requirements of Subsection (4).

1855 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
1856 (6)(a) is:

1857 (i) guilty of an infraction; and

1858 (ii) subject to a \$100 fine.

1859 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
1860 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1861 underlying the violation described in Subsection (6)(b).

1862 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
1863 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
1864 minimis administrative error:

1865 (i) this chapter does not apply; and

1866 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
1867 Substances Act.

1868 Section 31. Section **26-61a-606** is amended to read:

1869 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
1870 **card -- Rebuttable presumption.**

1871 (1) An individual may not serve as a medical cannabis courier agent unless:

1872 (a) the individual is an employee of a licensed medical cannabis courier; and

1873 (b) the department registers the individual as a medical cannabis courier agent.

1874 (2) (a) The department shall, within 15 days after the day on which the department
1875 receives a complete application from a medical cannabis courier on behalf of a medical
1876 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
1877 the prospective agent if the medical cannabis courier:

1878 (i) provides to the department:

1879 (A) the prospective agent's name and address;

1880 (B) the name and address of the medical cannabis courier;

1881 (C) the name and address of each home delivery medical cannabis pharmacy with
1882 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

1883 (D) the submission required under Subsection (2)(b);

1884 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
1885 law of:

- 1886 (A) a felony; or
- 1887 (B) after December 3, 2018, a misdemeanor for drug distribution; and
- 1888 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
- 1889 the department sets in accordance with Section 63J-1-504.
- 1890 (b) Except for an applicant reapplying for a medical cannabis courier agent registration
- 1891 card within less than one year after the expiration of the applicant's previous medical cannabis
- 1892 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:
- 1893 (i) submit to the department:
- 1894 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
- 1895 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
- 1896 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
- 1897 Generation Identification System's Rap Back Service; and
- 1898 (ii) consent to a fingerprint background check by:
- 1899 (A) the Bureau of Criminal Identification; and
- 1900 (B) the Federal Bureau of Investigation.
- 1901 (c) The Bureau of Criminal Identification shall:
- 1902 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
- 1903 the applicable state, regional, and national criminal records databases, including the Federal
- 1904 Bureau of Investigation Next Generation Identification System;
- 1905 (ii) report the results of the background check to the department;
- 1906 (iii) maintain a separate file of fingerprints that prospective agents submit under
- 1907 Subsection (2)(b) for search by future submissions to the local and regional criminal records
- 1908 databases, including latent prints;
- 1909 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
- 1910 Generation Identification System's Rap Back Service for search by future submissions to
- 1911 national criminal records databases, including the Next Generation Identification System and
- 1912 latent prints; and
- 1913 (v) establish a privacy risk mitigation strategy to ensure that the department only
- 1914 receives notifications for an individual with whom the department maintains an authorizing
- 1915 relationship.
- 1916 (d) The department shall:

1917 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
1918 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1919 Bureau of Criminal Identification or another authorized agency provides under this section; and

1920 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
1921 Identification.

1922 (3) The department shall designate on an individual's medical cannabis courier agent
1923 registration card the name of the medical cannabis pharmacy where the individual is registered
1924 as an agent and each home delivery medical cannabis courier for which the medical cannabis
1925 courier delivers medical cannabis shipments.

1926 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
1927 the department develops, in collaboration with the Division of [~~Occupational and~~] Professional
1928 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1929 designates by rule in collaboration with the Division of [~~Occupational and~~] Professional
1930 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1931 Administrative Rulemaking Act.

1932 (b) The department shall ensure that the certification standard described in Subsection
1933 (4)(a) includes training in:

- 1934 (i) Utah medical cannabis law;
1935 (ii) the medical cannabis shipment process; and
1936 (iii) medical cannabis courier agent best practices.

1937 (5) (a) A medical cannabis courier agent registration card expires two years after the
1938 day on which the department issues or renews the card.

1939 (b) A medical cannabis courier agent may renew the agent's registration card if the
1940 agent:

- 1941 (i) is eligible for a medical cannabis courier agent registration card under this section;
1942 (ii) certifies to the department in a renewal application that the information in
1943 Subsection (2)(a) is accurate or updates the information; and

1944 (iii) pays to the department a renewal fee in an amount that:

1945 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1946 Section 63J-1-504; and

1947 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

1948 comparison to the original application process.

1949 (6) The department may revoke or refuse to issue or renew the medical cannabis
1950 courier agent registration card of an individual who:

1951 (a) violates the requirements of this chapter; or

1952 (b) is convicted under state or federal law of:

1953 (i) a felony; or

1954 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1955 (7) A medical cannabis courier agent whom the department has registered under this
1956 section shall carry the agent's medical cannabis courier agent registration card with the agent at
1957 all times when:

1958 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
1959 pharmacy, or a medical cannabis cardholder's home address; and

1960 (b) the agent is handling a medical cannabis shipment.

1961 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
1962 the shipment in compliance with Subsection (7):

1963 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and

1964 (b) there is no probable cause, based solely on the agent's possession of the medical
1965 cannabis shipment that the agent is engaging in illegal activity.

1966 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:

1967 (i) guilty of an infraction; and

1968 (ii) subject to a \$100 fine.

1969 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
1970 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1971 underlying the violation described in Subsection (9)(a).

1972 Section 32. Section **26-64-102** is amended to read:

1973 **26-64-102. Definitions.**

1974 As used in this chapter:

1975 (1) "Dispense" means the same as that term is defined in Section [58-17b-102](#).

1976 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
1977 created in Section [58-1-103](#).

1978 (3) "Local health department" means:

- 1979 (a) a local health department, as defined in Section 26A-1-102; or
- 1980 (b) a multicounty local health department, as defined in Section 26A-1-102.
- 1981 (4) "Patient counseling" means the same as that term is defined in Section 58-17b-102.
- 1982 (5) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- 1983 (6) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
- 1984 (7) "Physician" means the same as that term is defined in Section 58-67-102.
- 1985 (8) "Prescribe" means the same as that term is defined in Section 58-17b-102.

1986 (9) (a) "Self-administered hormonal contraceptive" means a self-administered
1987 hormonal contraceptive that is approved by the United States Food and Drug Administration to
1988 prevent pregnancy.

1989 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
1990 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

1991 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
1992 induce an abortion, as that term is defined in Section 76-7-301.

1993 Section 33. Section 26A-1-113 is amended to read:

1994 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**

1995 (1) Upon presenting proper identification, authorized representatives of local health
1996 departments may enter upon the premises of properties regulated by local health departments to
1997 perform routine inspections to insure compliance with rules, standards, regulations, and
1998 ordinances as adopted by the Departments of Health and Environmental Quality, local boards
1999 of health, county or municipal governing bodies, or administered by the Division of
2000 [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State
2001 Construction Code Administration Act.

2002 (2) Section 58-56-9 does not apply to health inspectors acting under this section.

2003 (3) This section does not authorize local health departments to inspect private
2004 dwellings.

2005 Section 34. Section 26A-1-114 is amended to read:

2006 **26A-1-114. Powers and duties of departments.**

2007 (1) Subject to Subsections (7) and (8), a local health department may:

2008 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
2009 department rules, and local health department standards and regulations relating to public

2010 health and sanitation, including the plumbing code administered by the Division of
2011 [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State
2012 Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager
2013 Certification Act, in all incorporated and unincorporated areas served by the local health
2014 department;

2015 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
2016 control over property and over individuals as the local health department finds necessary for
2017 the protection of the public health;

2018 (c) establish and maintain medical, environmental, occupational, and other laboratory
2019 services considered necessary or proper for the protection of the public health;

2020 (d) establish and operate reasonable health programs or measures not in conflict with
2021 state law which:

2022 (i) are necessary or desirable for the promotion or protection of the public health and
2023 the control of disease; or

2024 (ii) may be necessary to ameliorate the major risk factors associated with the major
2025 causes of injury, sickness, death, and disability in the state;

2026 (e) close theaters, schools, and other public places and prohibit gatherings of people
2027 when necessary to protect the public health;

2028 (f) abate nuisances or eliminate sources of filth and infectious and communicable
2029 diseases affecting the public health and bill the owner or other person in charge of the premises
2030 upon which this nuisance occurs for the cost of abatement;

2031 (g) make necessary sanitary and health investigations and inspections on ~~[its]~~ the local
2032 health department's own initiative or in cooperation with the Department of Health or
2033 Environmental Quality, or both, as to any matters affecting the public health;

2034 (h) pursuant to county ordinance or interlocal agreement:

2035 (i) establish and collect appropriate fees for the performance of services and operation
2036 of authorized or required programs and duties;

2037 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
2038 property, services, or materials for public health purposes; and

2039 (iii) make agreements not in conflict with state law which are conditional to receiving a
2040 donation or grant;

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

2072 (d) coordinate implementation of environmental programs to maximize efficient use of
2073 resources by developing with the Department of Environmental Quality a Comprehensive
2074 Environmental Service Delivery Plan which:

2075 (i) recognizes that the Department of Environmental Quality and local health
2076 departments are the foundation for providing environmental health programs in the state;

2077 (ii) delineates the responsibilities of the department and each local health department
2078 for the efficient delivery of environmental programs using federal, state, and local authorities,
2079 responsibilities, and resources;

2080 (iii) provides for the delegation of authority and pass through of funding to local health
2081 departments for environmental programs, to the extent allowed by applicable law, identified in
2082 the plan, and requested by the local health department; and

2083 (iv) is reviewed and updated annually.

2084 (3) The local health department has the following duties regarding public and private
2085 schools within [its] the local health department's boundaries:

2086 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
2087 persons attending public and private schools;

2088 (b) exclude from school attendance any person, including teachers, who is suffering
2089 from any communicable or infectious disease, whether acute or chronic, if the person is likely
2090 to convey the disease to those in attendance; and

2091 (c) (i) make regular inspections of the health-related condition of all school buildings
2092 and premises;

2093 (ii) report the inspections on forms furnished by the department to those responsible for
2094 the condition and provide instructions for correction of any conditions that impair or endanger
2095 the health or life of those attending the schools; and

2096 (iii) provide a copy of the report to the department at the time the report is made.

2097 (4) If those responsible for the health-related condition of the school buildings and
2098 premises do not carry out any instructions for corrections provided in a report in Subsection
2099 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
2100 persons responsible.

2101 (5) The local health department may exercise incidental authority as necessary to carry
2102 out the provisions and purposes of this part.

2103 (6) Nothing in this part may be construed to authorize a local health department to
2104 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
2105 monoxide detector in a residential dwelling against anyone other than the occupant of the
2106 dwelling.

2107 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
2108 declare a public health emergency or issue an order of constraint until the local health
2109 department has provided notice of the proposed action to the chief executive officer of the
2110 relevant county no later than 24 hours before the local health department issues the order or
2111 declaration.

2112 (b) The local health department:

2113 (i) shall provide the notice required by Subsection (7)(a) using the best available
2114 method under the circumstances as determined by the local health department;

2115 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

2116 (iii) shall provide the notice in written form, if practicable.

2117 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
2118 public health emergency or issue an order of constraint without approval of the chief executive
2119 officer of the relevant county if the passage of time necessary to obtain approval of the chief
2120 executive officer of the relevant county as required in Subsection (7)(a) would substantially
2121 increase the likelihood of loss of life due to an imminent threat.

2122 (ii) If a local health department declares a public health emergency or issues an order
2123 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
2124 chief executive officer of the relevant county before issuing the order of constraint.

2125 (iii) The chief executive officer of the relevant county may terminate a declaration of a
2126 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
2127 within 72 hours of declaration of the public health emergency or issuance of the order of
2128 constraint.

2129 (d) The relevant county governing body may at any time terminate a public health
2130 emergency or an order of constraint issued by the local health department by majority vote of
2131 the county governing body in response to a declared public health emergency.

2132 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
2133 a local health department expires at the earliest of:

2134 (i) the local health department or the chief executive officer of the relevant county
2135 finding that the threat or danger has passed or the public health emergency reduced to the
2136 extent that emergency conditions no longer exist;

2137 (ii) 30 days after the date on which the local health department declared the public
2138 health emergency; or

2139 (iii) the day on which the public health emergency is terminated by majority vote of the
2140 county governing body.

2141 (b) (i) The relevant county legislative body, by majority vote, may extend a public
2142 health emergency for a time period designated by the county legislative body.

2143 (ii) If the county legislative body extends a public health emergency as described in
2144 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
2145 legislative body.

2146 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
2147 local health department expires as described in Subsection (8)(a), the local health department
2148 may not declare a public health emergency for the same illness or occurrence that precipitated
2149 the previous public health emergency declaration.

2150 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
2151 health department finds that exigent circumstances exist, after providing notice to the county
2152 legislative body, the department may declare a new public health emergency for the same
2153 illness or occurrence that precipitated a previous public health emergency declaration.

2154 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
2155 accordance with Subsection (8)(a) or (b).

2156 (e) For a public health emergency declared by a local health department under this
2157 chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the
2158 Legislature may terminate by joint resolution a public health emergency that was declared
2159 based on exigent circumstances or that has been in effect for more than 30 days.

2160 (f) If the Legislature or county legislative body terminates a public health emergency
2161 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
2162 department may not declare a new public health emergency for the same illness, occurrence, or
2163 exigent circumstances.

2164 (9) (a) During a public health emergency declared under this chapter or under Title 26,

2165 Chapter 23b, Detection of Public Health Emergencies Act:

2166 (i) except as provided in Subsection (9)(b), a local health department may not issue an
2167 order of constraint without approval of the chief executive officer of the relevant county;

2168 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
2169 issued by a local health department in response to a declared public health emergency that has
2170 been in effect for more than 30 days; and

2171 (iii) a county governing body may at any time terminate by majority vote of the
2172 governing body an order of constraint issued by a local health department in response to a
2173 declared public health emergency.

2174 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
2175 order of constraint without approval of the chief executive officer of the relevant county if the
2176 passage of time necessary to obtain approval of the chief executive officer of the relevant
2177 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of
2178 life due to an imminent threat.

2179 (ii) If a local health department issues an order of constraint as described in Subsection
2180 (9)(b), the local health department shall notify the chief executive officer of the relevant county
2181 before issuing the order of constraint.

2182 (iii) The chief executive officer of the relevant county may terminate an order of
2183 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
2184 constraint.

2185 (c) (i) For a local health department that serves more than one county, the approval
2186 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
2187 of constraint is applicable.

2188 (ii) For a local health department that serves more than one county, a county governing
2189 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
2190 county served by the county governing body.

2191 (10) (a) During a public health emergency declared as described in this title:

2192 (i) the department or a local health department may not impose an order of constraint
2193 on a religious gathering that is more restrictive than an order of constraint that applies to any
2194 other relevantly similar gathering; and

2195 (ii) an individual, while acting or purporting to act within the course and scope of the

2196 individual's official department or local health department capacity, may not:

2197 (A) prevent a religious gathering that is held in a manner consistent with any order of
2198 constraint issued pursuant to this title; or

2199 (B) impose a penalty for a previous religious gathering that was held in a manner
2200 consistent with any order of constraint issued pursuant to this title.

2201 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
2202 prevent the violation of this Subsection (10).

2203 (c) During a public health emergency declared as described in this title, the department
2204 or a local health department shall not issue a public health order or impose or implement a
2205 regulation that substantially burdens an individual's exercise of religion unless the department
2206 or local health department demonstrates that the application of the burden to the individual:

2207 (i) is in furtherance of a compelling government interest; and

2208 (ii) is the least restrictive means of furthering that compelling government interest.

2209 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
2210 department shall allow reasonable accommodations for an individual to perform or participate
2211 in a religious practice or rite.

2212 Section 35. Section **26A-1-126** is amended to read:

2213 **26A-1-126. Medical reserve corps.**

2214 (1) In addition to the duties listed in Section [26A-1-114](#), a local health department may
2215 establish a medical reserve corps in accordance with this section.

2216 (2) The purpose of a medical reserve corps is to enable a local health authority to
2217 respond with appropriate health care professionals to a national, state, or local emergency, a
2218 public health emergency as defined in Section [26-23b-102](#), or a declaration by the president of
2219 the United States or other federal official requesting public health related activities.

2220 (3) (a) A local health department may train health care professionals who participate in
2221 a medical reserve corps to respond to an emergency or declaration for public health related
2222 activities pursuant to Subsection (2).

2223 (b) When an emergency or request for public health related activities has been declared
2224 in accordance with Subsection (2), a local health department may activate a medical reserve
2225 corps for the duration of the emergency or declaration for public health related activities.

2226 (4) For purposes of this section, a medical reserve corps may include persons who:

2227 (a) are licensed under Title 58, Occupations and Professions, and who are operating
2228 within the scope of their practice;

2229 (b) are exempt from licensure, or operating under modified scope of practice
2230 provisions in accordance with Subsections 58-1-307(4) and (5); and

2231 (c) within the 10 years preceding the declared emergency, held a valid license, in good
2232 standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license
2233 is not currently active.

2234 (5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the
2235 local health department may authorize a person described in Subsection (4) to operate in a
2236 modified scope of practice as necessary to respond to the declaration under Subsection (2).

2237 (b) A person operating as a member of an activated medical reserve corps or training as
2238 a member of a medical reserve corps under this section:

2239 (i) shall be volunteering for and supervised by the local health department;

2240 (ii) shall comply with the provisions of this section;

2241 (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

2242 (iv) shall carry a certificate issued by the local health department which designates the
2243 individual as a member of the medical reserve corps during the duration of the emergency or
2244 declaration for public health related activities pursuant to Subsection (2).

2245 (6) The local department of health may access the Division of [~~Occupational and~~]
2246 Professional Licensing database for the purpose of determining if a person's current or expired
2247 license to practice in the state was in good standing.

2248 (7) The local department of health shall maintain a registry of persons who are
2249 members of a medical reserve corps. The registry of the medical reserve corps shall be made
2250 available to the public and to the Division of [~~Occupational and~~] Professional Licensing.

2251 Section 36. Section ~~31A-22-642~~ is amended to read:

2252 **31A-22-642. Insurance coverage for autism spectrum disorder.**

2253 (1) As used in this section:

2254 (a) "Applied behavior analysis" means the design, implementation, and evaluation of
2255 environmental modifications, using behavioral stimuli and consequences, to produce socially
2256 significant improvement in human behavior, including the use of direct observation,
2257 measurement, and functional analysis of the relationship between environment and behavior.

2258 (b) "Autism spectrum disorder" means pervasive developmental disorders as defined
2259 by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders
2260 (DSM).

2261 (c) "Behavioral health treatment" means counseling and treatment programs, including
2262 applied behavior analysis, that are:

2263 (i) necessary to develop, maintain, or restore, to the maximum extent practicable, the
2264 functioning of an individual; and

2265 (ii) provided or supervised by a:

2266 (A) board certified behavior analyst; or

2267 (B) person licensed under Title 58, Chapter 1, Division of [~~Occupational and~~]

2268 Professional Licensing Act, whose scope of practice includes mental health services.

2269 (d) "Diagnosis of autism spectrum disorder" means medically necessary assessments,
2270 evaluations, or tests:

2271 (i) performed by a licensed physician who is board certified in neurology, psychiatry,
2272 or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed
2273 psychologist with experience diagnosing autism spectrum disorder; and

2274 (ii) necessary to diagnose whether an individual has an autism spectrum disorder.

2275 (e) "Pharmacy care" means medications prescribed by a licensed physician and any
2276 health-related services considered medically necessary to determine the need or effectiveness
2277 of the medications.

2278 (f) "Psychiatric care" means direct or consultative services provided by a psychiatrist
2279 licensed in the state in which the psychiatrist practices.

2280 (g) "Psychological care" means direct or consultative services provided by a
2281 psychologist licensed in the state in which the psychologist practices.

2282 (h) "Therapeutic care" means services provided by licensed or certified speech
2283 therapists, occupational therapists, or physical therapists.

2284 (i) "Treatment for autism spectrum disorder":

2285 (i) means evidence-based care and related equipment prescribed or ordered for an
2286 individual diagnosed with an autism spectrum disorder by a physician or a licensed
2287 psychologist described in Subsection (1)(d) who determines the care to be medically necessary;
2288 and

2289 (ii) includes:

2290 (A) behavioral health treatment, provided or supervised by a person described in

2291 Subsection (1)(c)(ii);

2292 (B) pharmacy care;

2293 (C) psychiatric care;

2294 (D) psychological care; and

2295 (E) therapeutic care.

2296 (2) (a) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan
2297 offered in the individual market or the large group market and entered into or renewed on or
2298 after January 1, 2016, and before January 1, 2020, shall provide coverage for the diagnosis and
2299 treatment of autism spectrum disorder:

2300 (i) for a child who is at least two years old, but younger than 10 years old; and

2301 (ii) in accordance with the requirements of this section and rules made by the
2302 commissioner.

2303 (b) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan
2304 offered in the individual market or the large group market and entered into or renewed on or
2305 after January 1, 2020, shall provide coverage for the diagnosis and treatment of autism
2306 spectrum disorder in accordance with the requirements of this section and rules made by the
2307 commissioner.

2308 (3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah
2309 Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of
2310 autism spectrum disorder.

2311 (4) Subject to Subsection (5), the rules described in Subsection (3) shall establish
2312 durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of
2313 autism spectrum disorder that are similar to, or identical to, the coverage provided for other
2314 illnesses or diseases.

2315 (5) (a) Coverage for behavioral health treatment for a person with an autism spectrum
2316 disorder shall cover at least 600 hours a year.

2317 (b) Notwithstanding Subsection (5)(a), for a health benefit plan offered in the
2318 individual market or the large group market and entered into or renewed on or after January 1,
2319 2020, coverage for behavioral health treatment for a person with an autism spectrum disorder

2320 may not have a limit on the number of hours covered.

2321 (c) Other terms and conditions in the health benefit plan that apply to other benefits
2322 covered by the health benefit plan apply to coverage required by this section.

2323 (d) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment
2324 under Subsections (5)(a) and (b) shall include in the plan's provider network both board
2325 certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

2326 (6) A health care provider shall submit a treatment plan for autism spectrum disorder to
2327 the insurer within 14 business days of starting treatment for an individual. If an individual is
2328 receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a
2329 review of that treatment not more than once every three months. A review of treatment under
2330 this Subsection (6) may include a review of treatment goals and progress toward the treatment
2331 goals. If an insurer makes a determination to stop treatment as a result of the review of the
2332 treatment plan under this subsection, the determination of the insurer may be reviewed under
2333 Section 31A-22-629.

2334 Section 37. Section 32B-4-305 is amended to read:

2335 **32B-4-305. Additional criminal penalties.**

2336 (1) (a) As used in this section, "business entity" means a corporation, partnership,
2337 association, limited liability company, or similar entity.

2338 (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this
2339 section applies.

2340 (2) Upon a defendant's conviction of an offense defined in this title, the court may
2341 order the defendant to pay restitution or costs in accordance with Subsection 76-3-201(4).

2342 (3) (a) Upon a business entity's conviction of an offense defined in this title, and a
2343 failure of the business entity to pay a fine imposed upon it:

2344 (i) if [it] the business entity is a domestic business entity, the powers, rights, and
2345 privileges of the business entity may be suspended or revoked; and

2346 (ii) if [it] the business entity is a foreign business entity, it forfeits its right to do
2347 intrastate business in this state.

2348 (b) The department shall transmit the name of a business entity described in Subsection
2349 (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information,
2350 the Division of Corporations and Commercial Code shall immediately record the action in a

2351 manner that makes the information available to the public.

2352 (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from
2353 the day on which the Division of Corporations and Commercial Code records the information.

2354 (d) A certificate of the Division of Corporations and Commercial Code is prima facie
2355 evidence of a suspension, revocation, or forfeiture.

2356 (e) This section may not be construed as affecting, limiting, or restricting a proceeding
2357 that otherwise may be taken for the imposition of any other punishment or the modes of
2358 enforcement or recovery of fines or penalties.

2359 (4) (a) Upon the conviction of a business entity required to have a business license to
2360 operate ~~[its]~~ the business entity's activities, or upon the conviction of any of ~~[its]~~ the business
2361 entity's staff of any offense defined in this title, with the knowledge, consent, or acquiescence
2362 of the business entity, the department shall forward a copy of the judgment of conviction to the
2363 appropriate governmental entity responsible for issuing and revoking the business license.

2364 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)
2365 may institute appropriate proceedings to revoke the business license.

2366 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a
2367 business license to the business entity for at least one year from the date of revocation.

2368 (d) Upon the conviction for a second or other offense, the governmental entity may not
2369 issue a business license for at least two years from the date of revocation.

2370 (5) (a) Upon conviction of one of the following of an offense defined in this title, the
2371 department shall forward a certified copy of the judgment of conviction to the Division of
2372 ~~[Occupational and]~~ Professional Licensing:

2373 (i) a health care practitioner; or

2374 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary
2375 Practice Act.

2376 (b) The Division of ~~[Occupational and]~~ Professional Licensing may bring a proceeding
2377 in accordance with Title 58, Occupations and Professions, to revoke the license issued under
2378 Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).

2379 (c) Upon revocation of a license under Subsection (5)(b):

2380 (i) the Division of ~~[Occupational and]~~ Professional Licensing may not issue a license to
2381 the individual under Title 58, Occupations and Professions, for at least one year from the date

2382 of revocation; and

2383 (ii) if the individual is convicted of a second or subsequent offense, the Division of
2384 [~~Occupational and~~] Professional Licensing may not issue a license to the individual under Title
2385 58, Occupations and Professions, for at least two years from the date of revocation.

2386 Section 38. Section ~~34-38-13~~ is amended to read:

2387 **34-38-13. Confidentiality of test-related information.**

2388 (1) For purposes of this section, "test-related information" means the following
2389 received by the employer through the employer's drug or alcohol testing program:

2390 (a) information;

2391 (b) interviews;

2392 (c) reports;

2393 (d) statements;

2394 (e) memoranda; or

2395 (f) test results.

2396 (2) Except as provided in Subsections (3) and (6), test-related information is a
2397 confidential communication and may not be:

2398 (a) used or received in evidence;

2399 (b) obtained in discovery; or

2400 (c) disclosed in any public or private proceeding.

2401 (3) Test-related information:

2402 (a) shall be disclosed to the Division of [~~Occupational and~~] Professional Licensing:

2403 (i) in the manner provided in Subsection 58-13-5(3); and

2404 (ii) only to the extent required under Subsection 58-13-5(3); and

2405 (b) may only be used in a proceeding related to:

2406 (i) an action taken by the Division of [~~Occupational and~~] Professional Licensing under
2407 Section 58-1-401 when the Division of [~~Occupational and~~] Professional Licensing is taking
2408 action in whole or in part on the basis of test-related information disclosed under Subsection
2409 (3)(a);

2410 (ii) an action taken by an employer under Section 34-38-8; or

2411 (iii) an action under Section 34-38-11.

2412 (4) Test-related information shall be the property of the employer.

2413 (5) An employer is entitled to use a drug or alcohol test result as a basis for action
2414 under Section 34-38-8.

2415 (6) An employer may not be examined as a witness with regard to test-related
2416 information, except:

2417 (a) in a proceeding related to an action taken by the employer under Section 34-38-8;

2418 (b) in an action under Section 34-38-11; or

2419 (c) in an action described in Subsection (3)(b)(i).

2420 Section 39. Section 35A-6-105 is amended to read:

2421 **35A-6-105. Commissioner of Apprenticeship Programs.**

2422 (1) There is created the position of Commissioner of Apprenticeship Programs within
2423 the department.

2424 (2) The commissioner shall be appointed by the executive director and chosen from
2425 one or more recommendations provided by a majority vote of the State Workforce
2426 Development Board.

2427 (3) The commissioner may be terminated without cause by the executive director.

2428 (4) The commissioner shall:

2429 (a) promote and educate the public, including high school guidance counselors and
2430 potential participants in apprenticeship programs, about apprenticeship programs, youth
2431 apprenticeship, and pre-apprenticeship programs offered in the state, including apprenticeship,
2432 youth apprenticeship, and pre-apprenticeship programs offered by private sector businesses,
2433 trade groups, labor unions, partnerships with educational institutions, and other associations in
2434 the state;

2435 (b) coordinate with the department and other stakeholders, including union and
2436 nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education,
2437 the Utah system of higher education, the Department of Commerce, the Division of
2438 [~~Occupational and~~] Professional Licensing, and the Governor's Office of Economic
2439 Opportunity to improve and promote apprenticeship opportunities in the state; and

2440 (c) provide an annual written report to:

2441 (i) the department for inclusion in the department's annual written report described in
2442 Section 35A-1-109;

2443 (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;

2444 and

2445 (iii) the Higher Education Appropriations Subcommittee.

2446 (5) The annual written report described in Subsection (4)(c) shall provide information
2447 concerning:

2448 (a) the number of available apprenticeship, youth apprenticeship, and
2449 pre-apprenticeship programs in the state;

2450 (b) the number of apprentice participants in each program;

2451 (c) the completion rate of each program;

2452 (d) the cost of state funding for each program; and

2453 (e) recommendations for improving apprenticeship, youth apprenticeship, and
2454 pre-apprenticeship programs.

2455 Section 40. Section **36-23-102** is amended to read:

2456 **36-23-102. Occupational and Professional Licensure Review Committee.**

2457 (1) There is created the Occupational and Professional Licensure Review Committee.

2458 (2) The committee consists of nine members appointed as follows:

2459 (a) three members of the House of Representatives, appointed by the speaker of the
2460 House of Representatives, with no more than two appointees from the same political party;

2461 (b) three members of the Senate, appointed by the president of the Senate, with no
2462 more than two appointees from the same political party; and

2463 (c) three public members appointed jointly by the speaker of the House of
2464 Representatives and the president of the Senate from the following two groups:

2465 (i) at least one member who has previously served, but is no longer serving, on an
2466 advisory board created under Title 58, Occupations and Professions; and

2467 (ii) at least one member from the general public who does not hold a license issued by
2468 the Division of [~~Occupational and~~] Professional Licensing.

2469 (3) (a) The speaker of the House of Representatives shall designate a member of the
2470 House of Representatives appointed under Subsection (2)(a) as a cochair of the committee.

2471 (b) The president of the Senate shall designate a member of the Senate appointed under
2472 Subsection (2)(b) as a cochair of the committee.

2473 Section 41. Section **36-23-107** is amended to read:

2474 **36-23-107. Sunrise or sunset review -- Criteria.**

2475 (1) In conducting a sunrise review or a sunset review under this chapter, the committee
2476 may:

2477 (a) receive information from:

2478 (i) representatives of the lawful occupation proposed to be newly regulated or that is
2479 subject to a sunset review;

2480 (ii) the Division of [~~Occupational and~~] Professional Licensing; or

2481 (iii) any other person; and

2482 (b) review a proposal with or without considering proposed statutory language.

2483 (2) When conducting a sunrise review or sunset review under this chapter, the
2484 committee shall:

2485 (a) consider whether state regulation of the lawful occupation is necessary to address a
2486 compelling state interest in protecting against present, recognizable, and significant harm to the
2487 health or safety of the public;

2488 (b) consider if the committee's recommendations to the Legislature would negatively
2489 affect the interests of members of the regulated lawful occupation, including the effect on
2490 matters of reciprocity with other states;

2491 (c) if the committee determines that state regulation of the lawful occupation is not
2492 necessary to protect against present, recognizable, and significant harm to the health or safety
2493 of the public, recommend to the Legislature that the state not regulate the profession;

2494 (d) if the committee determines that state regulation of the lawful occupation is
2495 necessary in protecting against present, recognizable, and significant harm to the health or
2496 safety of the public, consider whether:

2497 (i) the proposed or existing statute is narrowly tailored to protect against present,
2498 recognizable, and significant harm to the health or safety of the public; and

2499 (ii) a potentially less restrictive alternative to licensing, including state certification,
2500 state registration, or exemption, would avoid unnecessary regulation while still protecting the
2501 health and safety of the public; and

2502 (e) recommend to the Legislature any necessary changes to the proposed or existing
2503 statute to ensure it is narrowly tailored to protect against present, recognizable, and significant
2504 harm to the health or safety of the public.

2505 (3) In [~~its~~] the committee's performance of each sunrise review or sunset review, the

2506 committee may apply the following criteria, to the extent that it is applicable:

2507 (a) whether the unregulated practice of the occupation or profession has clearly harmed
2508 or may harm or endanger the health, safety, or welfare of the public;

2509 (b) whether the potential for harm or endangerment described in Subsection (3)(a) is
2510 easily recognizable and not remote;

2511 (c) whether regulation of the occupation or profession will significantly diminish an
2512 identified risk to the health, safety, or welfare of the public;

2513 (d) whether regulation of the lawful occupation:

2514 (i) imposes significant new economic hardship on the public;

2515 (ii) significantly diminishes the supply of qualified practitioners; or

2516 (iii) otherwise creates barriers to service that are not consistent with the public welfare
2517 or interest;

2518 (e) whether the lawful occupation requires knowledge, skills, and abilities that are:

2519 (i) teachable; and

2520 (ii) testable;

2521 (f) whether the lawful occupation is clearly distinguishable from other lawful
2522 occupations that are already regulated;

2523 (g) whether the lawful occupation has:

2524 (i) an established code of ethics;

2525 (ii) a voluntary certification program; or

2526 (iii) other measures to ensure a minimum quality of service;

2527 (h) whether:

2528 (i) the lawful occupation involves the treatment of an illness, injury, or health care
2529 condition; and

2530 (ii) practitioners of the lawful occupation will request payment of benefits for the
2531 treatment under an insurance contract subject to Section [31A-22-618](#);

2532 (i) whether the public can be adequately protected by means other than regulation; and

2533 (j) other appropriate criteria as determined by the committee.

2534 Section 42. Section **38-1a-102** is amended to read:

2535 **38-1a-102. Definitions.**

2536 As used in this chapter:

- 2537 (1) "Alternate means" means a method of filing a legible and complete notice or other
2538 document with the registry other than electronically, as established by the division by rule.
- 2539 (2) "Anticipated improvement" means the improvement:
2540 (a) for which preconstruction service is performed; and
2541 (b) that is anticipated to follow the performing of preconstruction service.
- 2542 (3) "Applicable county recorder" means the office of the recorder of each county in
2543 which any part of the property on which a claimant claims or intends to claim a preconstruction
2544 or construction lien is located.
- 2545 (4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which
2546 the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting
2547 shares or other ownership interest.
- 2548 (5) "Claimant" means a person entitled to claim a preconstruction or construction lien.
- 2549 (6) "Compensation" means the payment of money for a service rendered or an expense
2550 incurred, whether based on:
2551 (a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or
2552 percentage fee, or commission; or
2553 (b) a combination of the bases listed in Subsection (6)(a).
- 2554 (7) "Construction lender" means a person who makes a construction loan.
- 2555 (8) "Construction lien" means a lien under this chapter for construction work.
- 2556 (9) "Construction loan" does not include a consumer loan secured by the equity in the
2557 consumer's home.
- 2558 (10) "Construction project" means an improvement that is constructed pursuant to an
2559 original contract.
- 2560 (11) "Construction work":
2561 (a) means labor, service, material, or equipment provided for the purpose and during
2562 the process of constructing, altering, or repairing an improvement; and
2563 (b) includes scheduling, estimating, staking, supervising, managing, materials testing,
2564 inspection, observation, and quality control or assurance involved in constructing, altering, or
2565 repairing an improvement.
- 2566 (12) "Contestable notice" means a notice of preconstruction service under Section
2567 [38-1a-401](#), a preliminary notice under Section [38-1a-501](#), or a notice of completion under

2568 Section 38-1a-506.

2569 (13) "Contesting person" means an owner, original contractor, subcontractor, or other
2570 interested person.

2571 (14) "Designated agent" means the third party the division contracts with as provided
2572 in Section 38-1a-202 to create and maintain the registry.

2573 (15) "Division" means the Division of [~~Occupational and~~] Professional Licensing
2574 created in Section 58-1-103.

2575 (16) "Entry number" means the reference number that:

2576 (a) the designated agent assigns to each notice or other document filed with the
2577 registry; and

2578 (b) is unique for each notice or other document.

2579 (17) "Final completion" means:

2580 (a) the date of issuance of a permanent certificate of occupancy by the local
2581 government entity having jurisdiction over the construction project, if a permanent certificate
2582 of occupancy is required;

2583 (b) the date of the final inspection of the construction work by the local government
2584 entity having jurisdiction over the construction project, if an inspection is required under a
2585 state-adopted building code applicable to the construction work, but no certificate of occupancy
2586 is required;

2587 (c) unless the owner is holding payment to ensure completion of construction work, the
2588 date on which there remains no substantial work to be completed to finish the construction
2589 work under the original contract, if a certificate of occupancy is not required and a final
2590 inspection is not required under an applicable state-adopted building code; or

2591 (d) the last date on which substantial work was performed under the original contract,
2592 if, because the original contract is terminated before completion of the construction work
2593 defined by the original contract, the local government entity having jurisdiction over the
2594 construction project does not issue a certificate of occupancy or perform a final inspection.

2595 (18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).

2596 (19) "First preliminary notice filing" means a preliminary notice that:

2597 (a) is the earliest preliminary notice filed on the construction project for which the
2598 preliminary notice is filed;

2599 (b) is filed on a construction project that, at the time the preliminary notice is filed, has
2600 not reached final completion; and

2601 (c) is not cancelled under Section 38-1a-307.

2602 (20) "Government project-identifying information" has the same meaning as defined in
2603 Section 38-1b-102.

2604 (21) "Improvement" means:

2605 (a) a building, infrastructure, utility, or other human-made structure or object
2606 constructed on or for and affixed to real property; or

2607 (b) a repair, modification, or alteration of a building, infrastructure, utility, or object
2608 referred to in Subsection (21)(a).

2609 (22) "Interested person" means a person that may be affected by a construction project.

2610 (23) "Notice of commencement" means a notice required under Section 38-1b-201 for
2611 a government project, as defined in Section 38-1b-102.

2612 (24) "Original contract":

2613 (a) means a contract between an owner and an original contractor for preconstruction
2614 service or construction work; and

2615 (b) does not include a contract between an owner-builder and another person.

2616 (25) "Original contractor" means a person, including an owner-builder, that contracts
2617 with an owner to provide preconstruction service or construction work.

2618 (26) "Owner" means the person that owns the project property.

2619 (27) "Owner-builder" means an owner, including an owner who is also an original
2620 contractor, who:

2621 (a) contracts with one or more other persons for preconstruction service or construction
2622 work for an improvement on the owner's real property; and

2623 (b) obtains a building permit for the improvement.

2624 (28) "Preconstruction lien" means a lien under this chapter for a preconstruction
2625 service.

2626 (29) "Preconstruction service":

2627 (a) means to plan or design, or to assist in the planning or design of, an improvement or
2628 a proposed improvement:

2629 (i) before construction of the improvement commences; and

2630 (ii) for compensation separate from any compensation paid or to be paid for
2631 construction work for the improvement; and

2632 (b) includes consulting, conducting a site investigation or assessment, programming,
2633 preconstruction cost or quantity estimating, preconstruction scheduling, performing a
2634 preconstruction construction feasibility review, procuring construction services, and preparing
2635 a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan,
2636 drawing, specification, or contract document.

2637 (30) "Private project" means a construction project that is not a government project.

2638 (31) "Project property" means the real property on or for which preconstruction service
2639 or construction work is or will be provided.

2640 (32) "Registry" means the State Construction Registry under Part 2, State Construction
2641 Registry.

2642 (33) "Required notice" means:

2643 (a) a notice of preconstruction service under Section [38-1a-401](#);

2644 (b) a preliminary notice under Section [38-1a-501](#) or Section [38-1b-202](#);

2645 (c) a notice of commencement;

2646 (d) a notice of construction loan under Section [38-1a-601](#);

2647 (e) a notice under Section [38-1a-602](#) concerning a construction loan default;

2648 (f) a notice of intent to obtain final completion under Section [38-1a-506](#); or

2649 (g) a notice of completion under Section [38-1a-507](#).

2650 (34) "Subcontractor" means a person that contracts to provide preconstruction service
2651 or construction work to:

2652 (a) a person other than the owner; or

2653 (b) the owner, if the owner is an owner-builder.

2654 (35) "Substantial work" does not include repair work or warranty work.

2655 (36) "Supervisory subcontractor" means a person that:

2656 (a) is a subcontractor under contract to provide preconstruction service or construction
2657 work; and

2658 (b) contracts with one or more other subcontractors for the other subcontractor or
2659 subcontractors to provide preconstruction service or construction work that the person is under
2660 contract to provide.

2661 Section 43. Section **38-1b-102** is amended to read:

2662 **38-1b-102. Definitions.**

2663 As used in this chapter:

2664 (1) "Alternate means" means the same as that term is defined in Section [38-1a-102](#).

2665 (2) "Construction project" means the same as that term is defined in Section [38-1a-102](#).

2666 (3) "Construction work" means the same as that term is defined in Section [38-1a-102](#).

2667 (4) "Designated agent" means the same as that term is defined in Section [38-1a-102](#).

2668 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing

2669 created in Section [58-1-103](#).

2670 (6) "Government project" means a construction project undertaken by or for:

2671 (a) the state, including a department, division, or other agency of the state; or

2672 (b) a county, city, town, school district, local district, special service district,

2673 community reinvestment agency, or other political subdivision of the state.

2674 (7) "Government project-identifying information" means:

2675 (a) the lot or parcel number of each lot included in the project property that has a lot or

2676 parcel number; or

2677 (b) the unique project number assigned by the designated agent.

2678 (8) "Original contractor" means the same as that term is defined in Section [38-1a-102](#).

2679 (9) "Owner" means the same as that term is defined in Section [38-1a-102](#).

2680 (10) "Owner-builder" means the same as that term is defined in Section [38-1a-102](#).

2681 (11) "Private project" means a construction project that is not a government project.

2682 (12) "Project property" means the same as that term is defined in Section [38-1a-102](#).

2683 (13) "Registry" means the same as that term is defined in Section [38-1a-102](#).

2684 Section 44. Section **38-11-102** is amended to read:

2685 **38-11-102. Definitions.**

2686 (1) "Certificate of compliance" means an order issued by the director to the owner

2687 finding that the owner is in compliance with the requirements of Subsections [38-11-204\(4\)\(a\)](#)

2688 and [\(4\)\(b\)](#) and is entitled to protection under Section [38-11-107](#).

2689 (2) "Construction on an owner-occupied residence" means designing, engineering,

2690 constructing, altering, remodeling, improving, repairing, or maintaining a new or existing

2691 residence.

- 2692 (3) "Department" means the Department of Commerce.
- 2693 (4) "Director" means the director of the Division of [~~Occupational and~~] Professional
2694 Licensing or the director's designee.
- 2695 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing.
- 2696 (6) "Duplex" means a single building having two separate living units.
- 2697 (7) "Encumbered fund balance" means the aggregate amount of outstanding claims
2698 against the fund. The remainder of the money in the fund is unencumbered funds.
- 2699 (8) "Executive director" means the executive director of the Department of Commerce.
- 2700 (9) "Factory built housing" is as defined in Section [15A-1-302](#).
- 2701 (10) "Factory built housing retailer" means a person that sells factory built housing to
2702 consumers.
- 2703 (11) "Fund" means the Residence Lien Recovery Fund established under Section
2704 [38-11-201](#).
- 2705 (12) "Laborer" means a person who provides services at the site of the construction on
2706 an owner-occupied residence as an employee of an original contractor or other qualified
2707 beneficiary performing qualified services on the residence.
- 2708 (13) "Licensee" means any holder of a license issued under Title 58, Chapter 3a,
2709 Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors
2710 Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah
2711 Construction Trades Licensing Act.
- 2712 (14) "Nonpaying party" means the original contractor, subcontractor, or real estate
2713 developer who has failed to pay the qualified beneficiary making a claim against the fund.
- 2714 (15) "Original contractor" means a person who contracts with the owner of real
2715 property or the owner's agent to provide services, labor, or material for the construction of an
2716 owner-occupied residence.
- 2717 (16) "Owner" means a person who:
- 2718 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
2719 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an
2720 owner-occupied residence upon real property that the person:
- 2721 (i) owns; or
- 2722 (ii) purchases after the person enters into a contract described in this Subsection (16)(a)

2723 and before completion of the owner-occupied residence;

2724 (b) contracts with a real estate developer to buy a residence upon completion of the
2725 construction on the owner-occupied residence; or

2726 (c) purchases a residence from a real estate developer after completion of the
2727 construction on the owner-occupied residence.

2728 (17) "Owner-occupied residence" means a residence that is, or after completion of the
2729 construction on the residence will be, occupied by the owner or the owner's tenant or lessee as a
2730 primary or secondary residence within 180 days after the day on which the construction on the
2731 residence is complete.

2732 (18) "Qualified beneficiary" means a person who:

2733 (a) provides qualified services;

2734 (b) pays necessary fees required under this chapter; and

2735 (c) registers with the division:

2736 (i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks
2737 recovery from the fund as a licensed contractor; or

2738 (ii) as a person providing qualified services other than as a licensed contractor under
2739 Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as
2740 a licensed contractor.

2741 (19) (a) "Qualified services" means the following performed in construction on an
2742 owner-occupied residence:

2743 (i) contractor services provided by a contractor licensed or exempt from licensure
2744 under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

2745 (ii) architectural services provided by an architect licensed under Title 58, Chapter 3a,
2746 Architects Licensing Act;

2747 (iii) engineering and land surveying services provided by a professional engineer or
2748 land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional
2749 Engineers and Professional Land Surveyors Licensing Act;

2750 (iv) landscape architectural services by a landscape architect licensed or exempt from
2751 licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

2752 (v) design and specification services of mechanical or other systems;

2753 (vi) other services related to the design, drawing, surveying, specification, cost

2754 estimation, or other like professional services;

2755 (vii) providing materials, supplies, components, or similar products;

2756 (viii) renting equipment or materials;

2757 (ix) labor at the site of the construction on the owner-occupied residence; and

2758 (x) site preparation, set up, and installation of factory built housing.

2759 (b) "Qualified services" does not include the construction of factory built housing in
2760 the factory.

2761 (20) "Real estate developer" means a person having an ownership interest in real
2762 property who:

2763 (a) contracts with a person who is licensed as a contractor or is exempt from licensure
2764 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a
2765 residence that is offered for sale to the public; or

2766 (b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades
2767 Licensing Act, who engages in the construction of a residence that is offered for sale to the
2768 public.

2769 (21) (a) "Residence" means an improvement to real property used or occupied, to be
2770 used or occupied as, or in conjunction with:

2771 (i) a primary or secondary detached single-family dwelling; or

2772 (ii) a multifamily dwelling up to and including duplexes.

2773 (b) "Residence" includes factory built housing.

2774 (22) "Subsequent owner" means a person who purchases a residence from an owner
2775 within 180 days after the day on which the construction on the residence is completed.

2776 Section 45. Section **38-11-103** is amended to read:

2777 **38-11-103. Administration.**

2778 This chapter shall be administered by the Division of [~~Occupational and~~] Professional
2779 Licensing pursuant to the provisions of this chapter and consistent with Title 58, Chapter 1,
2780 Division of [~~Occupational and~~] Professional Licensing Act.

2781 Section 46. Section **41-6a-502** is amended to read:

2782 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
2783 **both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.**

2784 (1) A person may not operate or be in actual physical control of a vehicle within this

2785 state if the person:

2786 (a) has sufficient alcohol in the person's body that a subsequent chemical test shows
2787 that the person has a blood or breath alcohol concentration of .05 grams or greater at the time
2788 of the test;

2789 (b) is under the influence of alcohol, any drug, or the combined influence of alcohol
2790 and any drug to a degree that renders the person incapable of safely operating a vehicle; or

2791 (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of
2792 operation or actual physical control.

2793 (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
2794 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
2795 alcohol per 210 liters of breath.

2796 (3) A violation of this section includes a violation under a local ordinance similar to
2797 this section adopted in compliance with Section 41-6a-510.

2798 (4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
2799 [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the
2800 name, case number, and, if known, the date of birth of each person convicted during the
2801 preceding month of a violation of this section for whom there is evidence that the person was
2802 driving under the influence, in whole or in part, of a prescribed controlled substance.

2803 (5) An offense described in this section is a strict liability offense.

2804 (6) A guilty or no contest plea to an offense described in this section may not be held in
2805 abeyance.

2806 Section 47. Section 41-6a-502.5 is amended to read:

2807 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
2808 **requirements.**

2809 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
2810 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
2811 impaired driving under this section if:

2812 (a) the defendant completes court ordered probation requirements; or

2813 (b) (i) the prosecutor agrees as part of a negotiated plea; and

2814 (ii) the court finds the plea to be in the interest of justice.

2815 (2) A conviction entered under this section is a class B misdemeanor.

2816 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
2817 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

2818 (ii) If the defendant fails to appear before the court and establish successful completion
2819 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
2820 amended conviction of Section 41-6a-502.

2821 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
2822 conviction.

2823 (b) The court may enter a conviction of impaired driving immediately under
2824 Subsection (1)(b).

2825 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
2826 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
2827 degree.

2828 (5) (a) The court shall notify the Driver License Division of each conviction entered
2829 under this section.

2830 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
2831 [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the
2832 name, case number, and, if known, the date of birth of each person convicted during the
2833 preceding month of a violation of this section for whom there is evidence that the person was
2834 driving while impaired, in whole or in part, by a prescribed controlled substance.

2835 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
2836 sentencing court to order a convicted person to participate in a screening, an assessment, or an
2837 educational series, or obtain substance abuse treatment or do a combination of those things,
2838 apply to a conviction entered under this section.

2839 (b) The court shall render the same order regarding screening, assessment, an
2840 educational series, or substance abuse treatment in connection with a first, second, or
2841 subsequent conviction under this section as the court would render in connection with applying
2842 respectively, the first, second, or subsequent conviction requirements of Subsections
2843 41-6a-505(1), (3), (5), and (7).

2844 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
2845 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
2846 reporting court notifies the Driver License Division that the defendant is participating in or has

2847 successfully completed the program of a driving under the influence court.

2848 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

2849 (i) a CDL license holder; or

2850 (ii) a violation that occurred in a commercial motor vehicle.

2851 (8) The provisions of this section are not available:

2852 (a) to a person who has a prior conviction as that term is defined in Subsection

2853 41-6a-501(2); or

2854 (b) where there is admissible evidence that the individual:

2855 (i) had a blood alcohol level of .16 or higher;

2856 (ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled

2857 substance; or

2858 (iii) had a combination of two or more controlled substances in the person's body that

2859 were not:

2860 (A) prescribed by a licensed physician; or

2861 (B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis

2862 Act.

2863 Section 48. Section **53-2a-1205** is amended to read:

2864 **53-2a-1205. Administration -- Notification and procedures.**

2865 (1) Any out-of-state business that enters the state shall, within a reasonable time after

2866 entry, not to exceed 30 days, provide to the Division of [~~Occupational and~~] Professional

2867 Licensing a statement that it is in the state for purposes of responding to the disaster or

2868 emergency, which statement shall include the business's:

2869 (a) name;

2870 (b) state of domicile;

2871 (c) principal business address;

2872 (d) federal tax identification number;

2873 (e) date of entry;

2874 (f) contact information; and

2875 (g) evidence of compliance with the regulatory or licensing requirements in Section

2876 53-2a-1203, such as a copy of applicable permits or licenses.

2877 (2) Any affiliate of a registered business in the state and any out-of-state business that

2878 is registered as a public utility in another state and that is providing assistance under the terms
2879 of a utility multistate mutual aid agreement shall not be required to provide the information
2880 required in Subsection (1), unless requested by the Division of [~~Occupational and~~] Professional
2881 Licensing within a reasonable period of time.

2882 (3) An out-of-state business or an out-of-state employee that remains in the state after
2883 the disaster period shall complete state and local registration, licensing, and filing requirements
2884 that establish the requisite business presence or residency in the state.

2885 (4) The Division of [~~Occupational and~~] Professional Licensing shall:

2886 (a) make rules necessary to implement Subsection (3);

2887 (b) develop and provide forms or online processes; and

2888 (c) maintain and make available an annual report of any designations made pursuant to
2889 this section.

2890 Section 49. Section **53-10-114** is amended to read:

2891 **53-10-114. Authority regarding drug precursors.**

2892 (1) As used in this section, "acts" means:

2893 (a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and

2894 (b) Title 58, Chapter 37d, Clandestine Drug Lab Act.

2895 (2) The division has authority to enforce the drug lab and precursor acts. To carry out
2896 this purpose, the division may:

2897 (a) inspect, copy, and audit any records, inventories of controlled substance precursors,
2898 and reports required under the acts and rules adopted under the acts;

2899 (b) enter the premises of regulated distributors and regulated purchasers during normal
2900 business hours to conduct administrative inspections;

2901 (c) assist the law enforcement agencies of the state in enforcing the acts;

2902 (d) conduct investigations to enforce the acts;

2903 (e) present evidence obtained from investigations conducted in conjunction with
2904 appropriate county and district attorneys and the Office of the Attorney General for civil or
2905 criminal prosecution or for administrative action against a licensee; and

2906 (f) work in cooperation with the Division of [~~Occupational and~~] Professional
2907 Licensing, created under Section **58-1-103**, to accomplish the purposes of this section.

2908 Section 50. Section **53B-24-304** is amended to read:

2909 **53B-24-304. Powers of council.**

2910 The council may:

2911 (1) conduct surveys, with the assistance of the Division of [~~Occupational and~~
2912 Professional Licensing within the Department of Commerce, to assess and meet changing
2913 market and education needs;

2914 (2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information
2915 obtained by the Division of Workforce Information and Payment Services under the provisions
2916 of Section 35A-4-312 for purposes consistent with the council's duties as identified under
2917 Section 53B-24-303, including identifying changes in the medical and health care workforce
2918 numbers, types, and geographic distribution;

2919 (3) appoint advisory committees of broad representation on interdisciplinary clinical
2920 education, workforce mix planning and projections, funding mechanisms, and other topics as is
2921 necessary;

2922 (4) use federal money for necessary administrative expenses to carry out [its] the
2923 council's duties and powers as permitted by federal law;

2924 (5) distribute program money in accordance with Subsection 53B-24-303(7); and

2925 (6) as is necessary to carry out [its] the council's duties under Section 53B-24-303:

2926 (a) hire employees; and

2927 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
2928 Rulemaking Act.

2929 Section 51. Section 53F-2-305 is amended to read:

2930 **53F-2-305. Professional staff weighted pupil units.**

2931 (1) Professional staff weighted pupil units are computed and distributed in accordance
2932 with the following schedule:

2933 (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
2934						
2935	1	1.00	1.05	1.10	1.15	1.20
2936	2	1.05	1.10	1.15	1.20	1.25

2937	3	1.10	1.15	1.20	1.25	1.30
2938	4	1.15	1.20	1.25	1.30	1.35
2939	5	1.20	1.25	1.30	1.35	1.40
2940	6	1.25	1.30	1.35	1.40	1.45
2941	7	1.30	1.35	1.40	1.45	1.50
2942	8	1.35	1.40	1.45	1.50	1.55
2943	9			1.50	1.55	1.60
2944	10				1.60	1.65
2945	11					1.70

2946 (b) Multiply the number of full-time or equivalent professional personnel in each
2947 applicable experience category in Subsection (1)(a) by the applicable weighting factor.

2948 (c) Divide the total of Subsection (1)(b) by the number of professional personnel
2949 included in Subsection (1)(b) and reduce the quotient by 1.00.

2950 (d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed
2951 in accordance with Sections 53F-2-302 and 53F-2-304.

2952 (2) The state board shall enact rules in accordance with Title 63G, Chapter 3, Utah
2953 Administrative Rulemaking Act, that require a certain percentage of a school district's or
2954 charter school's professional staff to be certified in the area in which the staff teaches in order
2955 for the school district or charter school to receive full funding under the schedule.

2956 (3) If an individual's teaching experience is a factor in negotiating a contract of
2957 employment to teach in the state's public schools, then the LEA governing board is encouraged
2958 to accept as credited experience all of the years the individual has taught in the state's public
2959 schools.

2960 (4) The professional personnel described in Subsection (1) shall include an individual
2961 employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind
2962 who holds:

2963 (a) a license in the field of social work issued by the Division of [~~Occupational and~~
2964 Professional Licensing]; and

2965 (b) a position as a social worker.

2966 Section 52. Section 53F-2-405 is amended to read:

2967 **53F-2-405. Educator salary adjustments.**

2968 (1) As used in this section, "educator" means a person employed by a school district,
2969 charter school, or the Utah Schools for the Deaf and the Blind who holds:

2970 (a) (i) a license issued by the state board; and

2971 (ii) a position as a:

2972 (A) classroom teacher;

2973 (B) speech pathologist;

2974 (C) librarian or media specialist;

2975 (D) preschool teacher;

2976 (E) mentor teacher;

2977 (F) teacher specialist or teacher leader;

2978 (G) guidance counselor;

2979 (H) audiologist;

2980 (I) psychologist; or

2981 (J) social worker; or

2982 (b) (i) a license issued by the Division of [~~Occupational and~~] Professional Licensing;

2983 and

2984 (ii) a position as a social worker.

2985 (2) In recognition of the need to attract and retain highly skilled and dedicated
2986 educators, the Legislature shall annually appropriate money for educator salary adjustments,
2987 subject to future budget constraints.

2988 (3) Money appropriated to the state board for educator salary adjustments shall be
2989 distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind
2990 in proportion to the number of full-time-equivalent educator positions in a school district, a
2991 charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number
2992 of full-time-equivalent educator positions in school districts, charter schools, and the Utah
2993 Schools for the Deaf and the Blind.

2994 (4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind
2995 shall award bonuses to educators as follows:

2996 (a) the amount of the salary adjustment shall be the same for each full-time-equivalent
2997 educator position in the school district, charter school, or the Utah Schools for the Deaf and the

2998 Blind;

2999 (b) an individual who is not a full-time educator shall receive a partial salary
3000 adjustment based on the number of hours the individual works as an educator; and

3001 (c) a salary adjustment may be awarded only to an educator who has received a
3002 satisfactory rating or above on the educator's most recent evaluation.

3003 (5) The state board may make rules as necessary to administer this section in
3004 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3005 (6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient
3006 money each year to:

3007 (i) maintain educator salary adjustments provided in prior years; and

3008 (ii) provide educator salary adjustments to new employees.

3009 (b) Money appropriated for educator salary adjustments shall include money for the
3010 following employer-paid benefits:

3011 (i) retirement;

3012 (ii) worker's compensation;

3013 (iii) social security; and

3014 (iv) Medicare.

3015 (7) (a) Subject to future budget constraints, the Legislature shall:

3016 (i) maintain the salary adjustments provided to school administrators in the 2007-08
3017 school year; and

3018 (ii) provide salary adjustments for new school administrators in the same amount as
3019 provided for existing school administrators.

3020 (b) The appropriation provided for educator salary adjustments shall include salary
3021 adjustments for school administrators as specified in Subsection (7)(a).

3022 (c) In distributing and awarding salary adjustments for school administrators, the state
3023 board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall
3024 comply with the requirements for the distribution and award of educator salary adjustments as
3025 provided in Subsections (3) and (4).

3026 Section 53. Section **58-1-102** is amended to read:

3027 **58-1-102. Definitions.**

3028 For purposes of this title:

- 3029 (1) "Ablative procedure" is as defined in Section 58-67-102.
- 3030 (2) "Cosmetic medical procedure":
- 3031 (a) is as defined in Section 58-67-102; and
- 3032 (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah
- 3033 Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual
- 3034 licensed under this title if the individual's scope of practice includes the authority to operate or
- 3035 perform surgical procedures.
- 3036 (3) "Department" means the Department of Commerce.
- 3037 (4) "Director" means the director of the Division of [~~Occupational and~~] Professional
- 3038 Licensing.
- 3039 (5) "Division" means the Division of [~~Occupational and~~] Professional Licensing
- 3040 created in Section 58-1-103.
- 3041 (6) "Executive director" means the executive director of the Department of Commerce.
- 3042 (7) "Licensee" includes any holder of a license, certificate, registration, permit, student
- 3043 card, or apprentice card authorized under this title.
- 3044 (8) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
- 3045 alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove
- 3046 living tissue.
- 3047 (ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal.
- 3048 (b) "Nonablative procedure" does not include:
- 3049 (i) a superficial procedure;
- 3050 (ii) the application of permanent make-up; or
- 3051 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
- 3052 performed by an individual licensed under this title who is acting within their scope of practice.
- 3053 (9) "Pain clinic" means:
- 3054 (a) a clinic that advertises its primary purpose is the treatment of chronic pain; or
- 3055 (b) a clinic in which greater than 50% of the clinic's annual patient population receive
- 3056 treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.
- 3057 (10) "Superficial procedure" means a procedure that is expected or intended to
- 3058 temporarily alter living skin tissue and may excise or remove stratum corneum but have no
- 3059 appreciable risk of damage to any tissue below the stratum corneum.

3060 (11) "Unlawful conduct" has the meaning given in Subsection 58-1-501(1).

3061 (12) "Unprofessional conduct" has the meaning given in Subsection 58-1-501(2).

3062 Section 54. Section 58-1-103 is amended to read:

3063 **58-1-103. Division created to administer licensing laws.**

3064 There is created within the Department of Commerce the Division of [~~Occupational~~
3065 ~~and~~] Professional Licensing. The division shall administer and enforce all licensing laws of
3066 Title 58, Occupations and Professions.

3067 Section 55. Section 58-1-202 is amended to read:

3068 **58-1-202. Boards -- Duties, functions, and responsibilities.**

3069 (1) The duties, functions, and responsibilities of each board established under this title
3070 include the following:

3071 (a) recommending to the director appropriate rules and statutory changes, including
3072 changes to remove regulations that are no longer necessary or effective in protecting the public
3073 and enhancing commerce;

3074 (b) recommending to the director policy and budgetary matters;

3075 (c) approving and establishing a passing score for applicant examinations;

3076 (d) screening applicants and recommending licensing, renewal, reinstatement, and
3077 relicensure actions to the director in writing;

3078 (e) assisting the director in establishing standards of supervision for students or persons
3079 in training to become qualified to obtain a license in the occupation or profession it represents;
3080 and

3081 (f) acting as presiding officer in conducting hearings associated with adjudicative
3082 proceedings and in issuing recommended orders when so designated by the director.

3083 (2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah
3084 Construction Trades Licensing Act.

3085 (3) (a) Each board or commission established under this title may recommend to the
3086 appropriate legislative committee whether the board or commission supports a change to a
3087 licensing act.

3088 (b) This Subsection (3) does not:

3089 (i) require a board's approval to amend a practice act; and

3090 (ii) apply to technical or clarifying amendments to a practice act.

3091 Section 56. Section **58-1-301** is amended to read:

3092 **58-1-301. License application -- Licensing procedure.**

3093 (1) (a) Each license applicant shall apply to the division in writing upon forms
3094 available from the division.

3095 (b) Each completed application shall:

3096 (i) contain documentation of the particular qualifications required of the applicant
3097 under this title or rules made by the division;

3098 (ii) include the applicant's full legal name and social security number;

3099 (iii) be verified by the applicant; and

3100 (iv) be accompanied by the appropriate fees.

3101 (c) An applicant's social security number is a private record under Subsection
3102 [63G-2-302\(1\)\(i\)](#).

3103 (2) (a) The division shall issue a license to an applicant who submits a complete
3104 application if the division determines that the applicant meets the qualifications of licensure.

3105 (b) The division shall provide a written notice of additional proceedings to an applicant
3106 who submits a complete application, but who has been, is, or will be placed under investigation
3107 by the division for conduct directly bearing upon the applicant's qualifications for licensure, if
3108 the outcome of additional proceedings is required to determine the division's response to the
3109 application.

3110 (c) The division shall provide a written notice of denial of licensure to an applicant
3111 who submits a complete application if the division determines that the applicant does not meet
3112 the qualifications of licensure.

3113 (d) The division shall provide a written notice of incomplete application and
3114 conditional denial of licensure to an applicant who submits an incomplete application, which
3115 notice shall advise the applicant that the application is incomplete and that the application is
3116 denied, unless the applicant corrects the deficiencies within the time period specified in the
3117 notice and otherwise meets all qualifications for licensure.

3118 (3) The division may only issue a license to an applicant under this title if the applicant
3119 meets the requirements for that license as established under this title and by division rule made
3120 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3121 (4) If an applicant meets all requirements for a specific license, the division shall issue

3122 the license to the applicant.

3123 (5) (a) As used in this Subsection (5):

3124 (i) (A) "Competency-based licensing requirement" means a practical assessment of
3125 knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation
3126 or profession regulated by this title, and which the director determines is at least as effective as
3127 a time-based licensing requirement at demonstrating proficiency and protecting the health and
3128 safety of the public.

3129 (B) "Competency-based licensing requirement" may include any combination of
3130 training, experience, testing, or observation.

3131 (ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks,
3132 months, or years of education, training, supervised training, or other experience that an
3133 applicant for licensure under this title is required to complete before receiving a license under
3134 this title.

3135 (B) "Time-based licensing requirement" does not include an associate degree, a
3136 bachelor's degree, or a graduate degree from an accredited institution of higher education.

3137 (b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title
3138 that has a time-based licensing requirement, the director, after consultation with the appropriate
3139 board, may by division rule made in accordance with Title 63G, Chapter 3, Utah
3140 Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing
3141 requirement as an alternative to completing the time-based licensing requirement.

3142 (c) If a time-based licensing requirement involves a program that must be approved or
3143 accredited by a specific entity or board, the director may only allow an applicant to complete a
3144 competency-based licensing requirement as an alternative to completing the time-based
3145 licensing requirement under Subsection (5)(b) if the competency-based requirement is
3146 approved or accredited by the specific entity or board as a replacement or alternative to the
3147 time-based licensing requirement.

3148 (d) By October 1 of each year, the director shall provide a written report to the
3149 Occupational and Professional Licensure Review Committee describing any competency-based
3150 licensing requirements implemented under this Subsection (5).

3151 Section 57. Section **58-1-302** is amended to read:

3152 **58-1-302. License by endorsement.**

3153 (1) Subject to Subsections [~~(2), (3), (4), and (5)~~] (3) through (6), the division shall
3154 issue a license [~~without examination~~] to a person who has been licensed in a state, district, or
3155 territory of the United States if:

3156 (a) after being licensed outside of this state, the person has at least one year of
3157 experience in the state, district, or territory of the United States where the license was issued;

3158 (b) the person's license is in good standing in the state, district, or territory of the
3159 United States where the license was issued; and

3160 (c) the division determines that the license issued by the state, district, or territory of
3161 the United States encompasses a similar scope of practice as the license sought in this state.

3162 (2) Subject to Subsections (3) through (6), the division may issue a license to a person
3163 who:

3164 (a) has been licensed in a state, district, or territory of the United States, or in a
3165 jurisdiction outside of the United States, if:

3166 (i) (A) after being licensed, the person has at least one year of experience in the
3167 jurisdiction where the license was issued; and

3168 (B) the division determines that the person's education, experience, and skills
3169 demonstrate competency in the occupation or profession for which the person seeks licensure;

3170 or

3171 (ii) the division determines that the licensure requirements of the jurisdiction at the
3172 time the license was issued were substantially similar to the current licensure requirements of
3173 this state; or

3174 (b) has never been licensed in a state, district, or territory of the United States, or in a
3175 jurisdiction outside of the United States, if:

3176 (i) the person was educated in or obtained relevant experience in a state, district, or
3177 territory of the United States, or a jurisdiction outside of the United States; and

3178 (ii) the division determines that the education or experience was substantially similar to
3179 the current education or experience requirements for licensure in this state.

3180 [~~(2)~~] (3) The division, in consultation with the applicable licensing board, may make
3181 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3182 prescribing the administration and requirements of this section.

3183 [~~(3) Notwithstanding the provisions of Subsection (1), the~~]

3184 (4) The division may refuse to issue a license to a person under the provisions of this
3185 section if:

3186 (a) the division determines that there is reasonable cause to believe that the person is
3187 not qualified to receive a license in this state; or

3188 (b) the person has a previous or pending disciplinary action related to the person's
3189 license.

3190 ~~[(4)]~~ (5) Before a person may be issued a license under this section, the person shall:

3191 (a) pay a fee determined by the department under Section 63J-1-504; and

3192 (b) produce satisfactory evidence of the person's identity, qualifications, and good
3193 standing in the occupation or profession for which licensure is sought.

3194 ~~[(5)]~~ (6) In accordance with Section 58-1-107, licensure endorsement provisions in this
3195 section are subject to and may be supplemented or altered by licensure endorsement provisions
3196 or multistate licensure compacts in specific chapters of this title.

3197 ~~[(6)]~~ (7) On or before October 1, 2022, the division shall provide a written report to the
3198 Business and Labor Interim Committee regarding the effectiveness and sufficiency of the
3199 provisions of this section at ensuring that persons receiving a license without examination
3200 under the provisions of this section are qualified to receive a license in this state.

3201 Section 58. Section **58-3a-302** is amended to read:

3202 **58-3a-302. Qualifications for licensure.**

3203 (1) Except as provided in Subsection (2), each applicant for licensure as an architect
3204 shall:

3205 (a) submit an application in a form prescribed by the division;

3206 (b) pay a fee determined by the department under Section 63J-1-504;

3207 (c) have graduated and received an earned bachelors or masters degree from an
3208 architecture program meeting criteria established by rule by the division in collaboration with
3209 the board;

3210 (d) have successfully completed a program of diversified practical experience
3211 established by rule by the division in collaboration with the board;

3212 (e) have successfully passed examinations established by rule by the division in
3213 collaboration with the board; and

3214 (f) meet with the board or representative of the division upon request for the purpose of

3215 evaluating the applicant's qualifications for license.

3216 (2) Each applicant for licensure as an architect by endorsement shall:

3217 (a) submit an application in a form prescribed by the division;

3218 (b) pay a fee determined by the department under Section 63J-1-504;

3219 (c) submit satisfactory evidence of:

3220 (i) (A) current licensure in good standing in a jurisdiction recognized by rule by the
3221 division in collaboration with the board; and

3222 ~~[(ii)]~~ (B) current certification from the National Council of Architectural Registration
3223 Boards; or

3224 ~~[(iii)]~~ (ii) (A) current license in good standing in a jurisdiction recognized by rule by
3225 the division in collaboration with the board; and

3226 ~~[(iv)]~~ (B) full-time employment as a licensed architect as a principal for at least five of
3227 the last seven years immediately preceding the date of the application;

3228 (d) have successfully passed ~~[any]~~ an examination established by rule by the division in
3229 collaboration with the board; and

3230 (e) meet with the board or representative of the division upon request for the purpose
3231 of evaluating the applicant's qualifications for license.

3232 Section 59. Section **58-9-302** is amended to read:

3233 **58-9-302. Qualifications for licensure.**

3234 (1) Each applicant for licensure as a funeral service director shall:

3235 (a) submit an application in a form prescribed by the division;

3236 (b) pay a fee as determined by the department under Section 63J-1-504;

3237 ~~[(c) be of good moral character in that the applicant has not been convicted of:]~~

3238 ~~[(i) a first or second degree felony;]~~

3239 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

3240 ~~[(iii) any other crime that when considered with the duties and responsibilities of a
3241 funeral service director is considered by the division and the board to indicate that the best
3242 interests of the public are not served by granting the applicant a license;]~~

3243 ~~[(d)]~~ (c) have obtained a high school diploma or its equivalent or a higher education
3244 degree;

3245 ~~[(e)]~~ (d) have obtained an associate degree, or its equivalent, in mortuary science from

3246 a school of funeral service accredited by the American Board of Funeral Service Education or
3247 other accrediting body recognized by the U.S. Department of Education;

3248 ~~[(f)]~~ (e) have completed not less than 2,000 hours and 50 embalmings, over a period of
3249 not less than one year, of satisfactory performance in training as a licensed funeral service
3250 intern under the supervision of a licensed funeral service director; and

3251 ~~[(g)]~~ (f) obtain a passing score on examinations approved by the division in
3252 collaboration with the board.

3253 (2) Each applicant for licensure as a funeral service intern shall:

3254 (a) submit an application in a form prescribed by the division;

3255 (b) pay a fee as determined by the department under Section 63J-1-504;

3256 ~~[(c) be of good moral character in that the applicant has not been convicted of:]~~

3257 ~~[(i) a first or second degree felony;]~~

3258 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

3259 ~~[(iii) any other crime that when considered with the duties and responsibilities of a
3260 funeral service intern is considered by the division and the board to indicate that the best
3261 interests of the public are not served by granting the applicant a license;]~~

3262 ~~[(d)]~~ (c) have obtained a high school diploma or its equivalent or a higher education
3263 degree; and

3264 ~~[(e)]~~ (d) obtain a passing score on an examination approved by the division in
3265 collaboration with the board.

3266 (3) Each applicant for licensure as a funeral service establishment and each funeral
3267 service establishment licensee shall:

3268 (a) submit an application in a form prescribed by the division;

3269 (b) pay a fee as determined by the department under Section 63J-1-504;

3270 (c) have in place:

3271 (i) an embalming room for preparing dead human bodies for burial or final disposition,
3272 which may serve one or more facilities operated by the applicant;

3273 (ii) a refrigeration room that maintains a temperature of not more than 40 degrees
3274 fahrenheit for preserving dead human bodies prior to burial or final disposition, which may
3275 serve one or more facilities operated by the applicant; and

3276 (iii) maintain at all times a licensed funeral service director who is responsible for the

3277 day-to-day operation of the funeral service establishment and who is personally available to
 3278 perform the services for which the license is required;

3279 (d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service
 3280 director if the funeral service establishment sells preneed funeral arrangements;

3281 (e) file with the completed application a copy of each form of contract or agreement the
 3282 applicant will use in the sale of preneed funeral arrangements;

3283 (f) provide evidence of appropriate licensure with the Insurance Department if the
 3284 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
 3285 in part by an insurance policy or product to be sold by the provider or the provider's sales
 3286 agent; and

3287 (g) if the applicant intends to offer alkaline hydrolysis in a funeral service
 3288 establishment, provide evidence that in accordance with rules made by the division in
 3289 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

3290 (i) the funeral service establishment meets the minimum standards for the handling,
 3291 holding, and processing of deceased human remains in a safe, clean, private, and respectful
 3292 manner; and

3293 (ii) all operators of the alkaline hydrolysis equipment have received adequate training.

3294 (4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

3295 (a) submit an application in a form prescribed by the division;

3296 (b) pay a fee as determined by the department under Section [63J-1-504](#);

3297 [~~(c) be of good moral character in that the applicant has not been convicted of:~~]

3298 [~~(i) a first or second degree felony;~~]

3299 [~~(ii) a misdemeanor involving moral turpitude; or~~]

3300 [~~(iii) any other crime that when considered with the duties and responsibilities of a~~
 3301 ~~preneed funeral sales agent is considered by the division and the board to indicate that the best~~
 3302 ~~interests of the public are not served by granting the applicant a license;]~~

3303 [~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education
 3304 degree;

3305 [~~(e)~~] (d) have obtained a passing score on an examination approved by the division in
 3306 collaboration with the board;

3307 [~~(f)~~] (e) affiliate with a licensed funeral service establishment; and

3308 [~~(g)~~] (f) provide evidence of appropriate licensure with the Insurance Department if the
3309 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
3310 in part by an insurance policy or product.

3311 Section 60. Section **58-15-101**, which is renumbered from Section 58-15-2 is
3312 renumbered and amended to read:

3313 **CHAPTER 15. HEALTH FACILITY ADMINISTRATOR ACT**

3314 **Part 1. General Provisions**

3315 ~~[58-15-2].~~ **58-15-101. Definitions.**

3316 In addition to the definitions in Section ~~58-1-102~~, as used in this chapter:

3317 (1) "Administrator" means a person who is charged with the general administration of a
3318 health facility, regardless of whether ~~that~~:

3319 (a) the person has an ownership interest in the facility ~~[and whether his]; or~~

3320 (b) the person's functions and duties are shared with one or more persons.

3321 (2) "Board" means the Health Facility Administrators Licensing Board created in
3322 Section ~~[58-15-3]~~ 58-15-201.

3323 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an
3324 intermediate care facility for individuals with an intellectual disability.

3325 (4) "Intermediate care facility" means an institution that provides, on a regular basis,
3326 health care and services to individuals who do not require the degree of care and treatment a
3327 hospital or skilled nursing facility provides, but who require health care and services in
3328 addition to room and board.

3329 (5) "Intermediate care facility for people with an intellectual disability" means an
3330 institution that provides, on a regular basis, health-related care and service to individuals with
3331 intellectual disabilities as defined in Section ~~68-3-12.5~~ or individuals with related conditions,
3332 who do not require the degree of care and treatment a hospital or skilled nursing facility
3333 provides, but who require health-related care and services above the need for room and board.

3334 (6) "Skilled nursing facility" means an institution primarily providing inpatients with
3335 skilled nursing care and related services on a continuing basis for patients who require mental,
3336 medical, or nursing care, or service for the rehabilitation of an injured individual, a sick
3337 individual, or an individual with a disability.

3338 (7) "Unprofessional conduct" as defined in Section ~~58-1-501~~ and as may be further

3339 defined by rule includes:

3340 (a) intentionally filing a false report or record, intentionally failing to file a report or
3341 record required by state or federal law, or [~~wilfully~~] willfully impeding or obstructing the filing
3342 of a required report. These reports or records only include those which are signed in the
3343 capacity of a licensed health facility administrator; and

3344 (b) acting in a manner inconsistent with the health and safety of the patients of the
3345 health facility in which he is the administrator.

3346 Section 61. Section **58-15-201**, which is renumbered from Section 58-15-3 is
3347 renumbered and amended to read:

3348 **Part 2. Board**

3349 ~~[58-15-3].~~ **58-15-201. Health Facility Administrators Licensing Board.**

3350 (1) There is created a Health Facility Administrators Licensing Board consisting of:

3351 (a) one administrator from a skilled nursing facility^[;];

3352 (b) two administrators from intermediate care facilities^[;];

3353 (c) one administrator from an intermediate care facility for people with an intellectual
3354 disability^[;]; and

3355 (d) one member from the general public.

3356 (2) The board shall be appointed and serve in accordance with Section **58-1-201**.

3357 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
3358 **58-1-202** and **58-1-203**.

3359 (b) The board, in collaboration with the division, may establish continuing education
3360 requirements by rule.

3361 (c) Board members may not receive compensation for their involvement in continuing
3362 education programs.

3363 Section 62. Section **58-15-301**, which is renumbered from Section 58-15-4 is
3364 renumbered and amended to read:

3365 **Part 3. Licensing**

3366 ~~[58-15-4].~~ **58-15-301. Licensure requirements.**

3367 (1) An applicant for a license under this chapter shall submit to the division a written
3368 application [~~to the division, verified under oath, that the applicant is of good moral character as~~
3369 ~~it relates to the functions and responsibilities of the practice of administration of a health~~

3370 facility] in a form prescribed by the division.

3371 (2) After July 1, 1985, all new applicants are required to have~~[-in addition to~~
3372 ~~Subsection (1);~~ the education or experience requirements as established by rule and as
3373 approved by the division.

3374 (3) The applicant shall pay ~~[a fee to the Department of Commerce determined by it~~
3375 ~~pursuant to]~~ to the department a fee in an amount determined by the department in accordance
3376 with Section 63J-1-504 for:

3377 (a) admission to the examination~~[-for];~~

3378 (b) an initial license~~[-and for];~~ and

3379 (c) a renewal license.

3380 (4) (a) The applicant shall pass a written examination in subjects determined by the
3381 board.

3382 (b) Upon the applicant passing the examination described in Subsection (4)(a) and
3383 ~~[payment of]~~ paying the license fee described in Subsection (3), the board shall recommend
3384 issuance to the applicant of a license to practice as a health facility administrator.

3385 (5) (a) A temporary license may be issued without examination to a person who meets
3386 the requirements established by statute and by rule for an administrator. ~~[The]~~

3387 (b) A temporary license may be issued only:

3388 (i) to fill a position of administrator that unexpectedly becomes vacant; and ~~[may be~~
3389 ~~issued for only a single period not to exceed six months.]~~

3390 (ii) for a single period of six months or less.

3391 ~~[(6) A license may be granted to an applicant who is a licensed nursing home~~
3392 ~~administrator in another state if the standards for licensure in the other state are equivalent to~~
3393 ~~those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.]~~

3394 Section 63. Section **58-15-302**, which is renumbered from Section 58-15-4.5 is
3395 renumbered and amended to read:

3396 ~~[58-15-4.5].~~ **58-15-302. Term of license -- Expiration -- Renewal.**

3397 (1) (a) Each license issued under this chapter shall be issued in accordance with a
3398 two-year renewal cycle established by rule.

3399 (b) A renewal period described in Subsection (1)(a) may be extended or shortened by
3400 as much as one year to maintain established renewal cycles or to change an established renewal

3401 cycle.

3402 (2) Each license automatically expires on the expiration date shown on the license
3403 unless renewed by the licensee in accordance with Section 58-1-308.

3404 Section 64. Section 58-15-303, which is renumbered from Section 58-15-11 is
3405 renumbered and amended to read:

3406 ~~[58-15-11]~~. **58-15-303. Exemptions to chapter.**

3407 (1) In addition to the exemptions described in Section 58-1-307, this chapter does not
3408 apply to:

3409 (a) a facility of a recognized church or denomination that cares for the sick and
3410 suffering by mental or spiritual means if no drug or material remedy is used in the care
3411 provided; or

3412 (b) the superintendent of the Utah State Developmental Center described in Section
3413 62A-5-201.

3414 (2) Any facility or person exempted under this section shall comply with each statute
3415 and rule on sanitation and life safety.

3416 Section 65. Section 58-15-401, which is renumbered from Section 58-15-12 is
3417 renumbered and amended to read:

3418 **Part 4. License Denial and Discipline**

3419 ~~[58-15-12]~~. **58-15-401. Grounds for denial of license -- Disciplinary**
3420 **proceedings.**

3421 Grounds for refusal to issue a license to an applicant, for refusal to renew the license of
3422 a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a
3423 public or private reprimand to a licensee, and to issue cease and desist orders shall be in
3424 accordance with Section 58-1-401.

3425 Section 66. Section 58-15-501, which is renumbered from Section 58-15-10 is
3426 renumbered and amended to read:

3427 **Part 5. Unlawful Conduct**

3428 ~~[58-15-10]~~. **58-15-501. Penalty for unlawful conduct.**

3429 ~~[Any]~~ A person who violates the unlawful conduct provisions defined in Subsection
3430 58-1-501(1) is guilty of a class B misdemeanor.

3431 Section 67. Section 58-16a-302 is amended to read:

3432 **58-16a-302. Qualifications for licensure.**
3433 [(†)] An applicant for licensure as an optometrist shall:
3434 [(a)] (1) submit an application in a form prescribed by the division;
3435 [(b)] (2) pay a fee as determined by the division under Section 63J-1-504;
3436 [(c)-(†)] (3) (a) be a doctoral graduate of a recognized school of optometry accredited
3437 by the American Optometric Association's Accreditation Council on Optometric Education; or
3438 [(†)] (b) be a graduate of a school of optometry located outside the United States that
3439 meets the criteria that would qualify the school for accreditation under Subsection [(†)(c)(†)]
3440 (3)(a), as demonstrated by the applicant for licensure;
3441 [(d)] (4) if the applicant graduated from a recognized school of optometry prior to July
3442 1, 1996, have successfully completed a course of study satisfactory to the division, in
3443 consultation with the board, in general and ocular pharmacology and emergency medical care;
3444 [(e)] (5) have passed examinations approved by the division in consultation with the
3445 board that include:
3446 [(†)] (a) a standardized national optometry examination;
3447 [(†)] (b) a standardized clinical examination; and
3448 [(†)] (c) a standardized national therapeutics examination; and
3449 [(f)] (6) meet with the board and representatives of the division, if requested by either
3450 party, for the purpose of evaluating the applicant's qualifications for licensure.
3451 [~~(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a~~
3452 ~~license under this chapter by endorsement to an individual who:]~~
3453 [~~(a) submits an application for licensure by endorsement on a form approved by the~~
3454 ~~division;]~~
3455 [~~(b) pays a fee established by the division in accordance with Section 63J-1-504;]~~
3456 [~~(c) verifies that the individual is licensed as an optometrist in good standing in each~~
3457 ~~state of the United States, or province of Canada, in which the individual is currently licensed~~
3458 ~~as an optometrist; and]~~
3459 [~~(d) has been actively engaged in the legal practice of optometry for at least 3,200~~
3460 ~~hours during the immediately preceding two years in a manner consistent with the legal~~
3461 ~~practice of optometry in this state.]~~
3462 Section 68. Section **58-17b-504** is amended to read:

3463 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

3464 (1) Any person who violates any of the unlawful conduct provisions of Subsection
3465 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

3466 (2) Any person who violates any of the unlawful conduct provisions of Subsection
3467 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except
3468 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

3469 (3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts
3470 of unprofessional or unlawful conduct, the division may:

3471 (i) assess administrative penalties; and

3472 (ii) take any other appropriate administrative action.

3473 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
3474 General Fund as a dedicated credit to be used by the division for pharmacy licensee education
3475 and enforcement as provided in Section 58-17b-505.

3476 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an
3477 administrative finding of a violation of the same section, the licensee may not be assessed an
3478 administrative fine under this chapter for the same offense for which the conviction was
3479 obtained.

3480 (5) (a) If upon inspection or investigation, the division concludes that a person has
3481 violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled
3482 Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of
3483 [~~Occupational and~~] Professional Licensing Act, or any rule or order issued with respect to these
3484 provisions, and that disciplinary action is appropriate, the director or the director's designee
3485 from within the division shall promptly issue a citation to the person according to this chapter
3486 and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to
3487 appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
3488 Administrative Procedures Act.

3489 (b) Any person who is in violation of the provisions of Section 58-17b-501 or
3490 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance
3491 Database Act, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any
3492 rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a
3493 stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a

3494 fine pursuant to this Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per
3495 day of ongoing violation, whichever is greater, in accordance with a fine schedule established
3496 by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the
3497 provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act,
3498 Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any rule or order
3499 issued with respect to these provisions.

3500 (c) Except for an administrative fine and a cease and desist order, the licensure
3501 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

3502 (d) Each citation shall be in writing and specifically describe with particularity the
3503 nature of the violation, including a reference to the provision of the chapter, rule, or order
3504 alleged to have been violated. The citation shall clearly state that the recipient must notify the
3505 division in writing within 20 calendar days of service of the citation in order to contest the
3506 citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.
3507 The citation shall clearly explain the consequences of failure to timely contest the citation or to
3508 make payment of any fines assessed by the citation within the time specified in the citation.

3509 (e) Each citation issued under this section, or a copy of each citation, may be served
3510 upon any person upon whom a summons may be served:

3511 (i) in accordance with the Utah Rules of Civil Procedure;

3512 (ii) personally or upon the person's agent by a division investigator or by any person
3513 specially designated by the director; or

3514 (iii) by mail.

3515 (f) If within 20 calendar days from the service of a citation, the person to whom the
3516 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3517 final order of the division and is not subject to further agency review. The period to contest the
3518 citation may be extended by the division for cause.

3519 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
3520 the license of a licensee who fails to comply with the citation after it becomes final.

3521 (h) The failure of an applicant for licensure to comply with a citation after it becomes
3522 final is a ground for denial of license.

3523 (i) No citation may be issued under this section after the expiration of one year
3524 following the date on which the violation that is the subject of the citation is reported to the

3525 division.

3526 (6) (a) The director may collect a penalty that is not paid by:

3527 (i) referring the matter to a collection agency; or

3528 (ii) bringing an action in the district court of the county where the person against whom

3529 the penalty is imposed resides or in the county where the office of the director is located.

3530 (b) A county attorney or the attorney general of the state shall provide legal assistance

3531 and advice to the director in an action to collect a penalty.

3532 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

3533 action brought by the division to collect a penalty.

3534 Section 69. Section **58-20b-102** is amended to read:

3535 **58-20b-102. Definitions.**

3536 In addition to the definitions in Section **58-1-102**, as used in this chapter:

3537 (1) "Accredited program" means a degree-offering program from:

3538 (a) an institution, college, or university that is accredited by the Department of

3539 Education or the Council for Higher Education Accreditation; or

3540 (b) a non-accredited institution, college, or university that offers education equivalent

3541 to Department of Education-accredited programs, as determined by a third party selected by the

3542 board.

3543 (2) "Board" means the Environmental Health Scientist Board created in Section

3544 **58-20b-201**.

3545 (3) "General supervision" means the supervising environmental health scientist is

3546 available for immediate voice communication with the person he or she is supervising.

3547 (4) "Practice of environmental health science" means:

3548 (a) the enforcement of, the issuance of permits required by, or the inspection for the

3549 purpose of enforcing state and local public health laws in the following areas:

3550 (i) air quality;

3551 (ii) food [~~quality~~] safety;

3552 (iii) solid, hazardous, and toxic substances disposal;

3553 (iv) consumer product safety;

3554 (v) housing;

3555 (vi) noise control;

- 3556 (vii) radiation protection;
- 3557 (viii) water quality;
- 3558 (ix) vector control;
- 3559 (x) drinking water quality;
- 3560 (xi) milk sanitation;
- 3561 (xii) rabies control;
- 3562 (xiii) public health nuisances;
- 3563 (xiv) indoor clean air regulations;
- 3564 (xv) institutional and residential sanitation; or
- 3565 (xvi) recreational facilities sanitation; or
- 3566 (b) representing oneself in any manner as, or using the titles "environmental health
- 3567 scientist," "environmental health scientist-in-training," or "registered sanitarian."

3568 (5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

3569 (6) "Unprofessional conduct" means the same as that term is defined in Sections
3570 58-1-501 and 58-20b-501 and as may be further defined by division rule.

3571 Section 70. Section 58-22-102 is amended to read:

3572 **58-22-102. Definitions.**

3573 In addition to the definitions in Section 58-1-102, as used in this chapter:

3574 (1) "Board" means the Professional Engineers and Professional Land Surveyors
3575 Licensing Board created in Section 58-22-201.

3576 (2) "Building" means a structure which has human occupancy or habitation as its
3577 principal purpose, and includes the structural, mechanical, and electrical systems, utility
3578 services, and other facilities required for the building, and is otherwise governed by the State
3579 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
3580 Act.

3581 (3) "Complete construction plans" means a final set of plans, specifications, and reports
3582 for a building or structure that normally includes:

- 3583 (a) floor plans;
- 3584 (b) elevations;
- 3585 (c) site plans;
- 3586 (d) foundation, structural, and framing detail;

3587 (e) electrical, mechanical, and plumbing design;

3588 (f) information required by the energy code;

3589 (g) specifications and related calculations as appropriate; and

3590 (h) all other documents required to obtain a building permit.

3591 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation
3592 Board for Engineering and Technology.

3593 (5) "Fund" means the Professional Engineer, Professional Structural Engineer, and
3594 Professional Land Surveyor Education and Enforcement Fund created in Section [58-22-103](#).

3595 (6) "NCEES" means the National Council of Examiners for Engineering and
3596 Surveying.

3597 (7) "Principal" means a licensed professional engineer, professional structural engineer,
3598 or professional land surveyor having responsible charge of an organization's professional
3599 engineering, professional structural engineering, or professional land surveying practice.

3600 (8) "Professional engineer" means a person licensed under this chapter as a
3601 professional engineer.

3602 (9) (a) "Professional engineering," "the practice of engineering," or "the practice of
3603 professional engineering" means a service or creative work, the adequate performance of which
3604 requires engineering education, training, and experience in the application of special
3605 knowledge of the mathematical, physical, and engineering sciences to the service or creative
3606 work as consultation, investigation, evaluation, planning, design, and design coordination of
3607 engineering works and systems, planning the use of land and water, facility programming,
3608 performing engineering surveys and studies, and the review of construction for the purpose of
3609 monitoring compliance with drawings and specifications; any of which embraces these services
3610 or work, either public or private, in connection with any utilities, structures, buildings,
3611 machines, equipment, processes, work systems, projects, and industrial or consumer products
3612 or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and
3613 including other professional services as may be necessary to the planning, progress, and
3614 completion of any engineering services.

3615 (b) "The practice of professional engineering" does not include the practice of
3616 architecture as defined in Section [58-3a-102](#), but a licensed professional engineer may perform
3617 architecture work as is incidental to the practice of engineering.

3618 (10) "Professional engineering intern" means a person who:
3619 (a) has completed the education requirements to become a professional engineer;
3620 (b) has passed the fundamentals of engineering examination; and
3621 (c) is engaged in obtaining the four years of qualifying experience for licensure under
3622 the [direct] supervision of a licensed professional engineer.

3623 (11) "Professional land surveying" or "the practice of land surveying" means a service
3624 or work, the adequate performance of which requires the application of special knowledge of
3625 the principles of mathematics, the related physical and applied sciences, and the relevant
3626 requirements of law for adequate evidence to the act of measuring and locating lines, angles,
3627 elevations, natural and man-made features in the air, on the surface of the earth, within
3628 underground workings, and on the beds of bodies of water for the purpose of determining areas
3629 and volumes, for the monumenting or locating of property boundaries or points controlling
3630 boundaries, and for the platting and layout of lands and subdivisions of lands, including the
3631 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,
3632 record plats, field notes records, and property descriptions that represent these surveys and
3633 other duties as sound surveying practices could direct.

3634 (12) "Professional land surveyor" means an individual licensed under this chapter as a
3635 professional land surveyor.

3636 (13) "Professional structural engineer" means a person licensed under this chapter as a
3637 professional structural engineer.

3638 (14) (a) "Professional structural engineering" or "the practice of structural engineering"
3639 means a service or creative work providing structural engineering services for significant
3640 structures, including:

3641 (i) buildings and other structures representing a substantial hazard to human life, which
3642 include:

3643 (A) buildings and other structures whose primary occupancy is public assembly with an
3644 occupant load greater than 300;

3645 (B) buildings and other structures with elementary school, secondary school, or day
3646 care facilities with an occupant load greater than 250;

3647 (C) buildings and other structures with an occupant load greater than 500 for colleges
3648 or adult education facilities;

3649 (D) health care facilities with an occupant load of 50 or more resident patients, but not
3650 having surgery or emergency treatment facilities;

3651 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and

3652 (F) buildings and other structures with an occupant load greater than 5,000;

3653 (ii) buildings and other structures designated as essential facilities, including:

3654 (A) hospitals and other health care facilities having surgery or emergency treatment
3655 facilities with a gross area greater than 3,000 square feet;

3656 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
3657 greater than 24 feet or a gross area greater than 5,000 square feet;

3658 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
3659 greater than 3,000 square feet;

3660 (D) designated emergency preparedness, communication, and operation centers and
3661 other buildings required for emergency response with a mean height more than 24 feet or a
3662 gross area greater than 5,000 square feet;

3663 (E) power-generating stations and other public utility facilities required as emergency
3664 backup facilities with a gross area greater than 3,000 square feet;

3665 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
3666 square feet containing highly toxic materials as defined by the division by rule, where the
3667 quantity of the material exceeds the maximum allowable quantities set by the division by rule;
3668 and

3669 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars
3670 at commercial service and cargo air services airports as defined by the Federal Aviation
3671 Administration with a mean height greater than 35 feet or a gross area greater than 20,000
3672 square feet; and

3673 (iii) buildings and other structures requiring special consideration, including:

3674 (A) structures or buildings that are normally occupied by human beings and are five
3675 stories or more in height;

3676 (B) structures or buildings that are normally occupied by human beings and have an
3677 average roof height more than 60 feet above the average ground level measured at the
3678 perimeter of the structure; and

3679 (C) buildings that are over 200,000 aggregate gross square feet in area.

3680 (b) "Professional structural engineering" or "the practice of structural engineering":

3681 (i) includes the definition of professional engineering or the practice of professional
3682 engineering as provided in Subsection (9); and

3683 (ii) may be further defined by rules made by the division in collaboration with the
3684 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3685 (15) "Structure" means that which is built or constructed, an edifice or building of any
3686 kind, or a piece of work artificially built up or composed of parts joined together in a definite
3687 manner, and as otherwise governed by the State Construction Code or an approved code under
3688 Title 15A, State Construction and Fire Codes Act.

3689 (16) "Supervision [~~of an employee, subordinate, associate, or drafter of a licensee]~~"
3690 means that a licensed professional engineer, professional structural engineer, or professional
3691 land surveyor is responsible for and personally reviews, corrects when necessary, and approves
3692 work performed by an employee, subordinate, associate, or drafter under the direction of the
3693 licensee, and may be further defined by rule by the division in collaboration with the board.

3694 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation
3695 Board for Engineering and Technology.

3696 (18) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
3697 and [58-22-501](#).

3698 (19) "Unprofessional conduct" means the same as that term is defined in Sections
3699 [58-1-501](#) and [58-22-502.5](#).

3700 Section 71. Section **58-28-304** is amended to read:

3701 **58-28-304. Temporary license -- License reciprocity.**

3702 (1) The division may issue a temporary license to practice veterinary medicine, surgery,
3703 and dentistry to any person not qualified for licensure under [~~Subsection (4)]~~ [Section 58-1-302](#)
3704 who meets all requirements of Section [58-28-302](#) with the exception of Subsections
3705 [58-28-302\(1\)\(a\)](#) and (c), except that the temporary license shall by its terms expire at the date
3706 examination results are available for the examination next following the date of the issuance of
3707 the temporary license.

3708 (2) The temporary license shall permit the holder to practice under the indirect
3709 supervision of a veterinarian licensed to practice in this state.

3710 (3) The division may extend the expiration date of the temporary license until the

3711 following examination date if:

3712 (a) the applicant shows to the board good cause for failing to take or pass the
3713 examination; and

3714 (b) the majority of the board members recommend the extension.

3715 ~~[(4) Upon the recommendation of the board, the division may issue a license without
3716 examination to a person who:]~~

3717 ~~[(a) has been licensed or registered to practice veterinary medicine, surgery, and
3718 dentistry in any state, district, or territory of the United States or in any foreign country, whose
3719 educational, examination, and experience requirements are or were at the time the license was
3720 issued equal to those of this state;]~~

3721 ~~[(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while
3722 licensed by another jurisdiction for at least two years;]~~

3723 ~~[(c) obtained the license in another jurisdiction after passing an examination
3724 component acceptable to the division and the board;]~~

3725 ~~[(d) produces satisfactory evidence of having practiced veterinary medicine
3726 competently and in accordance with the standards and ethics of the profession while practicing
3727 in another jurisdiction; and]~~

3728 ~~[(e) produces satisfactory evidence of identity and good moral character as it relates to
3729 the applicant's functions and practice as a licensed veterinarian.]~~

3730 Section 72. Section **58-28-503** is amended to read:

3731 **58-28-503. Penalty for unlawful or unprofessional conduct.**

3732 (1) Any person who violates the unlawful conduct provisions of Section **58-28-501** is
3733 guilty of a third degree felony.

3734 (2) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act,
3735 and Chapter 1, Division of ~~[Occupational and]~~ Professional Licensing Act, the division may
3736 impose administrative penalties of up to \$10,000 for acts of unprofessional conduct or
3737 unlawful conduct under this chapter.

3738 (3) Assessment of a penalty under this section does not affect any other action the
3739 division is authorized to take regarding a license issued under this chapter.

3740 (4) (a) The director may collect a penalty that is not paid by:

3741 (i) referring the matter to a collection agency; or

3742 (ii) bringing an action in the district court of the county where the person against whom
3743 the penalty is imposed resides or in the county where the office of the director is located.

3744 (b) A county attorney or the attorney general of the state shall provide legal assistance
3745 and advice to the director in an action to collect a penalty.

3746 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
3747 action brought by the division to collect a penalty.

3748 Section 73. Section **58-31b-303** is amended to read:

3749 **58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing**
3750 **programs.**

3751 An applicant for licensure as a practical nurse or registered nurse who is a graduate of a
3752 nursing education program not approved by the division in collaboration with the board must
3753 comply with the requirements of this section.

3754 (1) An applicant for licensure as a licensed practical nurse shall:

3755 (a) meet all requirements of Subsection [58-31b-302\(2\)](#), except Subsection
3756 [58-31b-302\(2\)\(e\)](#); and

3757 (b) produce evidence acceptable to the division and the board that the nursing
3758 education program completed by the applicant is equivalent to the minimum standards
3759 established by the division in collaboration with the board for an approved licensed practical
3760 nursing education program.

3761 (2) An applicant for licensure as a registered nurse shall:

3762 (a) meet all requirements of Subsection [58-31b-302\(3\)](#), except Subsection
3763 [58-31b-302\(3\)\(e\)](#); and

3764 (b) (i) pass the Commission on Graduates of Foreign Nursing Schools (CGFNS)
3765 Examination; or

3766 (ii) produce evidence acceptable to the division and the board that the applicant is
3767 currently licensed as a registered nurse in one of the states, territories, or the District of
3768 Columbia of the United States or in Canada and has passed the NCLEX-RN examination in
3769 English.

3770 Section 74. Section **58-31b-503** is amended to read:

3771 **58-31b-503. Penalties and administrative actions for unlawful conduct and**
3772 **unprofessional conduct.**

3773 (1) Any person who violates the unlawful conduct provision specifically defined in
3774 Subsection 58-1-501(1)(a) is guilty of a third degree felony.

3775 (2) Any person who violates any of the unlawful conduct provisions specifically
3776 defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A
3777 misdemeanor.

3778 (3) Any person who violates any of the unlawful conduct provisions specifically
3779 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B
3780 misdemeanor.

3781 (4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts
3782 of unprofessional or unlawful conduct, the division may:

3783 (i) assess administrative penalties; and

3784 (ii) take any other appropriate administrative action.

3785 (b) An administrative penalty imposed pursuant to this section shall be deposited [in]
3786 into the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

3787 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an
3788 administrative finding of a violation of the same section, the licensee may not be assessed an
3789 administrative fine under this chapter for the same offense for which the conviction was
3790 obtained.

3791 (6) (a) If upon inspection or investigation, the division concludes that a person has
3792 violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division
3793 of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances
3794 Act, or any rule or order issued with respect to these provisions, and that disciplinary action is
3795 appropriate, the director or the director's designee from within the division shall:

3796 (i) promptly issue a citation to the person according to this chapter and any pertinent
3797 administrative rules;

3798 (ii) attempt to negotiate a stipulated settlement; or

3799 (iii) notify the person to appear before an adjudicative proceeding conducted under
3800 Title 63G, Chapter 4, Administrative Procedures Act.

3801 (b) Any person who is in violation of a provision described in Subsection (6)(a), as
3802 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an
3803 adjudicative proceeding may be assessed a fine:

3804 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000
3805 per day of ongoing violation, whichever is greater, in accordance with a fine schedule
3806 established by rule; and

3807 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered
3808 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter
3809 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled
3810 Substances Act, or any rule or order issued with respect to those provisions.

3811 (c) Except for an administrative fine and a cease and desist order, the licensure
3812 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

3813 (d) Each citation issued under this section shall:

3814 (i) be in writing; and

3815 (ii) clearly describe or explain:

3816 (A) the nature of the violation, including a reference to the provision of the chapter,
3817 rule, or order alleged to have been violated;

3818 (B) that the recipient must notify the division in writing within 20 calendar days of
3819 service of the citation in order to contest the citation at a hearing conducted under Title 63G,
3820 Chapter 4, Administrative Procedures Act; and

3821 (C) the consequences of failure to timely contest the citation or to make payment of
3822 any fines assessed by the citation within the time specified in the citation; and

3823 (iii) be served upon any person upon whom a summons may be served:

3824 (A) in accordance with the Utah Rules of Civil Procedure;

3825 (B) personally or upon the person's agent by a division investigator or by any person
3826 specially designated by the director; or

3827 (C) by mail.

3828 (e) If within 20 calendar days from the service of a citation, the person to whom the
3829 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3830 final order of the division and is not subject to further agency review. The period to contest the
3831 citation may be extended by the division for cause.

3832 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
3833 the license of a licensee who fails to comply with the citation after it becomes final.

3834 (g) The failure of an applicant for licensure to comply with a citation after it becomes

3835 final is a ground for denial of license.

3836 (h) No citation may be issued under this section after the expiration of one year
3837 following the date on which the violation that is the subject of the citation is reported to the
3838 division.

3839 (7) (a) The director may collect a penalty that is not paid by:

3840 (i) referring the matter to a collection agency; or

3841 (ii) bringing an action in the district court of the county where the person against whom
3842 the penalty is imposed resides or in the county where the office of the director is located.

3843 (b) A county attorney or the attorney general of the state shall provide legal assistance
3844 and advice to the director in an action to collect a penalty.

3845 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
3846 action brought by the division to collect a penalty.

3847 Section 75. Section **58-37-2** is amended to read:

3848 **58-37-2. Definitions.**

3849 (1) As used in this chapter:

3850 (a) "Administer" means the direct application of a controlled substance, whether by
3851 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
3852 by:

3853 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;
3854 or

3855 (ii) the patient or research subject at the direction and in the presence of the
3856 practitioner.

3857 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
3858 manufacturer, distributor, or practitioner but does not include a motor carrier, public
3859 warehouseman, or employee of any of them.

3860 (c) "Consumption" means ingesting or having any measurable amount of a controlled
3861 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
3862 controlled substance.

3863 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
3864 partnership, corporation, business trust, association, or other legal entity, and any union or
3865 groups of individuals associated in fact although not a legal entity, and includes illicit as well

3866 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
3867 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
3868 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
3869 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
3870 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
3871 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
3872 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
3873 unlawful conduct and be related either to each other or to the enterprise.

3874 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
3875 immediate precursor under Section 58-37-3.

3876 (f) (i) "Controlled substance" means a drug or substance:

3877 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

3878 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
3879 Title II, P.L. 91-513;

3880 (C) that is a controlled substance analog; or

3881 (D) listed in Section 58-37-4.2.

3882 (ii) "Controlled substance" does not include:

3883 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
3884 Alcoholic Beverage Control Act;

3885 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
3886 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
3887 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
3888 transferred, or furnished as an over-the-counter medication without prescription; or

3889 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
3890 including concentrates or extracts, which:

3891 (I) are not otherwise regulated by law; and

3892 (II) may contain naturally occurring amounts of chemical or substances listed in this
3893 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
3894 Act.

3895 (g) (i) "Controlled substance analog" means:

3896 (A) a substance the chemical structure of which is substantially similar to the chemical

3897 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
3898 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
3899 Title II, P.L. 91-513;

3900 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
3901 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
3902 effect on the central nervous system of controlled substances listed in Schedules I and II of
3903 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
3904 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

3905 (C) A substance which, with respect to a particular individual, is represented or
3906 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
3907 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
3908 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
3909 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
3910 Controlled Substances Act, Title II, P.L. 91-513.

3911 (ii) "Controlled substance analog" does not include:

3912 (A) a controlled substance currently scheduled in Schedules I through V of Section
3913 58-37-4;

3914 (B) a substance for which there is an approved new drug application;

3915 (C) a substance with respect to which an exemption is in effect for investigational use
3916 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
3917 to the extent the conduct with respect to the substance is permitted by the exemption;

3918 (D) any substance to the extent not intended for human consumption before an
3919 exemption takes effect with respect to the substance;

3920 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
3921 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
3922 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
3923 transferred, or furnished as an over-the-counter medication without prescription; or

3924 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
3925 including concentrates or extracts, which are not otherwise regulated by law, which may
3926 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
3927 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3928 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
3929 or plea, whether guilty or no contest, for any offense proscribed by:

- 3930 (A) Chapter 37, Utah Controlled Substances Act;
- 3931 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 3932 (C) Chapter 37b, Imitation Controlled Substances Act;
- 3933 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 3934 (E) Chapter 37d, Clandestine Drug Lab Act; or

3935 (ii) for any offense under the laws of the United States and any other state which, if
3936 committed in this state, would be an offense under:

- 3937 (A) Chapter 37, Utah Controlled Substances Act;
- 3938 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 3939 (C) Chapter 37b, Imitation Controlled Substances Act;
- 3940 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 3941 (E) Chapter 37d, Clandestine Drug Lab Act.

3942 (i) "Counterfeit substance" means:

3943 (i) any controlled substance or container or labeling of any controlled substance that:

3944 (A) without authorization bears the trademark, trade name, or other identifying mark,
3945 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
3946 other than the person or persons who in fact manufactured, distributed, or dispensed the
3947 substance which falsely purports to be a controlled substance distributed by any other
3948 manufacturer, distributor, or dispenser; and

3949 (B) a reasonable person would believe to be a controlled substance distributed by an
3950 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
3951 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
3952 substance; or

3953 (ii) any substance other than under Subsection (1)(i)(i) that:

3954 (A) is falsely represented to be any legally or illegally manufactured controlled
3955 substance; and

3956 (B) a reasonable person would believe to be a legal or illegal controlled substance.

3957 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
3958 controlled substance or a listed chemical, whether or not an agency relationship exists.

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

3990 dispensed by prescription only or is restricted to administration by practitioners only;

3991 (C) a substance other than food intended to affect the structure or any function of the
3992 body of humans or other animals; and

3993 (D) substances intended for use as a component of any substance specified in
3994 Subsections (1)(r)(i)(A), (B), and (C).

3995 (ii) "Drug" does not include dietary supplements.

3996 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
3997 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
3998 dependent upon the use of controlled substances as to have lost the power of self-control with
3999 reference to the individual's dependency.

4000 (t) "Food" means:

4001 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
4002 specified in this chapter, and normally ingested by human beings; and

4003 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
4004 pathological, or other condition including but not limited to the conditions of disease,
4005 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
4006 overweight; uses for supplying a particular dietary need which exist by reason of age including
4007 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
4008 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
4009 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
4010 purposes.

4011 (u) "Immediate precursor" means a substance which the Attorney General of the United
4012 States has found to be, and by regulation designated as being, the principal compound used or
4013 produced primarily for use in the manufacture of a controlled substance, or which is an
4014 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
4015 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
4016 controlled substance.

4017 (v) "Indian" means a member of an Indian tribe.

4018 (w) "Indian religion" means any religion:

4019 (i) the origin and interpretation of which is from within a traditional Indian culture or
4020 community; and

4021 (ii) which is practiced by Indians.

4022 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
4023 community of Indians, including any Alaska Native village, which is legally recognized as
4024 eligible for and is consistent with the special programs, services, and entitlements provided by
4025 the United States to Indians because of their status as Indians.

4026 (y) "Manufacture" means the production, preparation, propagation, compounding, or
4027 processing of a controlled substance, either directly or indirectly by extraction from substances
4028 of natural origin, or independently by means of chemical synthesis or by a combination of
4029 extraction and chemical synthesis.

4030 (z) "Manufacturer" includes any person who packages, repackages, or labels any
4031 container of any controlled substance, except pharmacists who dispense or compound
4032 prescription orders for delivery to the ultimate consumer.

4033 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
4034 whether growing or not, including:

4035 (A) seeds;

4036 (B) resin extracted from any part of the plant, including the resin extracted from the
4037 mature stalks;

4038 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
4039 seeds, or resin; and

4040 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
4041 or any other species of the genus cannabis which are chemically indistinguishable and
4042 pharmacologically active.

4043 (ii) "Marijuana" does not include:

4044 (A) the mature stalks of the plant;

4045 (B) fiber produced from the stalks;

4046 (C) oil or cake made from the seeds of the plant;

4047 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
4048 salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

4049 (E) the sterilized seed of the plant which is incapable of germination; or

4050 (F) any compound, mixture, or preparation approved by the federal Food and Drug
4051 Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

4052 that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal
4053 Controlled Substances Act, Title II, P.L. 91-513.

4054 (bb) "Money" means officially issued coin and currency of the United States or any
4055 foreign country.

4056 (cc) "Narcotic drug" means any of the following, whether produced directly or
4057 indirectly by extraction from substances of vegetable origin, or independently by means of
4058 chemical synthesis, or by a combination of extraction and chemical synthesis:

4059 (i) opium, coca leaves, and opiates;

4060 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
4061 opiates;

4062 (iii) opium poppy and poppy straw; or

4063 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
4064 substance, which is chemically identical with any of the substances referred to in Subsection
4065 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
4066 extracts of coca leaves which do not contain cocaine or ecgonine.

4067 (dd) "Negotiable instrument" means documents, containing an unconditional promise
4068 to pay a sum of money, which are legally transferable to another party by endorsement or
4069 delivery.

4070 (ee) "Opiate" means any drug or other substance having an addiction-forming or
4071 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
4072 having addiction-forming or addiction-sustaining liability.

4073 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
4074 seeds of the plant.

4075 (gg) "Person" means any corporation, association, partnership, trust, other institution or
4076 entity or one or more individuals.

4077 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
4078 mowing.

4079 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
4080 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
4081 or consumption, as distinguished from distribution, of controlled substances and includes
4082 individual, joint, or group possession or use of controlled substances. For a person to be a

4083 possessor or user of a controlled substance, it is not required that the person be shown to have
4084 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
4085 the person jointly participated with one or more persons in the use, possession, or control of
4086 any substances with knowledge that the activity was occurring, or the controlled substance is
4087 found in a place or under circumstances indicating that the person had the ability and the intent
4088 to exercise dominion and control over it.

4089 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
4090 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
4091 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
4092 in teaching or chemical analysis a controlled substance in the course of professional practice or
4093 research in this state.

4094 (kk) "Prescribe" means to issue a prescription:

4095 (i) orally or in writing; or

4096 (ii) by telephone, facsimile transmission, computer, or other electronic means of
4097 communication as defined by division rule.

4098 (ll) "Prescription" means an order issued:

4099 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
4100 by collaborative pharmacy practice agreement; and

4101 (ii) for a controlled substance or other prescription drug or device for use by a patient
4102 or an animal.

4103 (mm) "Production" means the manufacture, planting, cultivation, growing, or
4104 harvesting of a controlled substance.

4105 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
4106 property.

4107 (oo) "State" means the state of Utah.

4108 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
4109 for the person's own use, for the use of a member of the person's household, or for
4110 administration to an animal owned by the person or a member of the person's household.

4111 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
4112 Utah Criminal Code, shall apply.

4113 Section 76. Section **58-37-6** is amended to read:

4114 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
4115 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
4116 **required -- Prescriptions.**

4117 (1) (a) The division may adopt rules relating to the licensing and control of the
4118 manufacture, distribution, production, prescription, administration, dispensing, conducting of
4119 research with, and performing of laboratory analysis upon controlled substances within this
4120 state.

4121 (b) The division may assess reasonable fees to defray the cost of issuing original and
4122 renewal licenses under this chapter pursuant to Section [63J-1-504](#).

4123 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
4124 administers, conducts research with, or performs laboratory analysis upon any controlled
4125 substance in Schedules I through V within this state, or who proposes to engage in
4126 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
4127 research with, or performing laboratory analysis upon controlled substances included in
4128 Schedules I through V within this state shall obtain a license issued by the division.

4129 (ii) The division shall issue each license under this chapter in accordance with a
4130 two-year renewal cycle established by rule. The division may by rule extend or shorten a
4131 renewal period by as much as one year to stagger the renewal cycles it administers.

4132 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
4133 administer, conduct research with, or perform laboratory analysis upon controlled substances in
4134 Schedules I through V within this state may possess, manufacture, produce, distribute,
4135 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
4136 those substances to the extent authorized by their license and in conformity with this chapter.

4137 (c) The following persons are not required to obtain a license and may lawfully possess
4138 controlled substances included in Schedules II through V under this section:

4139 (i) an agent or employee, except a sales representative, of any registered manufacturer,
4140 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
4141 usual course of the agent or employee's business or employment; however, nothing in this
4142 subsection shall be interpreted to permit an agent, employee, sales representative, or detail man
4143 to maintain an inventory of controlled substances separate from the location of the person's
4144 employer's registered and licensed place of business;

4145 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
4146 warehouseman, who possesses a controlled substance in the usual course of the person's
4147 business or employment; and

4148 (iii) an ultimate user, or a person who possesses any controlled substance pursuant to a
4149 lawful order of a practitioner.

4150 (d) The division may enact rules waiving the license requirement for certain
4151 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
4152 practitioners, or laboratories performing analysis if waiving the license requirement is
4153 consistent with public health and safety.

4154 (e) A separate license is required at each principal place of business or professional
4155 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
4156 with, or performs laboratory analysis upon controlled substances.

4157 (f) The division may enact rules providing for the inspection of a licensee or applicant's
4158 establishment, and may inspect the establishment according to those rules.

4159 (3) (a) (i) Upon proper application, the division shall license a qualified applicant to
4160 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
4161 controlled substances included in Schedules I through V, unless it determines that issuance of a
4162 license is inconsistent with the public interest.

4163 (ii) The division may not issue a license to any person to prescribe, dispense, or
4164 administer a Schedule I controlled substance except under Subsection (3)(a)(i).

4165 (iii) In determining public interest under this Subsection (3)(a), the division shall
4166 consider whether the applicant has:

4167 (A) maintained effective controls against diversion of controlled substances and any
4168 Schedule I or II substance compounded from any controlled substance into channels other than
4169 legitimate medical, scientific, or industrial channels;

4170 (B) complied with applicable state and local law;

4171 (C) been convicted under federal or state laws relating to the manufacture, distribution,
4172 or dispensing of substances;

4173 (D) past experience in the manufacture of controlled dangerous substances;

4174 (E) established effective controls against diversion; and

4175 (F) complied with any other factors that the division establishes that promote the public

4176 health and safety.

4177 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
4178 produce, distribute, conduct research with, or perform laboratory analysis upon controlled
4179 substances in Schedule I other than those specified in the license.

4180 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
4181 substances in Schedules II through V if they are authorized to administer, dispense, or conduct
4182 research under the laws of this state.

4183 (ii) The division need not require a separate license for practitioners engaging in
4184 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
4185 already licensed under this chapter in another capacity.

4186 (iii) With respect to research involving narcotic substances in Schedules II through V,
4187 or where the division by rule requires a separate license for research of nonnarcotic substances
4188 in Schedules II through V, a practitioner shall apply to the division prior to conducting
4189 research.

4190 (iv) Licensing for purposes of bona fide research with controlled substances by a
4191 practitioner considered qualified may be denied only on a ground specified in Subsection (4),
4192 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
4193 adequately the practitioner's supply of substances against diversion from medical or scientific
4194 use.

4195 (v) Practitioners registered under federal law to conduct research in Schedule I
4196 substances may conduct research in Schedule I substances within this state upon providing the
4197 division with evidence of federal registration.

4198 (d) Compliance by manufacturers, producers, and distributors with the provisions of
4199 federal law respecting registration, excluding fees, entitles them to be licensed under this
4200 chapter.

4201 (e) The division shall initially license those persons who own or operate an
4202 establishment engaged in the manufacture, production, distribution, dispensation, or
4203 administration of controlled substances prior to April 3, 1980, and who are licensed by the
4204 state.

4205 (4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended,
4206 placed on probation, or revoked by the division upon finding that the applicant or licensee has:

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

4238 conduct the proceedings.

4239 (d) (i) The division may suspend any license simultaneously with the institution of
4240 proceedings under this section if it finds there is an imminent danger to the public health or
4241 safety.

4242 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
4243 judicial review, unless withdrawn by the division or dissolved by a court of competent
4244 jurisdiction.

4245 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
4246 substances owned or possessed by the licensee may be placed under seal in the discretion of the
4247 division.

4248 (ii) Disposition may not be made of substances under seal until the time for taking an
4249 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
4250 orders the sale of perishable substances and the proceeds deposited with the court.

4251 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

4252 (f) The division shall notify promptly the Drug Enforcement Administration of all
4253 orders suspending or revoking a license and all forfeitures of controlled substances.

4254 (g) If an individual's Drug Enforcement Administration registration is denied, revoked,
4255 surrendered, or suspended, the division shall immediately suspend the individual's controlled
4256 substance license, which shall only be reinstated by the division upon reinstatement of the
4257 federal registration, unless the division has taken further administrative action under
4258 Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled
4259 substance license.

4260 (5) (a) A person licensed under Subsection (2) or (3) shall maintain records and
4261 inventories in conformance with the record keeping and inventory requirements of federal and
4262 state law and any additional rules issued by the division.

4263 (b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other
4264 individual who is authorized to administer or professionally use a controlled substance shall
4265 keep a record of the drugs received by the individual and a record of all drugs administered,
4266 dispensed, or professionally used by the individual otherwise than by a prescription.

4267 (ii) An individual using small quantities or solutions or other preparations of those
4268 drugs for local application has complied with this Subsection (5)(b) if the individual keeps a

4269 record of the quantity, character, and potency of those solutions or preparations purchased or
4270 prepared by the individual, and of the dates when purchased or prepared.

4271 (6) Controlled substances in Schedules I through V may be distributed only by a
4272 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
4273 order under the rules and regulations of the United States.

4274 (7) (a) An individual may not write or authorize a prescription for a controlled
4275 substance unless the individual is:

4276 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
4277 or under the laws of another state having similar standards; and

4278 (ii) licensed under this chapter or under the laws of another state having similar
4279 standards.

4280 (b) An individual other than a pharmacist licensed under the laws of this state, or the
4281 pharmacist's licensed intern, as required by Sections [58-17b-303](#) and [58-17b-304](#), may not
4282 dispense a controlled substance.

4283 (c) (i) A controlled substance may not be dispensed without the written prescription of
4284 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

4285 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
4286 conformity with Subsection (7)(d).

4287 (iii) In emergency situations, as defined by division rule, controlled substances may be
4288 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
4289 designated by the division and filed by the pharmacy.

4290 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with
4291 Subsection (7)(d).

4292 (d) Except for emergency situations designated by the division, an individual may not
4293 issue, fill, compound, or dispense a prescription for a controlled substance unless the
4294 prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic
4295 signature of the prescriber as authorized by division rule, and contains the following
4296 information:

4297 (i) the name, address, and registry number of the prescriber;

4298 (ii) the name, address, and age of the person to whom or for whom the prescription is
4299 issued;

- 4300 (iii) the date of issuance of the prescription; and
4301 (iv) the name, quantity, and specific directions for use by the ultimate user of the
4302 controlled substance.
- 4303 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
4304 controlled substance unless:
- 4305 (i) the individual who writes the prescription is licensed under Subsection (2); and
4306 (ii) the prescribed controlled substance is to be used in research.
- 4307 (f) Except when administered directly to an ultimate user by a licensed practitioner,
4308 controlled substances are subject to the restrictions of this Subsection (7)(f).
- 4309 (i) A prescription for a Schedule II substance may not be refilled.
4310 (ii) A Schedule II controlled substance may not be filled in a quantity to exceed a
4311 one-month's supply, as directed on the daily dosage rate of the prescriptions.
- 4312 (iii) (A) A prescription for a Schedule II or Schedule III controlled substance that is an
4313 opiate and that is issued for an acute condition shall be completely or partially filled in a
4314 quantity not to exceed a seven-day supply as directed on the daily dosage rate of the
4315 prescription.
- 4316 (B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or
4317 chronic conditions which are documented as being complex or chronic in the medical record.
- 4318 (C) A pharmacist is not required to verify that a prescription is in compliance with
4319 Subsection (7)(f)(iii).
- 4320 (iv) A Schedule III or IV controlled substance may be filled only within six months of
4321 issuance, and may not be refilled more than six months after the date of its original issuance or
4322 be refilled more than five times after the date of the prescription unless renewed by the
4323 practitioner.
- 4324 (v) All other controlled substances in Schedule V may be refilled as the prescriber's
4325 prescription directs, but they may not be refilled one year after the date the prescription was
4326 issued unless renewed by the practitioner.
- 4327 (vi) Any prescription for a Schedule II substance may not be dispensed if it is not
4328 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
4329 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
4330 specified separately from the date of issue.

4331 (vii) A practitioner may issue more than one prescription at the same time for the same
4332 Schedule II controlled substance, but only under the following conditions:

4333 (A) no more than three prescriptions for the same Schedule II controlled substance may
4334 be issued at the same time;

4335 (B) no one prescription may exceed a 30-day supply; and

4336 (C) a second or third prescription shall include the date of issuance and the date for
4337 dispensing.

4338 (g) An order for a controlled substance in Schedules II through V for use by an
4339 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
4340 Subsection (7) if the order is:

4341 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
4342 with the federal Drug Enforcement Administration, and an active Utah controlled substance
4343 license in good standing issued by the division under this section, or a medical resident who is
4344 exempted from licensure under Subsection 58-1-307(1)(c);

4345 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
4346 practitioner designates the quantity ordered;

4347 (iii) entered upon the record of the patient, the record is signed by the prescriber
4348 affirming the prescriber's authorization of the order within 48 hours after filling or
4349 administering the order, and the patient's record reflects the quantity actually administered; and

4350 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within
4351 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by
4352 the hospital and the amount taken from the supply is administered directly to the patient
4353 authorized to receive it.

4354 (h) A practitioner licensed under this chapter may not prescribe, administer, or
4355 dispense a controlled substance to a child, without first obtaining the consent required in
4356 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except
4357 in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as
4358 defined in Section 80-1-102, and "emergency" means any physical condition requiring the
4359 administration of a controlled substance for immediate relief of pain or suffering.

4360 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
4361 of a controlled substance in excess of medically recognized quantities necessary to treat the

4362 ailment, malady, or condition of the ultimate user.

4363 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
4364 any controlled substance to another person knowing that the other person is using a false name,
4365 address, or other personal information for the purpose of securing the controlled substance.

4366 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
4367 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
4368 another licensee or any other authorized person not authorized by this license.

4369 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
4370 symbol required by this chapter or by a rule issued under this chapter.

4371 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
4372 furnish any record notification, order form, statement, invoice, or information required under
4373 this chapter.

4374 (n) A person licensed under this chapter may not refuse entry into any premises for
4375 inspection as authorized by this chapter.

4376 (o) A person licensed under this chapter may not furnish false or fraudulent material
4377 information in any application, report, or other document required to be kept by this chapter or
4378 willfully make any false statement in any prescription, order, report, or record required by this
4379 chapter.

4380 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
4381 violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to
4382 a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of
4383 any violations in accordance with Sections 58-1-106 and 58-1-108.

4384 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) into the
4385 General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

4386 (iii) The director may collect a penalty that is not paid by:

4387 (A) referring the matter to a collection agency; or

4388 (B) bringing an action in the district court of the county where the person against
4389 whom the penalty is imposed resides or in the county where the office of the director is located.

4390 (iv) A county attorney or the attorney general of the state shall provide legal assistance
4391 and advice to the director in an action to collect a penalty.

4392 (v) A court shall award reasonable attorney fees and costs to the prevailing party in an

4393 action brought by the division to collect a penalty.

4394 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j)
4395 or Subsection (10) is:

4396 (i) upon first conviction, guilty of a class B misdemeanor;

4397 (ii) upon second conviction, guilty of a class A misdemeanor; and

4398 (iii) on third or subsequent conviction, guilty of a third degree felony.

4399 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
4400 (o) shall upon conviction be guilty of a third degree felony.

4401 (9) Any information communicated to any licensed practitioner in an attempt to
4402 unlawfully procure, or to procure the administration of, a controlled substance is not considered
4403 to be a privileged communication.

4404 (10) A person holding a valid license under this chapter who is engaged in medical
4405 research may produce, possess, administer, prescribe, or dispense a controlled substance for
4406 research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense
4407 a controlled substance listed in Section [58-37-4.2](#).

4408 (11) (a) As used in this Subsection (11):

4409 (i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that
4410 is written to continue for longer than 30 consecutive days.

4411 (ii) "Database" means the controlled substance database created in Section [58-37f-201](#).

4412 (b) A practitioner who issues a high risk prescription to a patient shall, before issuing
4413 the high risk prescription to the patient, verify in the database that the patient does not have a
4414 high risk prescription from a different practitioner that is currently active.

4415 (c) If the database shows that the patient has received a high risk prescription that is
4416 currently active from a different practitioner, the practitioner may not issue a high risk
4417 prescription to the patient unless the practitioner:

4418 (i) contacts and consults with each practitioner who issued a high risk prescription that
4419 is currently active to the patient;

4420 (ii) documents in the patient's medical record that the practitioner made contact with
4421 each practitioner in accordance with Subsection (11)(c)(i); and

4422 (iii) documents in the patient's medical record the reason why the practitioner believes
4423 that the patient needs multiple high risk prescriptions from different practitioners.

4424 (d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a
4425 timely manner, which may be after the practitioner issues the high risk prescription to the
4426 patient.

4427 Section 77. Section **58-37-8** is amended to read:

4428 **58-37-8. Prohibited acts -- Penalties.**

4429 (1) Prohibited acts A -- Penalties and reporting:

4430 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
4431 intentionally:

4432 (i) produce, manufacture, or dispense, or to possess with intent to produce,
4433 manufacture, or dispense, a controlled or counterfeit substance;

4434 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
4435 arrange to distribute a controlled or counterfeit substance;

4436 (iii) possess a controlled or counterfeit substance with intent to distribute; or

4437 (iv) engage in a continuing criminal enterprise where:

4438 (A) the person participates, directs, or engages in conduct that results in a violation of
4439 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,
4440 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance
4441 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

4442 (B) the violation is a part of a continuing series of two or more violations of Chapter
4443 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,
4444 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,
4445 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert
4446 with five or more persons with respect to whom the person occupies a position of organizer,
4447 supervisor, or any other position of management.

4448 (b) A person convicted of violating Subsection (1)(a) with respect to:

4449 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
4450 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
4451 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
4452 subsequent conviction is guilty of a first degree felony;

4453 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
4454 marijuana, or a substance listed in Section [58-37-4.2](#) is guilty of a third degree felony, and

4455 upon a second or subsequent conviction is guilty of a second degree felony; or

4456 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
4457 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
4458 felony.

4459 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
4460 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
4461 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
4462 person or in the person's immediate possession during the commission or in furtherance of the
4463 offense, the court shall additionally sentence the person convicted for a term of one year to run
4464 consecutively and not concurrently; and the court may additionally sentence the person
4465 convicted for an indeterminate term not to exceed five years to run consecutively and not
4466 concurrently.

4467 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
4468 felony punishable by imprisonment for an indeterminate term of not less than:

4469 (A) seven years and which may be for life; or

4470 (B) 15 years and which may be for life if the trier of fact determined that the defendant
4471 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
4472 was under 18 years old.

4473 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4474 not eligible for probation.

4475 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
4476 offense, was under 18 years old.

4477 (e) The Administrative Office of the Courts shall report to the Division of
4478 [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if
4479 known, the date of birth of each person convicted of violating Subsection (1)(a).

4480 (2) Prohibited acts B -- Penalties and reporting:

4481 (a) It is unlawful:

4482 (i) for a person knowingly and intentionally to possess or use a controlled substance
4483 analog or a controlled substance, unless it was obtained under a valid prescription or order,
4484 directly from a practitioner while acting in the course of the person's professional practice, or as
4485 otherwise authorized by this chapter;

4486 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
4487 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
4488 by persons unlawfully possessing, using, or distributing controlled substances in any of those
4489 locations; or

4490 (iii) for a person knowingly and intentionally to possess an altered or forged
4491 prescription or written order for a controlled substance.

4492 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

4493 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

4494 or

4495 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
4496 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
4497 conviction if each prior offense was committed within seven years before the date of the
4498 offense upon which the current conviction is based is guilty of a third degree felony.

4499 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
4500 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
4501 penalty than provided in this Subsection (2).

4502 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
4503 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
4504 [58-37-4.2](#), or marijuana, is guilty of a class B misdemeanor.

4505 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior
4506 offense was committed within seven years before the date of the offense upon which the
4507 current conviction is based.

4508 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony
4509 if each prior offense was committed within seven years before the date of the offense upon
4510 which the current conviction is based.

4511 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
4512 boundaries of property occupied by a correctional facility as defined in Section [64-13-1](#) or a
4513 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
4514 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
4515 listed in:

4516 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an

4517 indeterminate term as provided by law, and:

4518 (A) the court shall additionally sentence the person convicted to a term of one year to
4519 run consecutively and not concurrently; and

4520 (B) the court may additionally sentence the person convicted for an indeterminate term
4521 not to exceed five years to run consecutively and not concurrently; and

4522 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
4523 indeterminate term as provided by law, and the court shall additionally sentence the person
4524 convicted to a term of six months to run consecutively and not concurrently.

4525 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

4526 (i) on a first conviction, guilty of a class B misdemeanor;

4527 (ii) on a second conviction, guilty of a class A misdemeanor; and

4528 (iii) on a third or subsequent conviction, guilty of a third degree felony.

4529 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
4530 amounting to a violation of Section 76-5-207:

4531 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
4532 body any measurable amount of a controlled substance, except for

4533 11-nor-9-carboxy-tetrahydrocannabinol; and

4534 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
4535 in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section
4536 76-1-601 or the death of another; or

4537 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
4538 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
4539 Section 76-1-601 or the death of another.

4540 (h) A person who violates Subsection (2)(g) by having in the person's body:

4541 (i) a controlled substance classified under Schedule I, other than those described in
4542 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
4543 degree felony;

4544 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
4545 equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in
4546 Section 58-37-4.2 is guilty of a third degree felony; or

4547 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A

4548 misdemeanor.

4549 (i) A person is guilty of a separate offense for each victim suffering serious bodily
4550 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
4551 whether or not the injuries arise from the same episode of driving.

4552 (j) The Administrative Office of the Courts shall report to the Division of
4553 [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if
4554 known, the date of birth of each person convicted of violating Subsection (2)(a).

4555 (3) Prohibited acts C -- Penalties:

4556 (a) It is unlawful for a person knowingly and intentionally:

4557 (i) to use in the course of the manufacture or distribution of a controlled substance a
4558 license number which is fictitious, revoked, suspended, or issued to another person or, for the
4559 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
4560 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
4561 person;

4562 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4563 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
4564 attempting to acquire or obtain possession of, or to procure the administration of a controlled
4565 substance by misrepresentation or failure by the person to disclose receiving a controlled
4566 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
4567 prescription or written order for a controlled substance, or the use of a false name or address;

4568 (iii) to make a false or forged prescription or written order for a controlled substance,
4569 or to utter the same, or to alter a prescription or written order issued or written under the terms
4570 of this chapter; or

4571 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
4572 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
4573 device of another or any likeness of any of the foregoing upon any drug or container or labeling
4574 so as to render a drug a counterfeit controlled substance.

4575 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
4576 misdemeanor.

4577 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4578 degree felony.

4579 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

4580 (4) Prohibited acts D -- Penalties:

4581 (a) Notwithstanding other provisions of this section, a person not authorized under this
4582 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
4583 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
4584 of fact finds the act is committed:

4585 (i) in a public or private elementary or secondary school or on the grounds of any of
4586 those schools during the hours of 6 a.m. through 10 p.m.;

4587 (ii) in a public or private vocational school or postsecondary institution or on the
4588 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

4589 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
4590 facility's hours of operation;

4591 (iv) in a public park, amusement park, arcade, or recreation center when the public or
4592 amusement park, arcade, or recreation center is open to the public;

4593 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

4594 (vi) in or on the grounds of a library when the library is open to the public;

4595 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
4596 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

4597 (viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of
4598 where the act occurs; or

4599 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
4600 distribution of a substance in violation of this section to an inmate or on the grounds of a
4601 correctional facility as defined in Section 76-8-311.3.

4602 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
4603 and shall be imprisoned for a term of not less than five years if the penalty that would
4604 otherwise have been established but for this Subsection (4) would have been a first degree
4605 felony.

4606 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4607 not eligible for probation.

4608 (c) If the classification that would otherwise have been established would have been
4609 less than a first degree felony but for this Subsection (4), a person convicted under this

4610 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
4611 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

4612 (d) (i) If the violation is of Subsection (4)(a)(ix):

4613 (A) the person may be sentenced to imprisonment for an indeterminate term as
4614 provided by law, and the court shall additionally sentence the person convicted for a term of
4615 one year to run consecutively and not concurrently; and

4616 (B) the court may additionally sentence the person convicted for an indeterminate term
4617 not to exceed five years to run consecutively and not concurrently; and

4618 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
4619 the mental state required for the commission of an offense, directly or indirectly solicits,
4620 requests, commands, coerces, encourages, or intentionally aids another person to commit a
4621 violation of Subsection (4)(a)(ix).

4622 (e) It is not a defense to a prosecution under this Subsection (4) that:

4623 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
4624 the offense or was unaware of the individual's true age; or

4625 (ii) the actor mistakenly believed that the location where the act occurred was not as
4626 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
4627 described in Subsection (4)(a).

4628 (5) A violation of this chapter for which no penalty is specified is a class B
4629 misdemeanor.

4630 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
4631 guilty or no contest to a violation or attempted violation of this section or a plea which is held
4632 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
4633 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
4634 abeyance agreement.

4635 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
4636 conviction that is:

4637 (i) from a separate criminal episode than the current charge; and

4638 (ii) from a conviction that is separate from any other conviction used to enhance the
4639 current charge.

4640 (7) A person may be charged and sentenced for a violation of this section,

4641 notwithstanding a charge and sentence for a violation of any other section of this chapter.

4642 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
4643 of, a civil or administrative penalty or sanction authorized by law.

4644 (b) When a violation of this chapter violates a federal law or the law of another state,
4645 conviction or acquittal under federal law or the law of another state for the same act is a bar to
4646 prosecution in this state.

4647 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
4648 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
4649 substance or substances, is prima facie evidence that the person or persons did so with
4650 knowledge of the character of the substance or substances.

4651 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
4652 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
4653 administering controlled substances or from causing the substances to be administered by an
4654 assistant or orderly under the veterinarian's direction and supervision.

4655 (11) Civil or criminal liability may not be imposed under this section on:

4656 (a) a person registered under this chapter who manufactures, distributes, or possesses
4657 an imitation controlled substance for use as a placebo or investigational new drug by a
4658 registered practitioner in the ordinary course of professional practice or research; or

4659 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
4660 employment.

4661 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
4662 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
4663 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
4664 as defined in Section 58-37-2.

4665 (b) In a prosecution alleging violation of this section regarding peyote as defined in
4666 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
4667 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
4668 traditional Indian religion.

4669 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
4670 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
4671 trial.

4672 (ii) The notice shall include the specific claims of the affirmative defense.
4673 (iii) The court may waive the notice requirement in the interest of justice for good
4674 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.
4675 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
4676 a preponderance of the evidence. If the defense is established, it is a complete defense to the
4677 charges.

4678 (13) (a) It is an affirmative defense that the person produced, possessed, or
4679 administered a controlled substance listed in Section 58-37-4.2 if the person was:
4680 (i) engaged in medical research; and
4681 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
4682 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
4683 a controlled substance listed in Section 58-37-4.2.

4684 (14) It is an affirmative defense that the person possessed, in the person's body, a
4685 controlled substance listed in Section 58-37-4.2 if:
4686 (a) the person was the subject of medical research conducted by a holder of a valid
4687 license to possess controlled substances under Section 58-37-6; and
4688 (b) the substance was administered to the person by the medical researcher.

4689 (15) The application of any increase in penalty under this section to a violation of
4690 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
4691 Subsection (15) takes precedence over any conflicting provision of this section.

4692 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
4693 listed in Subsection (16)(b) that the person or bystander:
4694 (i) reasonably believes that the person or another person is experiencing an overdose
4695 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
4696 controlled substance or other substance;
4697 (ii) reports, or assists a person who reports, in good faith the overdose event to a
4698 medical provider, an emergency medical service provider as defined in Section 26-8a-102, a
4699 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
4700 person is the subject of a report made under this Subsection (16);
4701 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
4702 actual location of the overdose event that facilitates responding to the person experiencing the

4703 overdose event;

4704 (iv) remains at the location of the person experiencing the overdose event until a
4705 responding law enforcement officer or emergency medical service provider arrives, or remains
4706 at the medical care facility where the person experiencing an overdose event is located until a
4707 responding law enforcement officer arrives;

4708 (v) cooperates with the responding medical provider, emergency medical service
4709 provider, and law enforcement officer, including providing information regarding the person
4710 experiencing the overdose event and any substances the person may have injected, inhaled, or
4711 otherwise introduced into the person's body; and

4712 (vi) is alleged to have committed the offense in the same course of events from which
4713 the reported overdose arose.

4714 (b) The offenses referred to in Subsection (16)(a) are:

4715 (i) the possession or use of less than 16 ounces of marijuana;

4716 (ii) the possession or use of a scheduled or listed controlled substance other than
4717 marijuana; and

4718 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
4719 Imitation Controlled Substances Act.

4720 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
4721 include seeking medical assistance under this section during the course of a law enforcement
4722 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

4723 (17) If any provision of this chapter, or the application of any provision to any person
4724 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
4725 invalid provision or application.

4726 (18) A legislative body of a political subdivision may not enact an ordinance that is
4727 less restrictive than any provision of this chapter.

4728 (19) If a minor who is under 18 years old is found by a court to have violated this
4729 section, the court may order the minor to complete:

4730 (a) a screening as defined in Section [41-6a-501](#);

4731 (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
4732 assessment to be appropriate; and

4733 (c) an educational series as defined in Section [41-6a-501](#) or substance use disorder

4734 treatment as indicated by an assessment.

4735 Section 78. Section **58-37c-5** is amended to read:

4736 **58-37c-5. Responsibility of Department of Commerce -- Delegation to the**
4737 **Division of Professional Licensing -- Rulemaking authority of the division.**

4738 (1) Responsibility for the enforcement of the licensing and reporting provisions of this
4739 chapter shall be with the Department of Commerce.

4740 (2) The executive director shall delegate specific responsibility within the department
4741 to the Division of [~~Occupational and~~] Professional Licensing.

4742 (3) The division shall make, adopt, amend, and repeal rules necessary for the proper
4743 administration and enforcement of this chapter.

4744 Section 79. Section **58-37c-6** is amended to read:

4745 **58-37c-6. Division duties.**

4746 The division shall be responsible for the licensing and reporting provisions of this
4747 chapter and those duties shall include:

4748 (1) providing for a system of licensure of regulated distributors and regulated
4749 purchasers;

4750 (2) refusing to renew a license or revoking, suspending, restricting, placing on
4751 probation, issuing a private or public letter of censure or reprimand, or imposing other
4752 appropriate action against a license;

4753 (3) with respect to the licensure and reporting provisions of this chapter, investigating
4754 or causing to be investigated any violation of this chapter by any person and to cause, when
4755 necessary, appropriate administrative action with respect to the license of that person;

4756 (4) presenting evidence obtained from investigations conducted by appropriate county
4757 attorneys and the Office of the Attorney General for civil or criminal prosecution or for
4758 administrative action against a licensee;

4759 (5) conducting hearings for the purpose of revoking, suspending, placing on probation,
4760 or imposing other appropriate administrative action against the license of regulated distributors
4761 or regulated purchasers in accordance with the provisions of Title 58, Chapter 1, Division of
4762 [~~Occupational and~~] Professional Licensing Act, and Title 63G, Chapter 4, Administrative
4763 Procedures Act;

4764 (6) assisting all other law enforcement agencies of the state in enforcing all laws

4765 regarding controlled substance precursors;

4766 (7) specifying reports, frequency of reports, and conditions under which reports are to
4767 be submitted and to whom reports are to be submitted by regulated distributors and regulated
4768 purchasers with respect to transactions involving threshold amounts of controlled substance
4769 precursors; and

4770 (8) performing all other functions necessary to fulfill division duties and
4771 responsibilities as outlined under this chapter or rules adopted pursuant to this chapter.

4772 Section 80. Section **58-37c-21** is amended to read:

4773 **58-37c-21. Department of Public Safety enforcement authority.**

4774 (1) As used in this section, "division" means the Criminal Investigations and Technical
4775 Services Division of the Department of Public Safety, created in Section [53-10-103](#).

4776 (2) The division has authority to enforce this chapter. To carry out this purpose, the
4777 division may:

4778 (a) inspect, copy, and audit records, inventories of controlled substance precursors, and
4779 reports required under this chapter and rules adopted under this chapter;

4780 (b) enter the premises of regulated distributors and regulated purchasers during normal
4781 business hours to conduct administrative inspections;

4782 (c) assist the law enforcement agencies of the state in enforcing this chapter;

4783 (d) conduct investigations to enforce this chapter;

4784 (e) present evidence obtained from investigations conducted in conjunction with
4785 appropriate county and district attorneys and the Office of the Attorney General for civil or
4786 criminal prosecution or for administrative action against a licensee; and

4787 (f) work in cooperation with the Division of [~~Occupational and~~] Professional
4788 Licensing, created under Section [58-1-103](#), to accomplish the purposes of this section.

4789 Section 81. Section **58-37d-9** is amended to read:

4790 **58-37d-9. Department of Public Safety enforcement authority.**

4791 (1) As used in this section, "division" means the Criminal Investigations and Technical
4792 Services Division of the Department of Public Safety, created in Section [53-10-103](#).

4793 (2) The division has authority to enforce this chapter. To carry out this purpose, the
4794 division may:

4795 (a) assist the law enforcement agencies of the state in enforcing this chapter;

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

4827 (13) one naturopathic physician who is currently licensed and practicing in the state, to
4828 be appointed by the governor;

4829 (14) one advanced practice registered nurse who is currently licensed and practicing in
4830 this state, to be appointed by the governor; and

4831 (15) one member of the public, to be appointed by the governor.

4832 Section 83. Section ~~58-41-4~~ is amended to read:

4833 **58-41-4. Exemptions from chapter.**

4834 (1) In addition to the exemptions from licensure in Section ~~58-1-307~~, the following
4835 persons may engage in the practice of speech-language pathology and audiology subject to the
4836 stated circumstances and limitations without being licensed under this chapter:

4837 (a) a qualified person licensed in this state under any law existing in this state prior to
4838 May 13, 1975, engaging in the profession for which ~~he~~ the person is licensed;

4839 (b) a medical doctor, physician, physician assistant, or surgeon licensed in this state,
4840 engaging in his or her specialty in the practice of medicine;

4841 (c) a hearing aid dealer or ~~salesman from~~ salesperson selling, fitting, adjusting, and
4842 repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing
4843 aid dealer may not conduct audiologic testing on persons ~~under the age of 18 years~~ younger
4844 than 18 years old except under the direct supervision of an audiologist licensed under this
4845 chapter;

4846 (d) a person who has obtained a valid and current credential issued by the State Board
4847 of Education while specifically performing ~~specifically~~ the functions of a speech-language
4848 pathologist or audiologist~~[-in no way in his own interest, solely within the confines of and~~
4849 ~~under the direction and jurisdiction of and only in the academic interest of the schools by which~~
4850 ~~employed in this state]~~ solely within the confines of, under the direction and jurisdiction of, and
4851 in the academic interest of the school employing the person;

4852 (e) a person employed as a speech-language pathologist or audiologist by federal
4853 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
4854 agencies or subdivisions, while specifically performing speech-language pathology or
4855 audiology services ~~[in no way in his own interest,]~~ solely within the confines of ~~and~~₂ under
4856 the direction and jurisdiction of₂ and in the specific interest of ~~that~~ the agency or subdivision;

4857 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or

4858 monetary or other compensation, without being licensed[; ~~however, such person may elect to~~
4859 ~~be subject to the requirements of this chapter~~];

4860 (g) a person employed by an accredited [colleges or universities] college or university
4861 as a speech-language pathologist or audiologist [~~from~~] performing the services or functions
4862 described in this chapter [~~when they~~] if the services or functions are:

4863 (i) performed solely as an assigned teaching function of the person's employment;

4864 (ii) solely in academic interest and pursuit as a function of [~~that~~] the person's
4865 employment;

4866 (iii) in no way for [~~their~~] the person's own interest; and

4867 (iv) provided for no fee, monetary or otherwise, other than [~~their~~] the person's agreed
4868 institutional salary;

4869 (h) a person pursuing a course of study leading to a degree in speech-language
4870 pathology or audiology while enrolled in an accredited college or university, provided:

4871 (i) those activities constitute an assigned, directed, and supervised part of [~~his~~] the
4872 person's curricular study, and in no other interest[~~, and~~];

4873 (ii) that all examinations, tests, histories, charts, progress notes, reports,
4874 correspondence, [~~and all~~] documents, and records [~~which he~~] the person produces be identified
4875 clearly as having been conducted and prepared by a student in training [~~and that such a~~];

4876 (iii) that the person is obviously identified and designated by appropriate title clearly
4877 indicating the person's training status; and [~~provided that he~~]

4878 (iv) that the person does not hold [~~himself~~] out directly or indirectly [~~as being~~] to the
4879 public or otherwise represent that the person is qualified to practice independently;

4880 (i) a person trained in elementary audiometry and qualified to perform basic
4881 audiometric tests while employed by and under the direct supervision of a licensed medical
4882 doctor to perform solely for [~~him while under his direct supervision,~~] the licensed medical
4883 doctor, the elementary conventional audiometric tests of air conduction screening, air
4884 conduction threshold testing, and tympanometry;

4885 (j) a person [~~while performing as a~~] performing the functions of a speech-language
4886 pathologist or audiologist for the sole purpose of obtaining required professional experience
4887 under the provisions of this chapter and only during the period the person is obtaining the
4888 required professional experience, if [~~he~~] the person:

4889 (i) meets all training requirements; and

4890 (ii) is professionally responsible to and under the supervision of a speech-language
4891 pathologist or audiologist who holds the CCC or a state license in speech-language pathology
4892 or audiology[. This provision is applicable only during the time that person is obtaining the
4893 required professional experience];

4894 (k) a corporation, partnership, trust, association, group practice, or ~~[like]~~ similar
4895 organization engaging in speech-language pathology or audiology services without certification
4896 or license, if ~~[it acts]~~ acting only through employees or ~~[consists]~~ consisting only of persons
4897 who are licensed under this chapter;

4898 (l) ~~[performance of]~~ a person who is not a resident of this state performing
4899 speech-language pathology or audiology services in this state ~~[by a speech-language pathologist~~
4900 ~~or audiologist who is not a resident of this state and is not licensed under this chapter if those]~~
4901 if:

4902 (i) the services are performed for no more than one month in any calendar year in
4903 association with a speech-language pathologist or audiologist licensed under this chapter~~;~~
4904 ~~if that];~~ and

4905 (ii) the person meets the qualifications and requirements for application for licensure
4906 described in Section 58-41-5; [and]

4907 (m) a person certified under Title 53E, Public Education System -- State
4908 Administration, as a teacher of the deaf, from providing the services or performing the
4909 functions ~~[he]~~ the person is certified to perform[-]; and

4910 (n) a person who is:

4911 (i) trained in newborn hearing screening as described in rules made by the Department
4912 of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

4913 (ii) is working under the indirect supervision of a licensed audiologist responsible for a
4914 newborn hearing screening program established by the Department of Health under Section
4915 26-10-6.

4916 (2) No person is exempt from the requirements of this chapter who performs or
4917 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
4918 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
4919 engages any part of his professional work for a fee practicing in conjunction with, by

4920 permission of, or apart from his position of employment as speech-language pathologist or
4921 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
4922 identified in this section.

4923 Section 84. Section **58-44a-302** is amended to read:

4924 **58-44a-302. Qualifications for licensure.**

4925 (1) An applicant for licensure as a nurse midwife shall:

4926 (a) submit an application in a form as prescribed by the division;

4927 (b) pay a fee as determined by the department under Section [63J-1-504](#);

4928 [~~(c)~~ be of good moral character;]

4929 [~~(d)~~ (c) at the time of application for licensure hold a license in good standing as a
4930 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
4931 Title 58, Chapter 31b, Nurse Practice Act;

4932 [~~(e)~~ (d) have completed:

4933 (i) a certified nurse midwifery education program accredited by the Accreditation
4934 Commission for Midwifery Education and approved by the division; or

4935 (ii) a nurse midwifery education program located outside of the United States which is
4936 approved by the division and is equivalent to a program accredited by the Accreditation
4937 Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for
4938 the national certifying examination administered by the Accreditation Commission for
4939 Midwifery Education or its designee; and

4940 [~~(f)~~ (e) have passed examinations established by the division rule in collaboration with
4941 the board within two years after completion of the approved education program required under
4942 Subsection [~~(1)~~(e)] (1)(d).

4943 (2) For purposes of Subsection [~~(1)~~(e)] (1)(d), as of January 1, 2010, the accredited
4944 education program or it's equivalent must grant a graduate degree, including post-master's
4945 certificate, in nurse midwifery.

4946 Section 85. Section **58-44a-402** is amended to read:

4947 **58-44a-402. Authority to assess penalty.**

4948 (1) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures
4949 Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
4950 division may impose an administrative penalty of up to \$10,000 for unprofessional or unlawful

4951 conduct under this chapter in accordance with a fine schedule established by rule.

4952 (2) The assessment of a penalty under this section does not affect any other action the
4953 division is authorized to take regarding a license issued under this chapter.

4954 (3) The division may impose an administrative penalty of up to \$500 for any violation
4955 of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.

4956 (4) (a) The director may collect a penalty that is not paid by:

4957 (i) referring the matter to a collection agency; or

4958 (ii) bringing an action in the district court of the county where the person against whom
4959 the penalty is imposed resides or in the county where the office of the director is located.

4960 (b) A county attorney or the attorney general of the state shall provide legal assistance
4961 and advice to the director in an action to collect a penalty.

4962 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
4963 action brought by the division to collect a penalty.

4964 Section 86. Section 58-55-102 is amended to read:

4965 **58-55-102. Definitions.**

4966 In addition to the definitions in Section 58-1-102, as used in this chapter:

4967 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
4968 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,
4969 except as provided in Subsection (1)(b).

4970 (b) "Alarm business or company" does not include:

4971 (i) a person engaged in the manufacture or sale of alarm systems unless:

4972 (A) that person is also engaged in the installation, maintenance, alteration, repair,
4973 replacement, servicing, or monitoring of alarm systems;

4974 (B) the manufacture or sale occurs at a location other than a place of business
4975 established by the person engaged in the manufacture or sale; or

4976 (C) the manufacture or sale involves site visits at the place or intended place of
4977 installation of an alarm system; or

4978 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
4979 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
4980 of the alarm system owned by that owner.

4981 (2) "Alarm company agent":

4982 (a) except as provided in Subsection (2)(b), means any individual employed within this
4983 state by an alarm business; and

4984 (b) does not include an individual who:

4985 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
4986 servicing, or monitoring of an alarm system; and

4987 (ii) does not, during the normal course of the individual's employment with an alarm
4988 business, use or have access to sensitive alarm system information.

4989 (3) "Alarm system" means equipment and devices assembled for the purpose of:

4990 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
4991 premises; or

4992 (b) signaling a robbery or attempted robbery on protected premises.

4993 (4) "Apprentice electrician" means a person licensed under this chapter as an
4994 apprentice electrician who is learning the electrical trade under the immediate supervision of a
4995 master electrician, residential master electrician, a journeyman electrician, or a residential
4996 journeyman electrician.

4997 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
4998 plumber who is learning the plumbing trade under the immediate supervision of a master
4999 plumber, residential master plumber, journeyman plumber, or a residential journeyman
5000 plumber.

5001 (6) "Approved continuing education" means instruction provided through courses
5002 under a program established under Subsection [58-55-302.5\(2\)](#).

5003 (7) (a) "Approved prelicensure course provider" means a provider that is the
5004 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
5005 Contractors, or the Utah Home Builders Association, and that meets the requirements
5006 established by rule by the commission with the concurrence of the director, to teach the
5007 25-hour course described in Subsection [58-55-302\(1\)\(e\)\(iii\)](#).

5008 (b) "Approved prelicensure course provider" may only include a provider that, in
5009 addition to any other locations, offers the 25-hour course described in Subsection
5010 [58-55-302\(1\)\(e\)\(iii\)](#) at least six times each year in one or more counties other than Salt Lake
5011 County, Utah County, Davis County, or Weber County.

5012 (8) "Board" means the Electrician Licensing Board, Alarm System Security and

5013 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

5014 (9) "Combustion system" means an assembly consisting of:

5015 (a) piping and components with a means for conveying, either continuously or
5016 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
5017 appliance;

5018 (b) the electric control and combustion air supply and venting systems, including air
5019 ducts; and

5020 (c) components intended to achieve control of quantity, flow, and pressure.

5021 (10) "Commission" means the Construction Services Commission created under
5022 Section 58-55-103.

5023 (11) "Construction trade" means any trade or occupation involving:

5024 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
5025 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
5026 or other project, development, or improvement to other than personal property; and

5027 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
5028 defined in Section 15A-1-302; or

5029 (b) installation or repair of a residential or commercial natural gas appliance or
5030 combustion system.

5031 (12) "Construction trades instructor" means a person licensed under this chapter to
5032 teach one or more construction trades in both a classroom and project environment, where a
5033 project is intended for sale to or use by the public and is completed under the direction of the
5034 instructor, who has no economic interest in the project.

5035 (13) (a) "Contractor" means any person who for compensation other than wages as an
5036 employee undertakes any work in the construction, plumbing, or electrical trade for which
5037 licensure is required under this chapter and includes:

5038 (i) a person who builds any structure on the person's own property for the purpose of
5039 sale or who builds any structure intended for public use on the person's own property;

5040 (ii) any person who represents that the person is a contractor, or will perform a service
5041 described in this Subsection (13), by advertising on a website or social media, or any other
5042 means;

5043 (iii) any person engaged as a maintenance person, other than an employee, who

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

5075 servicing, repairing, or maintaining an elevator.

5076 (17) "Elevator mechanic" means an individual who is licensed under this chapter as an
5077 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
5078 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

5079 (18) "Employee" means an individual as defined by the division by rule giving
5080 consideration to the definition adopted by the Internal Revenue Service and the Department of
5081 Workforce Services.

5082 (19) "Engage in a construction trade" means to:

5083 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
5084 in a construction trade; or

5085 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
5086 to believe one is or will act as a contractor.

5087 (20) (a) "Financial responsibility" means a demonstration of a current and expected
5088 future condition of financial solvency evidencing a reasonable expectation to the division and
5089 the board that an applicant or licensee can successfully engage in business as a contractor
5090 without jeopardy to the public health, safety, and welfare.

5091 (b) Financial responsibility may be determined by an evaluation of the total history
5092 concerning the licensee or applicant including past, present, and expected condition and record
5093 of financial solvency and business conduct.

5094 (21) "Gas appliance" means any device that uses natural gas to produce light, heat,
5095 power, steam, hot water, refrigeration, or air conditioning.

5096 (22) (a) "General building contractor" means a person licensed under this chapter as a
5097 general building contractor qualified by education, training, experience, and knowledge to
5098 perform or superintend construction of structures for the support, shelter, and enclosure of
5099 persons, animals, chattels, or movable property of any kind or any of the components of that
5100 construction except plumbing, electrical work, mechanical work, work related to the operating
5101 integrity of an elevator, and manufactured housing installation, for which the general building
5102 contractor shall employ the services of a contractor licensed in the particular specialty, except
5103 that a general building contractor engaged in the construction of single-family and multifamily
5104 residences up to four units may perform the mechanical work and hire a licensed plumber or
5105 electrician as an employee.

5106 (b) The division may by rule exclude general building contractors from engaging in the
5107 performance of other construction specialties in which there is represented a substantial risk to
5108 the public health, safety, and welfare, and for which a license is required unless that general
5109 building contractor holds a valid license in that specialty classification.

5110 (23) (a) "General electrical contractor" means a person licensed under this chapter as a
5111 general electrical contractor qualified by education, training, experience, and knowledge to
5112 perform the fabrication, construction, and installation of generators, transformers, conduits,
5113 raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses
5114 electrical energy.

5115 (b) The scope of work of a general electrical contractor may be further defined by rules
5116 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5117 Chapter 3, Utah Administrative Rulemaking Act.

5118 (24) (a) "General engineering contractor" means a person licensed under this chapter as
5119 a general engineering contractor qualified by education, training, experience, and knowledge to
5120 perform or superintend construction of fixed works or components of fixed works requiring
5121 specialized engineering knowledge and skill in any of the following: [~~irrigation, drainage,~~
5122 ~~water, power, water supply, flood control, inland waterways, harbors, railroads, highways,~~
5123 ~~tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial~~
5124 ~~plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of~~
5125 ~~the components of those works.~~]

5126 (i) irrigation;

5127 (ii) drainage;

5128 (iii) water power;

5129 (iv) water supply;

5130 (v) flood control;

5131 (vi) an inland waterway;

5132 (vii) a harbor;

5133 (viii) a railroad;

5134 (ix) a highway;

5135 (x) a tunnel;

5136 (xi) an airport;

5137 (xii) an airport runway;

5138 (xiii) a sewer;

5139 (xiv) a bridge;

5140 (xv) a refinery;

5141 (xvi) a pipeline;

5142 (xvii) a chemical plant;

5143 (xviii) an industrial plant;

5144 (xix) a pier;

5145 (xx) a foundation;

5146 (xxi) a power plant; or

5147 (xxii) a utility plant or installation.

5148 (b) A general engineering contractor may not perform [~~construction of structures~~] or
5149 superintend:

5150 (i) construction of a structure built primarily for the support, shelter, and enclosure of
5151 persons, animals, and chattels[-]; or

5152 (ii) performance of:

5153 (A) plumbing work;

5154 (B) electrical work; or

5155 (C) mechanical work.

5156 (25) (a) "General plumbing contractor" means a person licensed under this chapter as a
5157 general plumbing contractor qualified by education, training, experience, and knowledge to
5158 perform the fabrication or installation of material and fixtures to create and maintain sanitary
5159 conditions in a building by providing permanent means for a supply of safe and pure water, a
5160 means for the timely and complete removal from the premises of all used or contaminated
5161 water, fluid and semi-fluid organic wastes and other impurities incidental to life and the
5162 occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and
5163 industrial purposes.

5164 (b) The scope of work of a general plumbing contractor may be further defined by rules
5165 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5166 Chapter 3, Utah Administrative Rulemaking Act.

5167 (26) "Immediate supervision" means reasonable direction, oversight, inspection, and

5168 evaluation of the work of a person:

5169 (a) as the division specifies in rule;

5170 (b) by, as applicable, a qualified electrician or plumber;

5171 (c) as part of a planned program of training; and

5172 (d) to ensure that the end result complies with applicable standards.

5173 (27) "Individual" means a natural person.

5174 (28) "Journeyman electrician" means a person licensed under this chapter as a
5175 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
5176 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

5177 (29) "Journeyman plumber" means a person licensed under this chapter as a
5178 journeyman plumber having the qualifications, training, experience, and technical knowledge
5179 to engage in the plumbing trade.

5180 (30) "Master electrician" means a person licensed under this chapter as a master
5181 electrician having the qualifications, training, experience, and knowledge to properly plan,
5182 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
5183 for light, heat, power, and other purposes.

5184 (31) "Master plumber" means a person licensed under this chapter as a master plumber
5185 having the qualifications, training, experience, and knowledge to properly plan and layout
5186 projects and supervise persons in the plumbing trade.

5187 (32) "Person" means a natural person, sole proprietorship, joint venture, corporation,
5188 limited liability company, association, or organization of any type.

5189 (33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
5190 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
5191 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

5192 (i) delivery of the water supply;

5193 (ii) discharge of liquid and water carried waste;

5194 (iii) building drainage system within the walls of the building; and

5195 (iv) delivery of gases for lighting, heating, and industrial purposes.

5196 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
5197 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
5198 safe and adequate supply of gases, together with their devices, appurtenances, and connections

5199 where installed within the outside walls of the building.

5200 (34) "Ratio of apprentices" means the number of licensed plumber apprentices or
5201 licensed electrician apprentices that are allowed to be under the immediate supervision of a
5202 licensed supervisor as established by the provisions of this chapter and by rules made by the
5203 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5204 Utah Administrative Rulemaking Act.

5205 (35) "Residential and small commercial contractor" means a person licensed under this
5206 chapter as a residential and small commercial contractor qualified by education, training,
5207 experience, and knowledge to perform or superintend the construction of single-family
5208 residences, multifamily residences up to four units, and commercial construction of not more
5209 than three stories above ground and not more than 20,000 square feet, or any of the components
5210 of that construction except plumbing, electrical work, mechanical work, and manufactured
5211 housing installation, for which the residential and small commercial contractor shall employ
5212 the services of a contractor licensed in the particular specialty, except that a residential and
5213 small commercial contractor engaged in the construction of single-family and multifamily
5214 residences up to four units may perform the mechanical work and hire a licensed plumber or
5215 electrician as an employee.

5216 (36) "Residential building," as it relates to the license classification of residential
5217 journeyman plumber and residential master plumber, means a single or multiple family
5218 dwelling of up to four units.

5219 (37) (a) "Residential electrical contractor" means a person licensed under this chapter
5220 as a residential electrical contractor qualified by education, training, experience, and
5221 knowledge to perform the fabrication, construction, and installation of services, disconnecting
5222 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
5223 appliances, and fixtures in a residential unit.

5224 (b) The scope of work of a residential electrical contractor may be further defined by
5225 rules made by the commission, with the concurrence of the director, in accordance with Title
5226 63G, Chapter 3, Utah Administrative Rulemaking Act.

5227 (38) "Residential journeyman electrician" means a person licensed under this chapter
5228 as a residential journeyman electrician having the qualifications, training, experience, and
5229 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,

5230 and other purposes on buildings using primarily nonmetallic sheath cable.

5231 (39) "Residential journeyman plumber" means a person licensed under this chapter as a
5232 residential journeyman plumber having the qualifications, training, experience, and knowledge
5233 to engage in the plumbing trade as limited to the plumbing of residential buildings.

5234 (40) "Residential master electrician" means a person licensed under this chapter as a
5235 residential master electrician having the qualifications, training, experience, and knowledge to
5236 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
5237 and equipment for light, heat, power, and other purposes on residential projects.

5238 (41) "Residential master plumber" means a person licensed under this chapter as a
5239 residential master plumber having the qualifications, training, experience, and knowledge to
5240 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
5241 plumbing of residential buildings.

5242 (42) (a) "Residential plumbing contractor" means a person licensed under this chapter
5243 as a residential plumbing contractor qualified by education, training, experience, and
5244 knowledge to perform the fabrication or installation of material and fixtures to create and
5245 maintain sanitary conditions in residential buildings by providing permanent means for a
5246 supply of safe and pure water, a means for the timely and complete removal from the premises
5247 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
5248 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
5249 for lighting, heating, and [~~industrial~~] residential purposes.

5250 (b) The scope of work of a residential plumbing contractor may be further defined by
5251 rules made by the commission, with the concurrence of the director, in accordance with Title
5252 63G, Chapter 3, Utah Administrative Rulemaking Act.

5253 (43) "Residential project," as it relates to an electrician or electrical contractor, means
5254 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
5255 and regulations governing this work, including the National Electrical Code, and in which the
5256 voltage does not exceed 250 volts line to line and 125 volts to ground.

5257 (44) "Sensitive alarm system information" means:

5258 (a) a pass code or other code used in the operation of an alarm system;

5259 (b) information on the location of alarm system components at the premises of a
5260 customer of the alarm business providing the alarm system;

5261 (c) information that would allow the circumvention, bypass, deactivation, or other
5262 compromise of an alarm system of a customer of the alarm business providing the alarm
5263 system; and

5264 (d) any other similar information that the division by rule determines to be information
5265 that an individual employed by an alarm business should use or have access to only if the
5266 individual is licensed as provided in this chapter.

5267 (45) (a) "Specialty contractor" means a person licensed under this chapter under a
5268 specialty contractor classification established by rule, who is qualified by education, training,
5269 experience, and knowledge to perform those construction trades and crafts requiring
5270 specialized skill, the regulation of which are determined by the division to be in the best
5271 interest of the public health, safety, and welfare.

5272 (b) A specialty contractor may perform work in crafts or trades other than those in
5273 which the specialty contractor is licensed if they are incidental to the performance of the
5274 specialty contractor's licensed craft or trade.

5275 (46) "Unincorporated entity" means an entity that is not:

5276 (a) an individual;

5277 (b) a corporation; or

5278 (c) publicly traded.

5279 (47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
5280 and 58-55-501.

5281 (48) "Unprofessional conduct" means the same as that term is defined in Sections
5282 58-1-501 and 58-55-502 and as may be further defined by rule.

5283 (49) "Wages" means amounts due to an employee for labor or services whether the
5284 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
5285 the amount.

5286 Section 87. Section 58-55-302 is amended to read:

5287 **58-55-302. Qualifications for licensure.**

5288 (1) Each applicant for a license under this chapter shall:

5289 (a) submit an application prescribed by the division;

5290 (b) pay a fee as determined by the department under Section 63J-1-504;

5291 (c) meet the examination requirements established by this section and by rule by the

5292 commission with the concurrence of the director, which requirements include:

5293 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
5294 contractor, no division-administered examination is required;

5295 (ii) for licensure as a general building contractor, general engineering contractor,
5296 residential and small commercial contractor, general plumbing contractor, residential plumbing
5297 contractor, general electrical contractor, or residential electrical contractor, the only required
5298 division-administered examination is a division-administered examination that covers
5299 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
5300 have been previously completed as part of applying for any other license under this chapter,
5301 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
5302 course described in Subsection (1)(e)(iv); and

5303 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
5304 division-administered examination if the applicant is a business entity;

5305 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

5306 (e) if an applicant for a contractor's license:

5307 (i) produce satisfactory evidence of financial responsibility, except for a construction
5308 trades instructor for whom evidence of financial responsibility is not required;

5309 (ii) produce satisfactory evidence of:

5310 (A) except as provided in Subsection (2)(a), and except that no employment experience
5311 is required for licensure as a specialty contractor, two years full-time paid employment
5312 experience in the construction industry, which employment experience, unless more
5313 specifically described in this section, may be related to any contracting classification and does
5314 not have to include supervisory experience; and

5315 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
5316 necessary for the protection of the public health, safety, and welfare;

5317 (iii) except as otherwise provided by rule by the commission with the concurrence of
5318 the director, complete a 25-hour course established by rule by the commission with the
5319 concurrence of the director, which is taught by an approved prelicensure course provider, and
5320 which course may include:

5321 (A) construction business practices;

5322 (B) bookkeeping fundamentals;

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

5354 (b) The applicant shall file the following with the division before the division issues the
5355 license:

5356 (i) proof of workers' compensation insurance which covers employees of the applicant
5357 in accordance with applicable Utah law;

5358 (ii) proof of public liability insurance in coverage amounts and form established by rule
5359 except for a construction trades instructor for whom public liability insurance is not required;
5360 and

5361 (iii) proof of registration as required by applicable law with the:

5362 (A) Department of Commerce;

5363 (B) Division of Corporations and Commercial Code;

5364 (C) Unemployment Insurance Division in the Department of Workforce Services, for
5365 purposes of Title 35A, Chapter 4, Employment Security Act;

5366 (D) State Tax Commission; and

5367 (E) Internal Revenue Service.

5368 (3) In addition to the general requirements for each applicant in Subsection (1),
5369 applicants shall comply with the following requirements to be licensed in the following
5370 classifications:

5371 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

5372 (A) has been a licensed journeyman plumber for at least two years and had two years of
5373 supervisory experience as a licensed journeyman plumber in accordance with division rule;

5374 (B) has received at least an associate of applied science degree or similar degree
5375 following the completion of a course of study approved by the division and had one year of
5376 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

5377 (C) meets the qualifications for expedited licensure as established by rules made by the
5378 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5379 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5380 and skills to be a licensed master plumber.

5381 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
5382 least four years of practical experience as a licensed apprentice under the supervision of a
5383 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
5384 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current

5385 master plumber license under this chapter, and satisfies the requirements of this Subsection
5386 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

5387 (iii) An individual holding a valid plumbing contractor's license or residential
5388 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
5389 2008:

5390 (A) considered to hold a current master plumber license under this chapter if licensed
5391 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
5392 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
5393 58-55-303; and

5394 (B) considered to hold a current residential master plumber license under this chapter if
5395 licensed as a residential plumbing contractor and a residential journeyman plumber, and
5396 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
5397 that license under Section 58-55-303.

5398 (b) A master residential plumber applicant shall produce satisfactory evidence that the
5399 applicant:

5400 (i) has been a licensed residential journeyman plumber for at least two years and had
5401 two years of supervisory experience as a licensed residential journeyman plumber in
5402 accordance with division rule; or

5403 (ii) meets the qualifications for expedited licensure as established by rules made by the
5404 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5405 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5406 and skills to be a licensed master residential plumber.

5407 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

5408 (i) successful completion of the equivalent of at least four years of full-time training
5409 and instruction as a licensed apprentice plumber under supervision of a licensed master
5410 plumber or journeyman plumber and in accordance with a planned program of training
5411 approved by the division;

5412 (ii) at least eight years of full-time experience approved by the division in collaboration
5413 with the Plumbers Licensing Board; or

5414 (iii) meeting the qualifications for expedited licensure as established by rules made by
5415 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5416 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5417 and skills to be a licensed journeyman plumber.

5418 (d) A residential journeyman plumber shall produce satisfactory evidence of:

5419 (i) completion of the equivalent of at least three years of full-time training and
5420 instruction as a licensed apprentice plumber under the supervision of a licensed residential
5421 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
5422 accordance with a planned program of training approved by the division;

5423 (ii) completion of at least six years of full-time experience in a maintenance or repair
5424 trade involving substantial plumbing work; or

5425 (iii) meeting the qualifications for expedited licensure as established by rules made by
5426 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5427 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5428 and skills to be a licensed residential journeyman plumber.

5429 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
5430 in accordance with the following:

5431 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
5432 under the immediate supervision of a licensed master plumber, licensed residential master
5433 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

5434 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
5435 apprentice plumber may work without supervision for a period not to exceed eight hours in any
5436 24-hour period; and

5437 (iii) rules made by the commission, with the concurrence of the director, in accordance
5438 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5439 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5440 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5441 immediate supervision of a licensed supervisor.

5442 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

5443 (i) is a graduate electrical engineer of an accredited college or university approved by
5444 the division and has one year of practical electrical experience as a licensed apprentice
5445 electrician;

5446 (ii) is a graduate of an electrical trade school, having received an associate of applied

5447 sciences degree following successful completion of a course of study approved by the division,
5448 and has two years of practical experience as a licensed journeyman electrician;

5449 (iii) has four years of practical experience as a journeyman electrician; or

5450 (iv) meets the qualifications for expedited licensure as established by rules made by the
5451 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5452 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5453 and skills to be a licensed master electrician.

5454 (g) A master residential electrician applicant shall produce satisfactory evidence that
5455 the applicant:

5456 (i) has at least two years of practical experience as a residential journeyman electrician;

5457 or

5458 (ii) meets the qualifications for expedited licensure as established by rules made by the
5459 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5460 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5461 and skills to be a master residential electrician.

5462 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
5463 applicant:

5464 (i) has successfully completed at least four years of full-time training and instruction as
5465 a licensed apprentice electrician under the supervision of a master electrician or journeyman
5466 electrician and in accordance with a planned training program approved by the division;

5467 (ii) has at least eight years of full-time experience approved by the division in
5468 collaboration with the Electricians Licensing Board; or

5469 (iii) meets the qualifications for expedited licensure as established by rules made by the
5470 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5471 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5472 and skills to be a licensed journeyman electrician.

5473 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
5474 that the applicant:

5475 (i) has successfully completed two years of training in an electrical training program
5476 approved by the division;

5477 (ii) has four years of practical experience in wiring, installing, and repairing electrical

5478 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
5479 journeyman, residential master, or residential journeyman electrician; or

5480 (iii) meets the qualifications for expedited licensure as established by rules made by the
5481 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5482 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5483 and skills to be a licensed residential journeyman electrician.

5484 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
5485 be in accordance with the following:

5486 (i) A licensed apprentice electrician shall be under the immediate supervision of a
5487 licensed master, journeyman, residential master, or residential journeyman electrician;

5488 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
5489 apprentice electrician may work without supervision for a period not to exceed eight hours in
5490 any 24-hour period;

5491 (iii) rules made by the commission, with the concurrence of the director, in accordance
5492 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5493 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5494 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5495 immediate supervision of a licensed supervisor; and

5496 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
5497 residential project, or more if established by rules made by the commission, in concurrence
5498 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5499 Act.

5500 (k) An alarm company applicant shall:

5501 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
5502 the applicant who:

5503 (A) demonstrates 6,000 hours of experience in the alarm company business;

5504 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
5505 company business or in a construction business; and

5506 (C) passes an examination component established by rule by the commission with the
5507 concurrence of the director;

5508 (ii) if a corporation, provide:

5509 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5510 of all corporate officers, directors, and those responsible management personnel employed
5511 within the state or having direct responsibility for managing operations of the applicant within
5512 the state; and

5513 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5514 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
5515 shall not be required if the stock is publicly listed and traded;

5516 (iii) if a limited liability company, provide:

5517 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5518 of all company officers, and those responsible management personnel employed within the
5519 state or having direct responsibility for managing operations of the applicant within the state;
5520 and

5521 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
5522 of all individuals owning 5% or more of the equity of the company;

5523 (iv) if a partnership, provide the names, addresses, dates of birth, social security
5524 numbers, and fingerprint cards of all general partners, and those responsible management
5525 personnel employed within the state or having direct responsibility for managing operations of
5526 the applicant within the state;

5527 (v) if a proprietorship, provide the names, addresses, dates of birth, social security
5528 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
5529 employed within the state or having direct responsibility for managing operations of the
5530 applicant within the state;

5531 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and
5532 fingerprint cards of the trustee, and those responsible management personnel employed within
5533 the state or having direct responsibility for managing operations of the applicant within the
5534 state;

5535 [~~(vii) be of good moral character in that officers, directors, shareholders described in~~
5536 ~~Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel~~
5537 ~~have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other~~
5538 ~~crime that when considered with the duties and responsibilities of an alarm company is~~
5539 ~~considered by the board to indicate that the best interests of the public are served by granting~~

5540 ~~the applicant a license;]~~

5541 ~~[(viii)]~~ (vii) document that none of the applicant's officers, directors, shareholders
5542 described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible
5543 management personnel have been declared by any court of competent jurisdiction incompetent
5544 by reason of mental defect or disease and not been restored;

5545 ~~[(ix)]~~ (viii) document that none of the applicant's officers, directors, shareholders
5546 described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management
5547 personnel are currently suffering from habitual drunkenness or from drug addiction or
5548 dependence;

5549 ~~[(x)]~~ (ix) file and maintain with the division evidence of:

5550 (A) comprehensive general liability insurance in form and in amounts to be established
5551 by rule by the commission with the concurrence of the director;

5552 (B) workers' compensation insurance that covers employees of the applicant in
5553 accordance with applicable Utah law; and

5554 (C) registration as is required by applicable law with the:

5555 (I) Division of Corporations and Commercial Code;

5556 (II) Unemployment Insurance Division in the Department of Workforce Services, for
5557 purposes of Title 35A, Chapter 4, Employment Security Act;

5558 (III) State Tax Commission; and

5559 (IV) Internal Revenue Service; and

5560 ~~[(xi)]~~ (x) meet with the division and board.

5561 (l) Each applicant for licensure as an alarm company agent shall:

5562 (i) submit an application in a form prescribed by the division accompanied by
5563 fingerprint cards;

5564 (ii) pay a fee determined by the department under Section [63J-1-504](#);

5565 ~~[(iii) be of good moral character in that the applicant has not been convicted of a
5566 felony, a misdemeanor involving moral turpitude, or any other crime that when considered with
5567 the duties and responsibilities of an alarm company agent is considered by the board to indicate
5568 that the best interests of the public are served by granting the applicant a license;]~~

5569 ~~[(iv)]~~ (iii) not have been declared by any court of competent jurisdiction incompetent
5570 by reason of mental defect or disease and not been restored;

5571 ~~[(v)]~~ (iv) not be currently suffering from habitual drunkenness or from drug addiction
5572 or dependence; and

5573 ~~[(vi)]~~ (v) meet with the division and board if requested by the division or the board.

5574 (m) (i) Each applicant for licensure as an elevator mechanic shall:

5575 (A) provide documentation of experience and education credits of not less than three
5576 years work experience in the elevator industry, in construction, maintenance, or service and
5577 repair; and

5578 (B) satisfactorily complete a written examination administered by the division
5579 established by rule under Section [58-1-203](#); or

5580 (C) provide certificates of completion of an apprenticeship program for elevator
5581 mechanics, having standards substantially equal to those of this chapter and registered with the
5582 United States Department of Labor Bureau Apprenticeship and Training or a state
5583 apprenticeship council.

5584 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
5585 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
5586 repairing, or maintaining an elevator, the contractor may:

5587 (I) notify the division of the unavailability of licensed personnel; and

5588 (II) request the division issue a temporary elevator mechanic license to an individual
5589 certified by the contractor as having an acceptable combination of documented experience and
5590 education to perform the work described in this Subsection (3)(m)(ii)(A).

5591 (B) (I) The division may issue a temporary elevator mechanic license to an individual
5592 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
5593 the appropriate fee as determined by the department under Section [63J-1-504](#).

5594 (II) The division shall specify the time period for which the license is valid and may
5595 renew the license for an additional time period upon its determination that a shortage of
5596 licensed elevator mechanics continues to exist.

5597 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5598 division may make rules establishing when Federal Bureau of Investigation records shall be
5599 checked for applicants as an alarm company or alarm company agent.

5600 (5) ~~[To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and~~
5601 ~~(3)(i)(iii)]~~ For each applicant described in Subsection (3)(k) or (l), the division shall provide an

5602 appropriate number of copies of fingerprint cards to the Department of Public Safety with the
5603 division's request to:

5604 (a) conduct a search of records of the Department of Public Safety for criminal history
5605 information relating to each applicant for licensure as an alarm company or alarm company
5606 agent and each applicant's officers, directors, shareholders described in Subsection
5607 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

5608 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
5609 requiring a check of records of the Federal Bureau of Investigation for criminal history
5610 information under this section.

5611 (6) The Department of Public Safety shall send to the division:

5612 (a) a written record of criminal history, or certification of no criminal history record, as
5613 contained in the records of the Department of Public Safety in a timely manner after receipt of
5614 a fingerprint card from the division and a request for review of Department of Public Safety
5615 records; and

5616 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
5617 a timely manner after receipt of information from the Federal Bureau of Investigation.

5618 (7) (a) The division shall charge each applicant for licensure as an alarm company or
5619 alarm company agent a fee, in accordance with Section [63J-1-504](#), equal to the cost of
5620 performing the records reviews under this section.

5621 (b) The division shall pay the Department of Public Safety the costs of all records
5622 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
5623 costs of records reviews under this section.

5624 (8) Information obtained by the division from the reviews of criminal history records of
5625 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
5626 disseminated by the division only for the purpose of determining if an applicant for licensure as
5627 an alarm company or alarm company agent is qualified for licensure.

5628 (9) (a) An application for licensure under this chapter shall be denied if:

5629 (i) the applicant has had a previous license, which was issued under this chapter,
5630 suspended or revoked within two years before the date of the applicant's application;

5631 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

5632 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the

5633 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5634 status, performing similar functions, or directly or indirectly controlling the applicant has
5635 served in any similar capacity with any person or entity which has had a previous license,
5636 which was issued under this chapter, suspended or revoked within two years before the date of
5637 the applicant's application;

5638 (iii) (A) the applicant is an individual or sole proprietorship; and

5639 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5640 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
5641 this chapter, suspended or revoked within two years before the date of the applicant's
5642 application; or

5643 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
5644 an unincorporated entity at the time the entity's license under this chapter was revoked; and

5645 (B) the application for licensure is filed within 60 months after the revocation of the
5646 unincorporated entity's license.

5647 (b) An application for licensure under this chapter shall be reviewed by the appropriate
5648 licensing board prior to approval if:

5649 (i) the applicant has had a previous license, which was issued under this chapter,
5650 suspended or revoked more than two years before the date of the applicant's application;

5651 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

5652 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5653 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5654 status, performing similar functions, or directly or indirectly controlling the applicant has
5655 served in any similar capacity with any person or entity which has had a previous license,
5656 which was issued under this chapter, suspended or revoked more than two years before the date
5657 of the applicant's application; or

5658 (iii) (A) the applicant is an individual or sole proprietorship; and

5659 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5660 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
5661 this chapter, suspended or revoked more than two years before the date of the applicant's
5662 application.

5663 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status

5664 report with the division every 30 days after the day on which the license is issued if the licensee
5665 has more than five owners who are individuals who:

5666 (A) own an interest in the contractor that is an unincorporated entity;

5667 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
5668 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
5669 unincorporated entity; and

5670 (C) engage, or will engage, in a construction trade in the state as owners of the
5671 contractor described in Subsection (10)(a)(i)(A).

5672 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
5673 licensee shall provide the ownership status report with an application for renewal of licensure.

5674 (b) An ownership status report required under this Subsection (10) shall:

5675 (i) specify each addition or deletion of an owner:

5676 (A) for the first ownership status report, after the day on which the unincorporated
5677 entity is licensed under this chapter; and

5678 (B) for a subsequent ownership status report, after the day on which the previous
5679 ownership status report is filed;

5680 (ii) be in a format prescribed by the division that includes for each owner, regardless of
5681 the owner's percentage ownership in the unincorporated entity, the information described in
5682 Subsection (1)(e)(vi);

5683 (iii) list the name of:

5684 (A) each officer or manager of the unincorporated entity; and

5685 (B) each other individual involved in the operation, supervision, or management of the
5686 unincorporated entity; and

5687 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)
5688 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

5689 (c) The division may, at any time, audit an ownership status report under this
5690 Subsection (10):

5691 (i) to determine if financial responsibility has been demonstrated or maintained as
5692 required under Section [58-55-306](#); and

5693 (ii) to determine compliance with Subsection [58-55-501](#)(23), (24), or (26) or
5694 Subsection [58-55-502](#)(8) or (9).

5695 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
5696 chapter by providing an individual who owns an interest in the unincorporated entity to engage
5697 in a construction trade in Utah shall file with the division:

5698 (i) before the individual who owns an interest in the unincorporated entity engages in a
5699 construction trade in Utah, a current list of the one or more individuals who hold an ownership
5700 interest in the unincorporated entity that includes for each individual:

5701 (A) the individual's name, address, birth date, and social security number; and

5702 (B) whether the individual will engage in a construction trade; and

5703 (ii) every 30 days after the day on which the unincorporated entity provides the list
5704 described in Subsection (11)(a)(i), an ownership status report containing the information that
5705 would be required under Subsection (10) if the unincorporated entity were a licensed
5706 contractor.

5707 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
5708 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
5709 the division in accordance with Section [63J-1-504](#).

5710 (12) This chapter may not be interpreted to create or support an express or implied
5711 independent contractor relationship between an unincorporated entity described in Subsection
5712 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
5713 withholding.

5714 (13) A social security number provided under Subsection (1)(e)(vi) is a private record
5715 under Subsection [63G-2-302\(1\)\(i\)](#).

5716 Section 88. Section **58-55-502** is amended to read:

5717 **58-55-502. Unprofessional conduct.**

5718 Unprofessional conduct includes:

5719 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed
5720 as a contractor under this chapter;

5721 (2) disregarding or violating through gross negligence or a pattern of negligence:

5722 (a) the building or construction laws of this state or any political subdivision;

5723 (b) the safety and labor laws applicable to a project;

5724 (c) any provision of the health laws applicable to a project;

5725 (d) the workers' compensation insurance laws of this state applicable to a project;

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

5757 (7) failing to comply with operating standards established by rule in accordance with
5758 Section [58-55-308](#);

5759 (8) an unincorporated entity licensed under this chapter having an individual who owns
5760 an interest in the unincorporated entity engage in a construction trade in Utah while not
5761 lawfully present in the United States;

5762 (9) an unincorporated entity failing to provide the following for an individual who
5763 engages, or will engage, in a construction trade in Utah for the unincorporated entity:

5764 (a) workers' compensation coverage to the extent required by Title 34A, Chapter 2,
5765 Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and

5766 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
5767 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
5768 interest in the unincorporated entity, as defined by rule made by the division in accordance with
5769 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [or]

5770 (10) the failure of an alarm company or alarm company agent to inform a potential
5771 customer, before the customer's purchase of an alarm system or alarm service from the alarm
5772 company, of the policy of the county, city, or town within which the customer resides relating
5773 to priority levels for responding to an alarm signal transmitted by the alarm system that the
5774 alarm company provides the customer[-]; or

5775 (11) failing to continuously maintain insurance and registration as required under
5776 Subsection [58-55-302](#)(2).

5777 Section 89. Section **58-55-503** is amended to read:

5778 **58-55-503. Penalty for unlawful conduct -- Citations.**

5779 (1) (a) (i) A person who violates Subsection [58-55-308](#)(2), Subsection [58-55-501](#)(1),
5780 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
5781 (27), or (28), or Subsection [58-55-504](#)(2), or who fails to comply with a citation issued under
5782 this section after it is final, is guilty of a class A misdemeanor.

5783 (ii) As used in this section in reference to Subsection [58-55-504](#)(2), "person" means an
5784 individual and does not include a sole proprietorship, joint venture, corporation, limited
5785 liability company, association, or organization of any type.

5786 (b) A person who violates the provisions of Subsection [58-55-501](#)(8) may not be
5787 awarded and may not accept a contract for the performance of the work.

5788 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
5789 infraction unless the violator did so with the intent to deprive the person to whom money is to
5790 be paid of the money received, in which case the violator is guilty of theft, as classified in
5791 Section 76-6-412.

5792 (3) Grounds for immediate suspension of a licensee's license by the division and the
5793 commission include:

5794 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
5795 58-55-501, or Subsection 58-55-504(2); and

5796 (b) the failure by a licensee to make application to, report to, or notify the division with
5797 respect to any matter for which application, notification, or reporting is required under this
5798 chapter or rules adopted under this chapter, including:

5799 (i) applying to the division for a new license to engage in a new specialty classification
5800 or to do business under a new form of organization or business structure;

5801 (ii) filing a current financial statement with the division; and

5802 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

5803 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
5804 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
5805 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), [or] (28), Subsection
5806 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to
5807 these subsections, and that disciplinary action is appropriate, the director or the director's
5808 designee from within the division shall promptly issue a citation to the person according to this
5809 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person
5810 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
5811 Administrative Procedures Act.

5812 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
5813 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),
5814 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
5815 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
5816 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
5817 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
5818 (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection

5819 58-55-504(2).

5820 (iii) Except for a cease and desist order, the licensure sanctions cited in Section

5821 58-55-401 may not be assessed through a citation.

5822 (b) (i) A citation shall be in writing and describe with particularity the nature of the
5823 violation, including a reference to the provision of the chapter, rule, or order alleged to have
5824 been violated.

5825 (ii) A citation shall clearly state that the recipient must notify the division in writing
5826 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
5827 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

5828 (iii) A citation shall clearly explain the consequences of failure to timely contest the
5829 citation or to make payment of any fines assessed by the citation within the time specified in
5830 the citation.

5831 (c) A citation issued under this section, or a copy of a citation, may be served upon a
5832 person upon whom a summons may be served:

5833 (i) in accordance with the Utah Rules of Civil Procedure;

5834 (ii) personally or upon the person's agent by a division investigator or by a person
5835 specially designated by the director; or

5836 (iii) by mail.

5837 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
5838 to whom the citation was issued fails to request a hearing to contest the citation, the citation
5839 becomes the final order of the division and is not subject to further agency review.

5840 (ii) The period to contest a citation may be extended by the division for cause.

5841 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
5842 the license of a licensee who fails to comply with a citation after the citation becomes final.

5843 (f) The failure of an applicant for licensure to comply with a citation after the citation
5844 becomes final is a ground for denial of license.

5845 (g) A citation may not be issued under this section after the expiration of one year
5846 following the date on which the violation that is the subject of the citation is reported to the
5847 division.

5848 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's
5849 designee shall assess a fine in accordance with the following:

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

5881 (4)(i)(i), the division shall comply with the requirements of this section.

5882 (j) In addition to any other licensure sanction or fine imposed under this section, the
5883 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
5884 two or more times within a 12-month period, unless, with respect to a violation of Subsection
5885 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
5886 legal working status of the individual who was the subject of the violation using a status
5887 verification system, as defined in Section 13-47-102.

5888 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
5889 for each individual is considered a separate violation.

5890 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
5891 subsequent violation of a previous violation if the violation occurs five years or more after the
5892 day on which the person committed the previous violation.

5893 (6) If, after an investigation, the division determines that a person has committed
5894 multiple of the same type of violation of Section 58-55-501, the division may treat each
5895 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
5896 each violation.

5897 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
5898 into the Commerce Service Account created by Section 13-1-2.

5899 (b) A penalty that is not paid may be collected by the director by either referring the
5900 matter to a collection agency or bringing an action in the district court of the county in which
5901 the person against whom the penalty is imposed resides or in the county where the office of the
5902 director is located.

5903 (c) A county attorney or the attorney general of the state shall provide legal assistance
5904 and advice to the director in an action to collect a penalty.

5905 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
5906 fees and costs to the prevailing party.

5907 Section 90. Section 58-56-2 is amended to read:

5908 **58-56-2. Chapter administration.**

5909 The provisions of this chapter shall be administered by the Division of [Occupational
5910 and] Professional Licensing.

5911 Section 91. Section 58-57-14 is amended to read:

5912 **58-57-14. Unlawful conduct -- Penalty.**

5913 (1) Beginning January 1, 2007, "unlawful conduct" includes:

5914 (a) using the following titles, names, or initials, if the user is not properly licensed
5915 under this chapter:

5916 (i) respiratory care practitioner;

5917 (ii) respiratory therapist; and

5918 (iii) respiratory technician; and

5919 (b) using any other name, title, or initials that would cause a reasonable person to
5920 believe the user is licensed under this chapter if the user is not properly licensed under this
5921 chapter.

5922 (2) Any person who violates the unlawful conduct provision specifically defined in
5923 Subsection 58-1-501(1)(a) is guilty of a third degree felony.

5924 (3) Any person who violates any of the unlawful conduct provisions specifically
5925 defined in Subsections 58-1-501(1)(b) through (f) and Subsection (1) of this section is guilty of
5926 a class A misdemeanor.

5927 (4) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures
5928 Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
5929 division may assess administrative penalties for acts of unprofessional or unlawful conduct or
5930 any other appropriate administrative action.

5931 Section 92. Section 58-61-704 is amended to read:

5932 **58-61-704. Term of license or registration.**

5933 (1) (a) The division shall issue each license under this part with a two-year renewal
5934 cycle established by division rule.

5935 (b) The division may by rule extend or shorten a renewal cycle by as much as one year
5936 to stagger the renewal cycles it administers.

5937 (2) At the time of renewal, the licensed individual shall show satisfactory evidence of
5938 renewal requirements as required under this part.

5939 (3) Each license or registration expires on the expiration date shown on the license
5940 unless renewed by the licensed individual in accordance with Section 58-1-308.

5941 (4) (a) A registration as a registered behavior specialist or a registered assistant
5942 behavior specialist:

5943 (i) expires on the day the individual is no longer employed in accordance with
5944 Subsection 58-61-705(5)(d) or (6)(d); and

5945 (ii) may not be renewed.

5946 (b) The Department of Human Services, or an organization contracted with a division
5947 of the Department of Human Services, shall notify the Division of [~~Occupational and~~
5948 Professional Licensing when a person registered under this part is no longer employed as a
5949 registered behavior specialist or a registered assistant behavior specialist.

5950 Section 93. Section 58-63-102 is amended to read:

5951 **58-63-102. Definitions.**

5952 In addition to the definitions in Section 58-1-102, as used in this chapter:

5953 (1) "Agreement for services" means a written and signed agreement between a security
5954 service provider and a client that:

5955 (a) contains clear language that addresses and assigns financial responsibility;

5956 (b) describes the length, duties, and scope of the security services that will be provided;

5957 and

5958 (c) describes the compensation that will be paid by the client for the security services,
5959 including the compensation for each security officer.

5960 (2) "Armed courier service" means a person engaged in business as a contract security
5961 company who transports or offers to transport tangible personal property from one place or
5962 point to another under the control of an armed security officer employed by that service.

5963 (3) "Armed private security officer" means an individual:

5964 (a) employed by a contract security company;

5965 (b) whose primary duty is:

5966 (i) guarding personal or real property; or

5967 (ii) providing protection or security to the life and well being of humans or animals;

5968 and

5969 (c) who wears, carries, possesses, or has immediate access to a firearm in the
5970 performance of the individual's duties.

5971 (4) "Armored car company" means a person engaged in business under contract to
5972 others who transports or offers to transport tangible personal property, currency, valuables,
5973 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that

5974 require secured delivery from one place to another under the control of an armored car security
5975 officer employed by the company using a specially equipped motor vehicle offering a high
5976 degree of security.

5977 (5) "Armored car security officer" means an individual:

5978 (a) employed by an armored car company;

5979 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
5980 SNAP benefits as defined in Section [35A-1-102](#), or other high value items that require secured
5981 delivery from one place to another; and

5982 (c) who wears, carries, possesses, or has immediate access to a firearm in the
5983 performance of the individual's duties.

5984 (6) "Board" means the Security Services Licensing Board created in Section
5985 [58-63-201](#).

5986 (7) "Client" means a person, company, or entity that contracts for and receives security
5987 services from a contract security company or an armored car company.

5988 (8) "Contract security company" means a company that is registered with the Division
5989 of Corporations and Commercial Code and is engaged in business to provide security services
5990 to another person, business, or entity on a contractual basis by assignment of an armed or
5991 unarmed private security officer.

5992 (9) "Corporate officer" means an individual who is on file with the Division of
5993 Corporations and Commercial Code as:

5994 (a) a corporate officer of a contract security company or an armored car company that
5995 is a corporation; or

5996 (b) a sole proprietor of a contract security company or an armored car company that is
5997 not a corporation.

5998 (10) "Financial responsibility," when referring to a contract security company, means
5999 that a contract security company may only provide security services to a client if the contract
6000 security company:

6001 (a) enters into an agreement for services with the client;

6002 (b) maintains a current general liability insurance policy with:

6003 (i) at least an annual \$1,000,000 per occurrence limit;

6004 (ii) at least an annual \$2,000,000 aggregate limit; and

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

6036 (16) "Responsible management personnel" means an individual who is responsible for
6037 managing an applicant's operations.

6038 [~~(16)~~] (17) (a) "Security officer" means an individual who is licensed as an armed or
6039 unarmed private security officer under this chapter and who:

6040 (i) is employed by a contract security company securing, guarding, or otherwise
6041 protecting tangible personal property, real property, or the life and well being of human or
6042 animal life against:

6043 (A) trespass or other unlawful intrusion or entry;

6044 (B) larceny;

6045 (C) vandalism or other abuse;

6046 (D) arson or other criminal activity; or

6047 (E) personal injury caused by another person or as a result of an act or omission by
6048 another person;

6049 (ii) is controlling, regulating, or directing the flow of movements of an individual or
6050 vehicle; or

6051 (iii) providing street patrol service.

6052 (b) "Security officer" does not include an individual whose duties include taking
6053 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
6054 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
6055 convention center, fairgrounds, public assembly facility, or mass gathering location if:

6056 (i) the individual carries out these duties without the use of specialized equipment;

6057 (ii) the authority of the individual is limited to denying entry or passage of another
6058 individual into or within the facility; and

6059 (iii) the individual is not authorized to use physical force in the performance of the
6060 individual's duties under this Subsection [~~(16)~~] (17)(b).

6061 [~~(17)~~] (18) "Security service provider" means a contract security company or an
6062 armored car company licensed under this chapter.

6063 [~~(18)~~] (19) "Security system" means equipment, a device, or an instrument installed
6064 for:

6065 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
6066 the premises protected by the system; or

6067 (b) signaling the commission of criminal activity at the election of an individual having
6068 control of the features of the security system.

6069 ~~[(19)]~~ (20) "Specialized resource, motor vehicle, or equipment" means an item of
6070 tangible personal property specifically designed for use in law enforcement or in providing
6071 security or guard services, or that is specially equipped with a device or feature designed for
6072 use in providing law enforcement, security, or guard services, but does not include:

6073 (a) standardized clothing, whether or not bearing a company name or logo, if the
6074 clothing does not bear the words "security" or "guard"; or

6075 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
6076 may be used without modification in providing security or guard services.

6077 ~~[(20)]~~ (21) "Street patrol service" means a contract security company that provides
6078 patrols by means of foot, vehicle, or other method of transportation using public streets,
6079 thoroughfares, or property in the performance of the company's duties and responsibilities.

6080 ~~[(21)]~~ (22) "Unarmed private security officer" means an individual:

6081 (a) employed by a contract security company;

6082 (b) whose primary duty is guarding personal or real property or providing protection or
6083 security to the life and well being of humans or animals;

6084 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
6085 performance of the individual's duties; and

6086 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
6087 emblem, insignia, or other device that identifies the individual as a security officer.

6088 ~~[(22)]~~ (23) "Unlawful conduct" means the same as that term is defined in Sections
6089 [58-1-501](#) and [58-63-501](#).

6090 ~~[(23)]~~ (24) "Unprofessional conduct" means the same as that term is defined in
6091 Sections [58-1-501](#) and [58-63-502](#) and as may be further defined by rule.

6092 Section 94. Section **58-63-302** is amended to read:

6093 **58-63-302. Qualifications for licensure.**

6094 (1) Each applicant for licensure as an armored car company or a contract security
6095 company shall:

6096 (a) submit an application in a form prescribed by the division;

6097 (b) pay a fee determined by the department under Section [63J-1-504](#);

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

6129 officers, and [those] responsible management personnel [~~employed within the state or having~~
6130 ~~direct responsibility for managing operations of the applicant within the state~~]; and

6131 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
6132 owning 5% or more of the equity of the company;

6133 (f) if a partnership, provide the names, addresses, dates of birth, and social security
6134 numbers of all general partners, and [those] responsible management personnel [~~employed~~
6135 ~~within the state or having direct responsibility for managing operations of the applicant within~~
6136 ~~the state~~];

6137 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
6138 numbers of the proprietor, and [those] responsible management personnel [~~employed within~~
6139 ~~the state or having direct responsibility for managing operations of the applicant within the~~
6140 ~~state~~];

6141 (h) have good moral character in that officers, directors, shareholders described in
6142 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not
6143 been convicted of:

6144 (i) a felony;

6145 (ii) a misdemeanor involving moral turpitude; or

6146 (iii) a crime that when considered with the duties and responsibilities of a contract
6147 security company or an armored car company by the division and the board indicates that the
6148 best interests of the public are not served by granting the applicant a license;

6149 (i) document that none of the applicant's officers, directors, shareholders described in
6150 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

6151 (i) have been declared by a court of competent jurisdiction incompetent by reason of
6152 mental defect or disease and not been restored; and

6153 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

6154 (j) file and maintain with the division evidence of:

6155 (i) comprehensive general liability insurance in a form and in amounts established by
6156 rule by the division in collaboration with the board;

6157 (ii) workers' compensation insurance that covers employees of the applicant in
6158 accordance with applicable Utah law;

6159 (iii) registration with the Division of Corporations and Commercial Code; and

- 6160 (iv) registration as required by applicable law with the:
- 6161 (A) Unemployment Insurance Division in the Department of Workforce Services, for
- 6162 purposes of Title 35A, Chapter 4, Employment Security Act;
- 6163 (B) State Tax Commission; and
- 6164 (C) Internal Revenue Service; and
- 6165 (k) meet with the division and board if requested by the division or board.
- 6166 (2) Each applicant for licensure as an armed private security officer shall:
- 6167 (a) submit an application in a form prescribed by the division;
- 6168 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 6169 (c) have good moral character in that the applicant has not been convicted of:
- 6170 (i) a felony;
- 6171 (ii) a misdemeanor involving moral turpitude; or
- 6172 (iii) a crime that when considered with the duties and responsibilities of an armed
- 6173 private security officer by the division and the board indicates that the best interests of the
- 6174 public are not served by granting the applicant a license;
- 6175 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec.
- 6176 922(g);
- 6177 (e) not have been declared incompetent by a court of competent jurisdiction by reason
- 6178 of mental defect or disease and not been restored;
- 6179 (f) not be currently suffering from habitual drunkenness or from drug addiction or
- 6180 dependence;
- 6181 (g) successfully complete basic education and training requirements established by rule
- 6182 by the division in collaboration with the board, which shall include a minimum of eight hours
- 6183 of classroom or online curriculum;
- 6184 (h) successfully complete firearms training requirements established by rule by the
- 6185 division in collaboration with the board, which shall include a minimum of 12 hours of
- 6186 training;
- 6187 (i) pass the examination requirement established by rule by the division in
- 6188 collaboration with the board; and
- 6189 (j) meet with the division and board if requested by the division or the board.
- 6190 (3) Each applicant for licensure as an unarmed private security officer shall:

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

6222 (f) not be currently suffering from habitual drunkenness or from drug addiction or
6223 dependence;

6224 (g) successfully complete basic education and training requirements established by rule
6225 by the division in collaboration with the board;

6226 (h) successfully complete firearms training requirements established by rule by the
6227 division in collaboration with the board;

6228 (i) pass the examination requirements established by rule by the division in
6229 collaboration with the board; and

6230 (j) meet with the division and board if requested by the division or the board.

6231 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6232 division may make a rule establishing when the division shall request a Federal Bureau of
6233 Investigation records' review for an applicant who is applying for licensure or licensure renewal
6234 under this chapter.

6235 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
6236 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
6237 cards to the Department of Public Safety with the division's request to:

6238 (a) conduct a search of records of the Department of Public Safety for criminal history
6239 information relating to each applicant for licensure under this chapter and each applicant's
6240 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
6241 responsible management personnel; and

6242 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
6243 requiring a check of records of the FBI for criminal history information under this section.

6244 (7) The Department of Public Safety shall send the division:

6245 (a) a written record of criminal history, or certification of no criminal history record, as
6246 contained in the records of the Department of Public Safety in a timely manner after receipt of
6247 a fingerprint card from the division and a request for review of Department of Public Safety
6248 records; and

6249 (b) the results of the FBI review concerning an applicant in a timely manner after
6250 receipt of information from the FBI.

6251 (8) (a) The division shall charge each applicant a fee, in accordance with Section
6252 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

6253 (b) The division shall pay the Department of Public Safety the costs of all records
6254 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
6255 under this chapter.

6256 (9) The division shall use or disseminate the information it obtains from the reviews of
6257 criminal history records of the Department of Public Safety and the FBI only to determine if an
6258 applicant for licensure or licensure renewal under this chapter is qualified for licensure.

6259 Section 95. Section **58-67-503** is amended to read:

6260 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**
6261 **conduct.**

6262 (1) Any person who violates the unlawful conduct provisions of Section **58-67-501** or
6263 Section **58-1-501** is guilty of a third degree felony.

6264 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6265 conduct by:

- 6266 (i) assessing administrative penalties; or
- 6267 (ii) taking other appropriate administrative action.

6268 (b) A monetary administrative penalty imposed under this section shall be deposited
6269 ~~in~~ into the Physician Education Fund created in Section **58-67a-1**.

6270 (3) If a licensee has been convicted of unlawful conduct, described in Section
6271 **58-67-501**, before an administrative proceeding regarding the same conduct, the division may
6272 not assess an additional administrative fine under this chapter for the same conduct.

6273 (4) (a) If the division concludes that an individual has violated provisions of Section
6274 **58-67-501**, Section **58-67-502**, Chapter 1, Division of [~~Occupational and~~] Professional
6275 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6276 respect to these provisions, and disciplinary action is appropriate, the director or director's
6277 designee shall:

- 6278 (i) issue a citation to the individual;
- 6279 (ii) attempt to negotiate a stipulated settlement; or
- 6280 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6281 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6282 appear.

6283 (b) The division may take the following action against an individual who is in violation

6284 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6285 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6286 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of
6287 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;
6288 or

6289 (ii) order to cease and desist from the behavior that constitutes a violation of the
6290 provisions described in Subsection (4)(a).

6291 (c) An individual's license may not be suspended or revoked through a citation.

6292 (d) Each citation issued under this section shall:

6293 (i) be in writing;

6294 (ii) clearly describe or explain:

6295 (A) the nature of the violation, including a reference to the provision of the chapter,
6296 rule, or order alleged to have been violated;

6297 (B) that the recipient must notify the division in writing within 20 calendar days from
6298 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6299 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6300 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6301 the citation within the time specified in the citation; and

6302 (iii) be served in accordance with the Utah Rules of Civil Procedure.

6303 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6304 the citation within 20 calendar days from the day on which the citation is served, the citation
6305 becomes the final order of the division and is not subject to further agency review. The period
6306 to contest the citation may be extended by the division for cause.

6307 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6308 the license of an individual who fails to comply with a citation after the citation becomes final.

6309 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6310 final is a ground for denial of license.

6311 (h) No citation may be issued under this section after the expiration of one year
6312 following the date on which the violation that is the subject of the citation is reported to the
6313 division.

6314 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6315 (i) referring the matter to a collection agency; or
6316 (ii) bringing an action in the district court of the county where the person against whom
6317 the penalty is imposed resides or in the county where the office of the director is located.

6318 (b) A county attorney or the attorney general of the state shall provide legal assistance
6319 and advice to the director in an action to collect a penalty.

6320 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6321 action brought by the division to collect a penalty.

6322 Section 96. Section **58-68-503** is amended to read:

6323 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**
6324 **conduct.**

6325 (1) Any person who violates the unlawful conduct provisions of Section **58-68-501** or
6326 Section **58-1-501** is guilty of a third degree felony.

6327 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6328 conduct by:

6329 (i) assessing administrative penalties; or
6330 (ii) taking any other appropriate administrative action.

6331 (b) A monetary administrative penalty imposed under this section shall be deposited
6332 ~~[in]~~ into the Physician Education Fund described in Section **58-67a-1**.

6333 (3) If a licensee is convicted of unlawful conduct, described in Section **58-68-501**,
6334 before an administrative proceeding regarding the same conduct, the licensee may not be
6335 assessed an administrative fine under this chapter for the same conduct.

6336 (4) (a) If the division concludes that an individual has violated the provisions of
6337 Section **58-68-501**, Section **58-68-502**, Chapter 1, Division of ~~[Occupational and]~~ Professional
6338 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6339 respect to these provisions, and disciplinary action is appropriate, the director or director's
6340 designee shall:

6341 (i) issue a citation to the individual;
6342 (ii) attempt to negotiate a stipulated settlement; or
6343 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6344 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6345 appear.

6346 (b) The division may take the following action against an individual who is in violation
6347 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6348 stipulated settlement, or a finding of violation in an adjudicative proceeding:

6349 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing
6350 violation, whichever is greater, in accordance with a fine schedule established by rule; or

6351 (ii) order to cease and desist from the behavior that constitutes a violation of provisions
6352 described in Subsection (4)(a).

6353 (c) Except for an administrative fine and a cease and desist order, the licensure
6354 sanctions cited in Section 58-1-401 may not be assessed through a citation.

6355 (d) Each citation issued under this section shall:

6356 (i) be in writing;

6357 (ii) clearly describe or explain:

6358 (A) the nature of the violation, including a reference to the provision of the chapter,
6359 rule, or order alleged to have been violated;

6360 (B) that the recipient must notify the division in writing within 20 calendar days from
6361 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
6362 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

6363 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
6364 the citation within the time specified in the citation; and

6365 (iii) be served in accordance with the requirements of the Utah Rules of Civil
6366 Procedure.

6367 (e) If the individual to whom the citation is issued fails to request a hearing to contest
6368 the citation within 20 calendar days from the day on which the citation is served, the citation
6369 becomes the final order of the division and is not subject to further agency review. The period
6370 to contest the citation may be extended by the division for cause.

6371 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
6372 the license of an individual who fails to comply with a citation after the citation becomes final.

6373 (g) The failure of an applicant for licensure to comply with a citation after it becomes
6374 final is a ground for denial of a license.

6375 (h) No citation may be issued under this section after the expiration of one year
6376 following the date on which the violation that is the subject of the citation is reported to the

6377 division.

6378 (5) (a) The director may collect a penalty imposed under this section that is not paid by:

6379 (i) referring the matter to a collection agency; or

6380 (ii) bringing an action in the district court of the county where the person against whom

6381 the penalty is imposed resides or in the county where the office of the director is located.

6382 (b) A county attorney or the attorney general of the state shall provide legal assistance

6383 and advice to the director in an action to collect a penalty.

6384 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

6385 action brought by the division to collect a penalty.

6386 Section 97. Section **58-71-402** is amended to read:

6387 **58-71-402. Authority to assess penalty.**

6388 (1) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act,

6389 and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the

6390 division may impose administrative penalties of up to \$10,000 for acts of unprofessional

6391 conduct or unlawful conduct under this chapter.

6392 (2) Assessment of a penalty under this section does not affect any other action the

6393 division is authorized to take regarding a license issued under this chapter.

6394 Section 98. Section **58-73-302** is amended to read:

6395 **58-73-302. Qualifications for licensure.**

6396 (1) Each applicant for licensure as a chiropractic physician, other than those applying

6397 for a license based on licensure as a chiropractor or chiropractic physician in another

6398 jurisdiction, shall:

6399 (a) submit an application in a form prescribed by the division;

6400 (b) pay a fee determined by the department under Section [63J-1-504](#);

6401 (c) demonstrate satisfactory completion of at least two years of general study in a

6402 college or university;

6403 (d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic

6404 college or university that at the time the degree was conferred was accredited by the Council on

6405 Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the

6406 United States Department of Education and by the division rule made in collaboration with the

6407 board;

- 6408 (e) demonstrate successful completion of:
- 6409 (i) the National Chiropractic Boards:
- 6410 (A) Parts I and II;
- 6411 (B) Written Clinical Competency Examination; and
- 6412 (C) [~~Physical Therapy~~] Physiotherapy;
- 6413 (ii) the Utah Chiropractic Law and Rules Examination; and
- 6414 (iii) a practical examination approved by the division in collaboration with the board;

6415 and

- 6416 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
- 6417 qualifications for licensure.

6418 (2) Each applicant for licensure as a chiropractic physician based on licensure as a

6419 chiropractor or chiropractic physician in another jurisdiction shall:

- 6420 (a) submit an application in the form prescribed by the division;
- 6421 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 6422 (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in
- 6423 another state under education requirements which were equivalent to the education
- 6424 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
- 6425 the applicant obtained the license in the other state;

- 6426 (d) demonstrate successful completion of:
- 6427 (i) the Utah Chiropractic Law and Rules Examination; and
- 6428 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
- 6429 of Chiropractic Examiners;

6430 (e) have been actively engaged in the practice of chiropractic for not less than two

6431 years immediately preceding application for licensure in this state; and

- 6432 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
- 6433 qualifications for licensure.

6434 Section 99. Section **58-73-501** is amended to read:

6435 **58-73-501. Unprofessional conduct.**

6436 Unprofessional conduct is as defined in Section [58-1-501](#), as defined by division rule,

6437 and also includes:

- 6438 (1) engaging in practice as a chiropractic physician after electing to place his license on

6439 inactive status, without having established with the board that he has initiated or completed
6440 continuing education necessary to reinstate active status of his license;

6441 (2) failing to complete required continuing professional education;

6442 (3) violating any of the scope of practice standards set forth in Section 58-73-601;

6443 (4) failing to maintain patient records in sufficient detail to clearly substantiate a
6444 diagnosis, all treatment rendered to the patient in accordance with the recognized standard of
6445 chiropractic care, and fees charged for professional services;

6446 (5) refusing to divulge to the division on demand the means, methods, device, or
6447 instrumentality used in the treatment of a disease, injury, ailment, or infirmity, unless that
6448 information is protected by the physician-patient privilege of Utah and the patient has not
6449 waived that privilege;

6450 (6) refusing the division or [its] the division's employees access to his office,
6451 instruments, laboratory equipment, appliances, or supplies at reasonable times for purposes of
6452 inspection;

6453 (7) fraudulently representing that curable disease, sickness, or injury can be cured in a
6454 stated time, or knowingly making any false statement in connection with the practice of
6455 chiropractic;

6456 (8) offering, undertaking, or agreeing to cure or treat a disease, injury, ailment, or
6457 infirmity by a secret means, method, device, or instrumentality;

6458 (9) willfully and intentionally making any false statement or entry in any chiropractic
6459 office records or other chiropractic records or reports;

6460 (10) knowingly engaging in billing practices which are abusive and represent charges
6461 which are fraudulent or grossly excessive for services rendered;

6462 (11) performing, procuring, or agreeing to procure or perform, or advising, aiding in or
6463 abetting, or offering or attempting to procure or aid or abet in the procuring of a criminal
6464 abortion;

6465 (12) willfully betraying or disclosing a professional confidence or violation of a
6466 privileged communication, except:

6467 (a) as required by law; or

6468 (b) to assist the division by fully and freely exchanging information concerning
6469 applicants or licensees with the licensing or disciplinary boards of other states or foreign

6470 countries, the Utah chiropractic associations, their component societies, or chiropractic
6471 societies of other states, countries, districts, territories, or foreign countries;

6472 (13) directly or indirectly giving or receiving any fee, commission, rebate, or other
6473 compensation for professional services not actually rendered or supervised, but this subsection
6474 does not preclude the legal relationships within lawful professional partnerships, corporations,
6475 or associations; [~~and~~]

6476 (14) knowingly failing to transfer a copy of pertinent and necessary medical records or
6477 a summary of them to another physician when requested to do so by the subject patient or his
6478 designated representative[-];

6479 (15) making a false entry in, or altering, a medical record with the intent to conceal:

6480 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
6481 or an individual under the direction or control of an individual licensed under this chapter; or

6482 (b) conduct described in Subsections (1) through (14) or Subsection 58-1-501(1);

6483 (16) sharing professional fees with a person who is not licensed under this chapter; and

6484 (17) paying a person for a patient referral.

6485 Section 100. Section **58-83-102** is amended to read:

6486 **58-83-102. Definitions.**

6487 In addition to the definitions in Section 58-1-102, as used in this chapter:

6488 (1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing
6489 Board created in Section 58-83-201.

6490 (2) "Branching questionnaire" means an adaptive and progressive assessment tool
6491 approved by the board.

6492 (3) "Delivery of online pharmaceutical services" means the process in which a
6493 prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized
6494 by Section 58-83-306, using:

6495 (a) a branching questionnaire or other assessment tool approved by the division for the
6496 purpose of diagnosing and assessing a patient's health status;

6497 (b) an Internet contract pharmacy to:

6498 (i) dispense the prescribed drug; or

6499 (ii) transfer the prescription to another pharmacy; and

6500 (c) an Internet facilitator to facilitate the practices described in Subsections (3)(a) and

6501 (b).

6502 (4) "Division" means the [~~Utah~~] Division of [~~Occupational and~~] Professional
6503 Licensing.

6504 (5) "Internet facilitator" means a licensed provider of a web-based system for electronic
6505 communication between and among an online prescriber, the online prescriber's patient, and
6506 the online contract pharmacy.

6507 (6) "Online contract pharmacy" means a pharmacy licensed and in good standing under
6508 Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed
6509 Door Pharmacy and licensed under this chapter to fulfill prescriptions issued by an online
6510 prescriber through a specific Internet facilitator.

6511 (7) "Online prescriber" means a person:

6512 (a) licensed under another chapter of this title;

6513 (b) whose license under another chapter of this title includes assessing, diagnosing, and
6514 prescribing authority for humans; and

6515 (c) who has obtained a license under this chapter to engage in online prescribing.

6516 (8) "Unlawful conduct" is as defined in Sections [58-1-501](#) and [58-83-501](#).

6517 (9) "Unprofessional conduct" is as defined in Sections [58-1-203](#) and [58-83-502](#), and as
6518 further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative
6519 Rulemaking Act.

6520 Section 101. Section **58-83-302** is amended to read:

6521 **58-83-302. Qualifications for licensure.**

6522 (1) Each applicant for licensure as an online prescriber under this chapter shall:

6523 (a) submit an application in a form prescribed by the division;

6524 (b) pay a fee determined by the department under Section [63J-1-504](#);

6525 [~~(c) be of good moral character;~~]

6526 [~~(c)~~] (c) document that the applicant holds a Utah license that is active and in good
6527 standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of
6528 human ailments and the prescription of medications;

6529 [~~(d)~~] (d) document that any other professional license the applicant possesses from
6530 other jurisdictions is in good standing;

6531 [~~(e)~~] (e) (i) submit to the division an outline of the applicant's proposed online

6532 assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and
6533 (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the
6534 board and establish to the board's satisfaction that the utilization of that assessment tool to
6535 facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305
6536 does not compromise the public's health, safety, or welfare;

6537 [~~(g)~~] (f) submit policies and procedures that address patient confidentiality, including
6538 measures that will be taken to ensure that the age and other identifying information of the
6539 person completing the online branching questionnaire are accurate;

6540 [~~(h)~~] (g) describe the mechanism by which the online prescriber and patient will
6541 communicate with one another, including electronic and telephonic communication;

6542 [~~(i)~~] (h) describe how the online prescriber/patient relationship will be established and
6543 maintained;

6544 [~~(j)~~] (i) submit the name, address, and contact person of the Internet facilitator with
6545 whom the online prescriber has contracted to provide services that the online prescriber will
6546 use to engage in online assessment, diagnosis, and prescribing; and

6547 [~~(k)~~] (j) submit documentation satisfactory to the board regarding public health, safety,
6548 and welfare demonstrating:

6549 (i) how the online prescriber will comply with the requirements of Section 58-83-305;
6550 (ii) the contractual services arrangement between the online prescriber and:
6551 (A) the Internet facilitator; and
6552 (B) the online contract pharmacy; and
6553 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
6554 audits in accordance with Section 58-83-308.

6555 (2) An online prescriber may not use the services of an Internet facilitator or online
6556 contract pharmacy whose license is not active and in good standing.

6557 (3) Each applicant for licensure as an online contract pharmacy under this chapter
6558 shall:

6559 (a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B
6560 Closed Door Pharmacy;

6561 (b) submit a written application in the form prescribed by the division;

6562 (c) pay a fee as determined by the department under Section 63J-1-504;

6563 (d) submit any contract between the applicant and the Internet facilitator with which
6564 the applicant is or will be affiliated;

6565 (e) submit proof of liability insurance acceptable to the division that expressly covers
6566 all activities the online contract pharmacy will engage in under this chapter, which coverage
6567 shall be in a minimum amount of \$1,000,000 per occurrence with a policy limit of not less than
6568 \$3,000,000;

6569 (f) submit a signed affidavit to the division attesting that the online contract pharmacy
6570 will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of
6571 online pharmaceutical services under the provisions of this chapter unless:

6572 (i) the drug is specifically approved by the division under Section 58-83-306; and

6573 (ii) both the prescribing and the dispensing of the drug were facilitated by the Internet
6574 facilitator with whom the Internet contract pharmacy is associated under Subsection
6575 ~~58-83-302~~(3)(d);

6576 (g) document that any other professional license the applicant possesses from other
6577 jurisdictions is active and in good standing; and

6578 (h) demonstrate to the division that the applicant has satisfied any background check
6579 required by Section 58-17b-307, and each owner, officer, or manager of the applicant online
6580 contract pharmacy has not engaged in any act, practice, or omission, which when considered
6581 with the duties and responsibilities of a licensee under this chapter indicates there is cause to
6582 believe that issuing a license under this chapter is inconsistent with the public's health, safety,
6583 or welfare.

6584 (4) Each applicant for licensure as an Internet facilitator under this chapter shall:

6585 (a) submit a written application in the form prescribed by the division;

6586 (b) pay a fee as determined by the department under Section 63J-1-504;

6587 (c) submit any contract between the applicant and the following with which the
6588 applicant will be affiliated:

6589 (i) each online prescriber; and

6590 (ii) the single online contract pharmacy;

6591 (d) submit written policies and procedures satisfactory to the division that:

6592 (i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and
6593 164, Health Insurance Portability and Accountability Act of 1996;

- 6594 (ii) ensure compliance with all applicable laws by health care personnel and the online
6595 prescriber who will process patient communications;
- 6596 (iii) list the hours of operation;
- 6597 (iv) describe the types of services that will be permitted electronically;
- 6598 (v) describe the required patient information to be included in the communication, such
6599 as patient name, identification number, and type of transaction;
- 6600 (vi) establish procedures for archiving and retrieving information; and
- 6601 (vii) establish quality oversight mechanisms;
- 6602 (e) submit written documentation of the applicant's security measures to ensure the
6603 confidentiality and integrity of any user-identifiable medical information;
- 6604 (f) submit a description of the mechanism for:
 - 6605 (i) patients to access, supplement, and amend patient-provided personal health
6606 information;
 - 6607 (ii) back-up regarding the Internet facilitator electronic interface;
 - 6608 (iii) the quality of information and services provided via the interface; and
 - 6609 (iv) patients to register complaints regarding the Internet facilitator, the online
6610 prescriber, or the online contract pharmacy;
 - 6611 (g) submit a copy of the Internet facilitator's website;
 - 6612 (h) sign an affidavit attesting that:
 - 6613 (i) the applicant will not access any medical records or information contained in the
6614 medical record except as necessary to administer the website and the branching questionnaire;
6615 and
 - 6616 (ii) the applicant and its principals, and any entities affiliated with them, will only use
6617 the services of a single online contract pharmacy named on the license approved by the
6618 division; and
 - 6619 (i) submit any other information required by the division.

6620 Section 102. Section **58-83-401** is amended to read:

6621 **58-83-401. Grounds for denial of license -- Disciplinary proceedings --**

6622 **Termination of authority to prescribe -- Immediate and significant danger.**

- 6623 (1) Grounds for refusing to issue a license to an applicant, for refusing to renew the
6624 license of a licensee, for revoking, suspending, restricting, or placing on probation the license

6625 of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist
6626 order:

6627 (a) shall be in accordance with Section 58-1-401; and

6628 (b) includes:

6629 (i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not
6630 approved by the board under Section 58-83-306; or

6631 (ii) any other violation of this chapter.

6632 (2) The termination or expiration of a license under this chapter for any reason does not
6633 limit the division's authority to start or continue any investigation or adjudicative proceeding.

6634 (3) (a) Because of the working business relationship between and among the online
6635 prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to
6636 comply with this chapter may depend in some respects on the actions of the others.

6637 (b) It is possible that a particular action or inaction by the online prescriber, the Internet
6638 facilitator, or the online contract pharmacy could have the effect of causing the other licensed
6639 entities to be out of compliance with this chapter, and each entity may, therefore, be held
6640 accountable for any related party's non-compliance, if the party knew or reasonably should
6641 have known of the other person's non-compliance.

6642 (4) (a) An online prescriber may lose the practitioner's professional license to prescribe
6643 any drug under this title if the online prescriber knew or reasonably should have known that the
6644 provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the
6645 online contract pharmacy.

6646 (b) It is not a defense to an alleged violation under this chapter that the alleged
6647 violation was a result of an action or inaction not by the charged party but by the related online
6648 prescriber, the online contract pharmacy, or the Internet facilitator.

6649 (5) The following actions may result in an immediate suspension of the online
6650 prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license,
6651 and each is considered an immediate and significant danger to the public health, safety, or
6652 welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate
6653 the delivery of online pharmaceutical services by the licensee:

6654 (a) online prescribing, dispensing, or facilitation with respect to:

6655 (i) a person [~~under the age of~~] who is younger than 18 years old;

6656 (ii) a legend drug not authorized by the division in accordance with Section 58-83-306;
6657 and

6658 (iii) any controlled substance;

6659 (b) violating this chapter after having been given reasonable opportunity to cure the
6660 violation;

6661 (c) using the name or official seal of the state, the [~~Utah Department of Commerce~~]
6662 department, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or
6663 their boards, in an unauthorized manner; or

6664 (d) failing to respond to a request from the division within the time frame requested
6665 for:

6666 (i) an audit of the website; or

6667 (ii) records of the online prescriber, the Internet facilitator, or the online contract
6668 pharmacy.

6669 Section 103. Section 58-83-502 is amended to read:

6670 **58-83-502. Unprofessional conduct.**

6671 "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501 and
6672 as may be further defined by administrative rule:

6673 (1) except as provided in Section 58-83-306, online prescribing, dispensing, or
6674 facilitation with respect to a person [~~under the age of~~] who is younger than 18 years old;

6675 (2) using the name or official seal of the state, the [~~Utah Department of Commerce~~]
6676 division, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or their
6677 boards, in an unauthorized manner;

6678 (3) failing to respond promptly to a request by the division for information including:

6679 (a) an audit of the website; or

6680 (b) records of the online prescriber, the Internet facilitator, or the online contract
6681 pharmacy;

6682 (4) using an online prescriber, online contract pharmacy, or Internet facilitator without
6683 approval of the division;

6684 (5) failing to inform a patient of the patient's freedom of choice in selecting who will
6685 dispense a prescription in accordance with Subsection 58-83-305(1)(n);

6686 (6) failing to keep the division informed of the name and contact information of the

6687 Internet facilitator or online contract pharmacy;

6688 (7) violating the dispensing and labeling requirements of Chapter 17b, Part 8,
6689 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

6690 (8) falsely making an entry in, or altering, a medical record with the intent to conceal:

6691 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
6692 or an individual under the direction or control of an individual licensed under this chapter; or

6693 (b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

6694 Section 104. Section 58-87-103 is amended to read:

6695 **58-87-103. Administration -- Rulemaking -- Service of process.**

6696 (1) (a) This chapter shall be administered by the division and is subject to the
6697 requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, so long
6698 as the requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act,
6699 are not inconsistent with the requirements of this chapter.

6700 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6701 division may make rules necessary to implement this chapter.

6702 (2) By acting as an athlete agent in this state, a nonresident individual appoints the
6703 director of the division as the individual's agent for service of process in any civil action in this
6704 state related to the individual acting as an athlete agent in this state.

6705 Section 105. Section 59-10-1111 is amended to read:

6706 **59-10-1111. Refundable tax credit for psychiatrists, psychiatric mental health
6707 nurse practitioners, and volunteer retired psychiatrists.**

6708 (1) As used in this section:

6709 (a) "Psychiatric mental health nurse practitioner" means the same as that term is
6710 defined in Section 58-1-111.

6711 (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

6712 (c) "Tax credit certificate" means a certificate issued by the Division of [~~Occupational
6713 and~~] Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a
6714 tax credit under this section.

6715 (d) "Volunteer retired psychiatrist" means the same as that term is defined in Section
6716 58-1-111.

6717 (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner

6718 and who submits a tax credit certificate issued by the Division of [~~Occupational and~~
6719 Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:

6720 (a) as provided in this section; and

6721 (b) in the amount of \$10,000.

6722 (3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner

6723 and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable
6724 tax credit:

6725 (a) as provided in this section; and

6726 (b) in the amount of \$10,000.

6727 (4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit
6728 certificate under Subsection 58-1-111(5) may claim a refundable tax credit:

6729 (a) as provided in this section; and

6730 (b) in the amount of \$10,000.

6731 (5) A claimant may claim a tax credit under Subsections (2) through (4) for no more
6732 than 10 taxable years for each tax credit.

6733 (6) (a) In accordance with any rules prescribed by the commission under Subsection
6734 (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this
6735 section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.

6736 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6737 commission may make rules providing procedures for making a refund to a claimant as
6738 required by Subsection (6)(a).

6739 Section 106. Section 62A-3-202 is amended to read:

6740 **62A-3-202. Definitions.**

6741 As used in this part:

6742 (1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

6743 (2) "Auxiliary aids and services" means items, equipment, or services that assist in
6744 effective communication between an individual who has a mental, hearing, vision, or speech
6745 disability and another individual.

6746 (3) "Government agency" means any department, division, office, bureau, board,
6747 commission, authority, or any other agency or instrumentality created by the state, or to which
6748 the state is a party, or created by any county or municipality, which is responsible for the

6749 regulation, visitation, inspection, or supervision of facilities, or which provides services to
6750 patients, residents, or clients of facilities.

6751 (4) "Intermediate care facility" means the same as that term is defined in Section
6752 [~~58-15-2~~] [58-15-101](#).

6753 (5) (a) "Long-term care facility" means:

6754 (i) a skilled nursing facility;

6755 (ii) except as provided in Subsection (5)(b), an intermediate care facility;

6756 (iii) a nursing home;

6757 (iv) a small health care facility;

6758 (v) a small health care facility type N; or

6759 (vi) an assisted living facility.

6760 (b) "Long-term care facility" does not mean an intermediate care facility for people
6761 with an intellectual disability, as defined in Section [~~58-15-2~~] [58-15-101](#).

6762 (6) "Ombudsman" means the administrator of the long-term care ombudsman program,
6763 created pursuant to Section [62A-3-203](#).

6764 (7) "Ombudsman program" means the Long-Term Care Ombudsman Program.

6765 (8) "Resident" means an individual who resides in a long-term care facility.

6766 (9) "Skilled nursing facility" means the same as that term is defined in Section
6767 [~~58-15-2~~] [58-15-101](#).

6768 (10) "Small health care facility" means the same as that term is defined in Section
6769 [26-21-2](#).

6770 (11) "Small health care facility type N" means a residence in which a licensed nurse
6771 resides and provides protected living arrangements, nursing care, and other services on a daily
6772 basis for two to three individuals who are also residing in the residence and are unrelated to the
6773 licensee.

6774 Section 107. Section **62A-3-305** is amended to read:

6775 **62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity --**
6776 **Penalties -- Nonmedical healing.**

6777 (1) Except as provided in Subsection (4), if an individual has reason to believe that a
6778 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
6779 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective

6780 Services or to the nearest peace officer or law enforcement agency.

6781 (2) (a) If a peace officer or a law enforcement agency receives a report under
6782 Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult
6783 Protective Services.

6784 (b) Adult Protective Services and the peace officer or the law enforcement agency shall
6785 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
6786 protection to the vulnerable adult.

6787 (3) When a report under Subsection (1), or a subsequent investigation by Adult
6788 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
6789 adult:

6790 (a) Adult Protective Services shall notify the nearest local law enforcement agency
6791 regarding the potential offense; and

6792 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
6793 Protective Services.

6794 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
6795 does not apply to:

6796 (a) a member of the clergy, with regard to any confession made to the member of the
6797 clergy while functioning in the ministerial capacity of the member of the clergy and without the
6798 consent of the individual making the confession, if:

6799 (i) the perpetrator made the confession directly to the member of the clergy; and

6800 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
6801 to maintain the confidentiality of that confession; or

6802 (b) an attorney, or an individual employed by the attorney, if knowledge of the
6803 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
6804 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
6805 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in
6806 accordance with Utah Rules of Professional Conduct, Rule 1.6.

6807 (5) (a) When a member of the clergy receives information about abuse, neglect, or
6808 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
6809 member of the clergy is required to report that information even though the member of the
6810 clergy may have also received information about abuse or neglect from the confession of the

6811 perpetrator.

6812 (b) Exemption of the reporting requirement for an individual described in Subsection
6813 (4) does not exempt the individual from any other efforts required by law to prevent further
6814 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

6815 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to
6816 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
6817 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

6818 (b) The physician-patient privilege does not:

6819 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
6820 vulnerable adult under Subsection (1); or

6821 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
6822 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
6823 resulting from a report under Subsection (1).

6824 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
6825 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
6826 immune from civil and criminal liability in connection with the report or notification.

6827 (b) A covered provider or covered contractor, as defined in Section 26-21-201, that
6828 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
6829 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
6830 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
6831 exploitation of a vulnerable adult that is committed by the individual who was not reported to
6832 Adult Protective Services or to the nearest peace officer or law enforcement agency.

6833 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
6834 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
6835 Act of Utah.

6836 (8) If Adult Protective Services has substantial grounds to believe that an individual
6837 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
6838 accordance with this section, Adult Protective Services shall file a complaint with:

6839 (a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a
6840 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6841 in Section 58-60-102;

6842 (b) the appropriate law enforcement agency if the individual is a law enforcement
6843 officer, as defined in Section 53-13-103; and

6844 (c) the State Board of Education if the individual is an educator, as defined in Section
6845 53E-6-102.

6846 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
6847 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
6848 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

6849 (b) If an individual is convicted under Subsection (9)(a), the court may order the
6850 individual, in addition to any other sentence the court imposes, to:

6851 (i) complete community service hours; or

6852 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
6853 adults.

6854 (c) In determining whether it would be appropriate to charge an individual with a
6855 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
6856 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a
6857 vulnerable adult because reporting would have placed the individual in immediate danger of
6858 death or serious bodily injury.

6859 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6860 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
6861 another offense.

6862 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
6863 within two years after the day on which the individual had knowledge of the suspected abuse,
6864 neglect, or exploitation and willfully failed to report.

6865 (10) Under circumstances not amounting to a violation of Section 76-8-508, an
6866 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
6867 attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1),
6868 the individual who made the report under Subsection (1), a witness, or any other person
6869 cooperating with an investigation conducted in accordance with this chapter.

6870 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
6871 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
6872 medical care.

6873 Section 108. Section **62A-3-311.1** is amended to read:

6874 **62A-3-311.1. Statewide database -- Restricted use and access.**

6875 (1) The division shall maintain a database for reports of vulnerable adult abuse,
6876 neglect, or exploitation made pursuant to this part.

6877 (2) The database shall include:

6878 (a) the names and identifying data of the alleged abused, neglected, or exploited
6879 vulnerable adult and the alleged perpetrator;

6880 (b) information regarding whether or not the allegation of abuse, neglect, or
6881 exploitation was found to be:

6882 (i) supported;

6883 (ii) inconclusive;

6884 (iii) without merit; or

6885 (iv) for reports for which the finding is made before May 5, 2008:

6886 (A) substantiated; or

6887 (B) unsubstantiated; and

6888 (c) any other information that may be helpful in furthering the purposes of this part, as
6889 determined by the division.

6890 (3) Information obtained from the database may be used only:

6891 (a) for statistical summaries compiled by the department that do not include names or
6892 other identifying data;

6893 (b) where identification of an individual as a perpetrator may be relevant in a
6894 determination regarding whether to grant or deny a license, privilege, or approval made by:

6895 (i) the department;

6896 (ii) the Division of [~~Occupational and~~] Professional Licensing;

6897 (iii) the Bureau of Licensing, within the Department of Health;

6898 (iv) the Bureau of Emergency Medical Services and Preparedness, within the
6899 Department of Health, or a designee of the Bureau of Emergency Medical Services and
6900 Preparedness;

6901 (v) any government agency specifically authorized by statute to access or use the
6902 information in the database; or

6903 (vi) an agency of another state that performs a similar function to an agency described

6904 in Subsections (3)(b)(i) through (iv); or

6905 (c) as otherwise specifically provided by law.

6906 Section 109. Section **62A-3-312** is amended to read:

6907 **62A-3-312. Access to information in database.**

6908 The database and the adult protection case file:

6909 (1) shall be made available to law enforcement agencies, the attorney general's office,
6910 city attorneys, the Division of [~~Occupational and~~] Professional Licensing, and county or district
6911 attorney's offices;

6912 (2) shall be released as required under Subsection [63G-2-202\(4\)\(c\)](#); and

6913 (3) may be made available, at the discretion of the division, to:

6914 (a) subjects of a report as follows:

6915 (i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or
6916 that adult's attorney or legal guardian; and

6917 (ii) a person identified in a report as having abused, neglected, or exploited a
6918 vulnerable adult, or that person's attorney; and

6919 (b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

6920 (i) an employee or contractor of the department who is responsible for the evaluation or
6921 assessment of an adult protection case file;

6922 (ii) a multidisciplinary team approved by the division to assist Adult Protective
6923 Services in the evaluation, assessment, and disposition of a vulnerable adult case;

6924 (iii) an authorized person or agency providing services to, or responsible for, the care,
6925 treatment, assessment, or supervision of a vulnerable adult named in the report as a victim,
6926 when in the opinion of the division, that information will assist in the protection of, or provide
6927 other benefits to, the victim;

6928 (iv) a licensing authority for a facility, program, or person providing care to a victim
6929 named in a report; and

6930 (v) legally authorized protection and advocacy agencies when they represent a victim
6931 or have been requested by the division to assist on a case, including:

6932 (A) the Office of Public Guardian, created in Section [62A-14-103](#); and

6933 (B) the Long-Term Care Ombudsman Program, created in Section [62A-3-203](#).

6934 Section 110. Section **62A-4a-411** is amended to read:

6935 **62A-4a-411. Failure to report -- Threats and intimidation -- Penalties.**

6936 (1) If the division has substantial grounds to believe that an individual has knowingly
6937 failed to report suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in
6938 accordance with this part, the division shall file a complaint with:

6939 (a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a
6940 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6941 in Section 58-60-102;

6942 (b) the appropriate law enforcement agency if the individual is a law enforcement
6943 officer, as defined in Section 53-13-103; and

6944 (c) the State Board of Education if the individual is an educator, as defined in Section
6945 53E-6-102.

6946 (2) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
6947 to report the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in
6948 accordance with this part.

6949 (b) If an individual is convicted under Subsection (2)(a), the court may order the
6950 individual, in addition to any other sentence the court imposes, to:

6951 (i) complete community service hours; or

6952 (ii) complete a program on preventing abuse and neglect of children.

6953 (c) In determining whether it would be appropriate to charge an individual with a
6954 violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a
6955 reasonable individual would not have reported suspected abuse or neglect of a child because
6956 reporting would have placed the individual in immediate danger of death or serious bodily
6957 injury.

6958 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6959 an individual's violation of Subsection (2)(a) as the basis for charging the individual with
6960 another offense.

6961 (e) A prosecution for failure to report under Subsection (2)(a) shall be commenced
6962 within two years after the day on which the individual had knowledge of the suspected abuse,
6963 neglect, fetal alcohol syndrome, or fetal drug dependency and willfully failed to report.

6964 (3) Under circumstances not amounting to a violation of Section 76-8-508, an
6965 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or

6966 attempts to intimidate a child who is the subject of a report under this part, the individual who
6967 made the report, a witness, or any other person cooperating with an investigation conducted in
6968 accordance with this chapter.

6969 Section 111. Section **62A-4a-603** is amended to read:

6970 **62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.**

6971 (1) The Office of Licensing within the department or any interested person may
6972 commence an action in district court to enjoin any person, agency, firm, corporation, or
6973 association violating Section [62A-4a-602](#).

6974 (2) The Office of Licensing shall:

6975 (a) solicit information from the public relating to violations of Section [62A-4a-602](#);

6976 and

6977 (b) upon identifying a violation of Section [62A-4a-602](#):

6978 (i) send a written notice to the person who violated Section [62A-4a-602](#) that describes
6979 the alleged violation; and

6980 (ii) notify the following persons of the alleged violation:

6981 (A) the local county attorney; and

6982 (B) the Division of [~~Occupational and~~] Professional Licensing.

6983 (3) (a) A county attorney or the attorney general shall institute legal action as necessary
6984 to enforce the provisions of Section [62A-4a-602](#) after being informed of an alleged violation.

6985 (b) If a county attorney does not take action within 30 days after the day on which the
6986 county attorney is informed of an alleged violation of Section [62A-4a-602](#), the attorney general
6987 may be requested to take action, and shall then institute legal proceedings in place of the county
6988 attorney.

6989 (4) (a) In addition to the remedies provided in Subsections (1) and (3), any person,
6990 agency, firm, corporation, or association found to be in violation of Section [62A-4a-602](#) shall
6991 forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil
6992 penalty of not more than \$10,000 for each violation.

6993 (b) Each act in violation of Section [62A-4a-602](#), including each placement or
6994 attempted placement of a child, is a separate violation.

6995 (5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the
6996 General Fund of the prosecuting county, or in the state General Fund if the attorney general

6997 prosecutes.

6998 (b) If two or more governmental entities are involved in the prosecution, the penalty
6999 amounts recovered shall be apportioned by the court among the entities, according to their
7000 involvement.

7001 (6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4)
7002 is a lien when recorded in the judgment docket, and has the same effect and is subject to the
7003 same rules as a judgment for money in a civil action.

7004 Section 112. Section **62A-15-103** is amended to read:

7005 **62A-15-103. Division -- Creation -- Responsibilities.**

7006 (1) (a) There is created the Division of Substance Abuse and Mental Health within the
7007 department, under the administration and general supervision of the executive director.

7008 (b) The division is the substance abuse authority and the mental health authority for
7009 this state.

7010 (2) The division shall:

7011 (a) (i) educate the general public regarding the nature and consequences of substance
7012 abuse by promoting school and community-based prevention programs;

7013 (ii) render support and assistance to public schools through approved school-based
7014 substance abuse education programs aimed at prevention of substance abuse;

7015 (iii) promote or establish programs for the prevention of substance abuse within the
7016 community setting through community-based prevention programs;

7017 (iv) cooperate with and assist treatment centers, recovery residences, and other
7018 organizations that provide services to individuals recovering from a substance abuse disorder,
7019 by identifying and disseminating information about effective practices and programs;

7020 (v) except as provided in Section [62A-15-103.5](#), make rules in accordance with Title
7021 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public
7022 and private programs, minimum standards for public and private providers of substance abuse
7023 and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure
7024 of Programs and Facilities;

7025 (vi) promote integrated programs that address an individual's substance abuse, mental
7026 health, physical health, and criminal risk factors;

7027 (vii) establish and promote an evidence-based continuum of screening, assessment,

7028 prevention, treatment, and recovery support services in the community for individuals with
7029 substance use disorder and mental illness that addresses criminal risk factors;

7030 (viii) evaluate the effectiveness of programs described in this Subsection (2);
7031 (ix) consider the impact of the programs described in this Subsection (2) on:

7032 (A) emergency department utilization;
7033 (B) jail and prison populations;
7034 (C) the homeless population; and
7035 (D) the child welfare system; and

7036 (x) promote or establish programs for education and certification of instructors to
7037 educate individuals convicted of driving under the influence of alcohol or drugs or driving with
7038 any measurable controlled substance in the body;

7039 (b) (i) collect and disseminate information pertaining to mental health;
7040 (ii) provide direction over the state hospital including approval of the state hospital's
7041 budget, administrative policy, and coordination of services with local service plans;
7042 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7043 Rulemaking Act, to educate families concerning mental illness and promote family
7044 involvement, when appropriate, and with patient consent, in the treatment program of a family
7045 member; and

7046 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
7047 Rulemaking Act, to direct that an individual receiving services through a local mental health
7048 authority or the Utah State Hospital be informed about and, if desired by the individual,
7049 provided assistance in the completion of a declaration for mental health treatment in
7050 accordance with Section [62A-15-1002](#);

7051 (c) (i) consult and coordinate with local substance abuse authorities and local mental
7052 health authorities regarding programs and services;
7053 (ii) provide consultation and other assistance to public and private agencies and groups
7054 working on substance abuse and mental health issues;
7055 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
7056 medical and social agencies, public health authorities, law enforcement agencies, education and
7057 research organizations, and other related groups;
7058 (iv) promote or conduct research on substance abuse and mental health issues, and

7059 submit to the governor and the Legislature recommendations for changes in policy and
7060 legislation;

7061 (v) receive, distribute, and provide direction over public funds for substance abuse and
7062 mental health services;

7063 (vi) monitor and evaluate programs provided by local substance abuse authorities and
7064 local mental health authorities;

7065 (vii) examine expenditures of local, state, and federal funds;

7066 (viii) monitor the expenditure of public funds by:

7067 (A) local substance abuse authorities;

7068 (B) local mental health authorities; and

7069 (C) in counties where they exist, a private contract provider that has an annual or
7070 otherwise ongoing contract to provide comprehensive substance abuse or mental health
7071 programs or services for the local substance abuse authority or local mental health authority;

7072 (ix) contract with local substance abuse authorities and local mental health authorities
7073 to provide a comprehensive continuum of services that include community-based services for
7074 individuals involved in the criminal justice system, in accordance with division policy, contract
7075 provisions, and the local plan;

7076 (x) contract with private and public entities for special statewide or nonclinical
7077 services, or services for individuals involved in the criminal justice system, according to
7078 division rules;

7079 (xi) review and approve each local substance abuse authority's plan and each local
7080 mental health authority's plan in order to ensure:

7081 (A) a statewide comprehensive continuum of substance abuse services;

7082 (B) a statewide comprehensive continuum of mental health services;

7083 (C) services result in improved overall health and functioning;

7084 (D) a statewide comprehensive continuum of community-based services designed to
7085 reduce criminal risk factors for individuals who are determined to have substance abuse or
7086 mental illness conditions or both, and who are involved in the criminal justice system;

7087 (E) compliance, where appropriate, with the certification requirements in Subsection
7088 (2)(j); and

7089 (F) appropriate expenditure of public funds;

7090 (xii) review and make recommendations regarding each local substance abuse
7091 authority's contract with the local substance abuse authority's provider of substance abuse
7092 programs and services and each local mental health authority's contract with the local mental
7093 health authority's provider of mental health programs and services to ensure compliance with
7094 state and federal law and policy;

7095 (xiii) monitor and ensure compliance with division rules and contract requirements;
7096 and

7097 (xiv) withhold funds from local substance abuse authorities, local mental health
7098 authorities, and public and private providers for contract noncompliance, failure to comply
7099 with division directives regarding the use of public funds, or for misuse of public funds or
7100 money;

7101 (d) ensure that the requirements of this part are met and applied uniformly by local
7102 substance abuse authorities and local mental health authorities across the state;

7103 (e) require each local substance abuse authority and each local mental health authority,
7104 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to
7105 the division on or before May 15 of each year;

7106 (f) conduct an annual program audit and review of each local substance abuse authority
7107 and each local substance abuse authority's contract provider, and each local mental health
7108 authority and each local mental health authority's contract provider, including:

7109 (i) a review and determination regarding whether:

7110 (A) public funds allocated to the local substance abuse authority or the local mental
7111 health authorities are consistent with services rendered by the authority or the authority's
7112 contract provider, and with outcomes reported by the authority's contract provider; and

7113 (B) each local substance abuse authority and each local mental health authority is
7114 exercising sufficient oversight and control over public funds allocated for substance use
7115 disorder and mental health programs and services; and

7116 (ii) items determined by the division to be necessary and appropriate;

7117 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
7118 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

7119 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
7120 supports services to an individual with:

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

7152 (iii) requiring that all public and private treatment programs meet the standards
7153 established under this Subsection (2)(i) in order to receive public funds allocated to the
7154 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
7155 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

7156 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
7157 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures
7158 for the certification of licensed public and private providers, including individuals licensed by
7159 the Division of [~~Occupational and~~] Professional Licensing, programs licensed by the
7160 department, and health care facilities licensed by the Department of Health, who provide, as
7161 part of their practice, substance use disorder and mental health treatment to an individual
7162 involved in the criminal justice system, including:

7163 (i) collaboration with the Department of Corrections, the Utah Substance Use and
7164 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
7165 and implement the certification process;

7166 (ii) basing the certification process on the standards developed under Subsection (2)(i)
7167 for the treatment of an individual involved in the criminal justice system; and

7168 (iii) the requirement that a public or private provider of treatment to an individual
7169 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
7170 shall renew the certification every two years, in order to qualify for funds allocated to the
7171 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
7172 on or after July 1, 2016;

7173 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
7174 provide recommendations to the Legislature regarding:

7175 (i) pretrial services and the resources needed to reduce recidivism;

7176 (ii) county jail and county behavioral health early-assessment resources needed for an
7177 offender convicted of a class A or class B misdemeanor; and

7178 (iii) the replacement of federal dollars associated with drug interdiction law
7179 enforcement task forces that are reduced;

7180 (l) (i) establish performance goals and outcome measurements for all treatment
7181 programs for which minimum standards are established under Subsection (2)(i), including
7182 recidivism data and data regarding cost savings associated with recidivism reduction and the

7183 reduction in the number of inmates, that are obtained in collaboration with the Administrative
7184 Office of the Courts and the Department of Corrections; and

7185 (ii) collect data to track and determine whether the goals and measurements are being
7186 attained and make this information available to the public;

7187 (m) in the division's discretion, use the data to make decisions regarding the use of
7188 funds allocated to the division, the Administrative Office of the Courts, and the Department of
7189 Corrections to provide treatment for which standards are established under Subsection (2)(i);

7190 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
7191 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
7192 based on the data and provide the report to the Judiciary Interim Committee, the Health and
7193 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
7194 Committee, and the related appropriations subcommittees; and

7195 (o) consult and coordinate with the Department of Health and the Division of Child
7196 and Family Services to develop and manage the operation of a program designed to reduce
7197 substance abuse during pregnancy and by parents of a newborn child that includes:

7198 (i) providing education and resources to health care providers and individuals in the
7199 state regarding prevention of substance abuse during pregnancy;

7200 (ii) providing training to health care providers in the state regarding screening of a
7201 pregnant woman or pregnant minor to identify a substance abuse disorder; and

7202 (iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn
7203 child in need of substance abuse treatment services to a facility that has the capacity to provide
7204 the treatment services.

7205 (3) In addition to the responsibilities described in Subsection (2), the division shall,
7206 within funds appropriated by the Legislature for this purpose, implement and manage the
7207 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
7208 of Criminal Identification created in Section [53-10-201](#), including:

7209 (a) coordinating with the Department of Health, local mental health and substance
7210 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
7211 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
7212 represents firearm owners, to:

7213 (i) produce and periodically review and update a firearm safety brochure and other

7214 educational materials with information about the safe handling and use of firearms that
7215 includes:

- 7216 (A) information on safe handling, storage, and use of firearms in a home environment;
- 7217 (B) information about at-risk individuals and individuals who are legally prohibited
7218 from possessing firearms;
- 7219 (C) information about suicide prevention awareness; and
- 7220 (D) information about the availability of firearm safety packets;

7221 (ii) procure cable-style gun locks for distribution under this section;

7222 (iii) produce a firearm safety packet that includes the firearm safety brochure and the
7223 cable-style gun lock described in this Subsection (3); and

7224 (iv) create a suicide prevention education course that:

- 7225 (A) provides information for distribution regarding firearm safety education;
- 7226 (B) incorporates current information on how to recognize suicidal behaviors and
7227 identify individuals who may be suicidal; and
- 7228 (C) provides information regarding crisis intervention resources;

7229 (b) distributing, free of charge, the firearm safety packet to the following persons, who
7230 shall make the firearm safety packet available free of charge:

- 7231 (i) health care providers, including emergency rooms;
- 7232 (ii) mobile crisis outreach teams;
- 7233 (iii) mental health practitioners;
- 7234 (iv) other public health suicide prevention organizations;
- 7235 (v) entities that teach firearm safety courses;
- 7236 (vi) school districts for use in the seminar, described in Section [53G-9-702](#), for parents
7237 of students in the school district; and
- 7238 (vii) firearm dealers to be distributed in accordance with Section [76-10-526](#);

7239 (c) creating and administering a rebate program that includes a rebate that offers
7240 between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms
7241 dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

7242 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7243 making rules that establish procedures for:

- 7244 (i) producing and distributing the suicide prevention education course and the firearm

7245 safety brochures and packets;

7246 (ii) procuring the cable-style gun locks for distribution; and

7247 (iii) administering the rebate program; and

7248 (e) reporting to the Health and Human Services Interim Committee regarding
7249 implementation and success of the firearm safety program and suicide prevention education
7250 course at or before the November meeting each year.

7251 (4) (a) The division may refuse to contract with and may pursue legal remedies against
7252 any local substance abuse authority or local mental health authority that fails, or has failed, to
7253 expend public funds in accordance with state law, division policy, contract provisions, or
7254 directives issued in accordance with state law.

7255 (b) The division may withhold funds from a local substance abuse authority or local
7256 mental health authority if the authority's contract provider of substance abuse or mental health
7257 programs or services fails to comply with state and federal law or policy.

7258 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
7259 or local mental health authority, the division shall review and determine whether the local
7260 substance abuse authority or local mental health authority is complying with the oversight and
7261 management responsibilities described in Sections [17-43-201](#), [17-43-203](#), [17-43-303](#), and
7262 [17-43-309](#).

7263 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
7264 liability described in Section [17-43-303](#) and to the responsibility and liability described in
7265 Section [17-43-203](#).

7266 (6) In carrying out the division's duties and responsibilities, the division may not
7267 duplicate treatment or educational facilities that exist in other divisions or departments of the
7268 state, but shall work in conjunction with those divisions and departments in rendering the
7269 treatment or educational services that those divisions and departments are competent and able
7270 to provide.

7271 (7) The division may accept in the name of and on behalf of the state donations, gifts,
7272 devises, or bequests of real or personal property or services to be used as specified by the
7273 donor.

7274 (8) The division shall annually review with each local substance abuse authority and
7275 each local mental health authority the authority's statutory and contract responsibilities

7276 regarding:

7277 (a) use of public funds;

7278 (b) oversight of public funds; and

7279 (c) governance of substance use disorder and mental health programs and services.

7280 (9) The Legislature may refuse to appropriate funds to the division upon the division's

7281 failure to comply with the provisions of this part.

7282 (10) If a local substance abuse authority contacts the division under Subsection

7283 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant

7284 minor, the division shall:

7285 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the

7286 capacity to provide the treatment services; or

7287 (b) otherwise ensure that treatment services are made available to the pregnant woman

7288 or pregnant minor.

7289 (11) The division shall employ a school-based mental health specialist to be housed at

7290 the State Board of Education who shall work with the State Board of Education to:

7291 (a) provide coordination between a local education agency and local mental health

7292 authority;

7293 (b) recommend evidence-based and evidence informed mental health screenings and

7294 intervention assessments for a local education agency; and

7295 (c) coordinate with the local community, including local departments of health, to

7296 enhance and expand mental health related resources for a local education agency.

7297 Section 113. Section **63G-2-305** is amended to read:

7298 **63G-2-305. Protected records.**

7299 The following records are protected if properly classified by a governmental entity:

7300 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret

7301 has provided the governmental entity with the information specified in Section [63G-2-309](#);

7302 (2) commercial information or nonindividual financial information obtained from a

7303 person if:

7304 (a) disclosure of the information could reasonably be expected to result in unfair

7305 competitive injury to the person submitting the information or would impair the ability of the

7306 governmental entity to obtain necessary information in the future;

7307 (b) the person submitting the information has a greater interest in prohibiting access
7308 than the public in obtaining access; and

7309 (c) the person submitting the information has provided the governmental entity with
7310 the information specified in Section [63G-2-309](#);

7311 (3) commercial or financial information acquired or prepared by a governmental entity
7312 to the extent that disclosure would lead to financial speculations in currencies, securities, or
7313 commodities that will interfere with a planned transaction by the governmental entity or cause
7314 substantial financial injury to the governmental entity or state economy;

7315 (4) records, the disclosure of which could cause commercial injury to, or confer a
7316 competitive advantage upon a potential or actual competitor of, a commercial project entity as
7317 defined in Subsection [11-13-103\(4\)](#);

7318 (5) test questions and answers to be used in future license, certification, registration,
7319 employment, or academic examinations;

7320 (6) records, the disclosure of which would impair governmental procurement
7321 proceedings or give an unfair advantage to any person proposing to enter into a contract or
7322 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
7323 Subsection (6) does not restrict the right of a person to have access to, after the contract or
7324 grant has been awarded and signed by all parties:

7325 (a) a bid, proposal, application, or other information submitted to or by a governmental
7326 entity in response to:

7327 (i) an invitation for bids;

7328 (ii) a request for proposals;

7329 (iii) a request for quotes;

7330 (iv) a grant; or

7331 (v) other similar document; or

7332 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

7333 (7) information submitted to or by a governmental entity in response to a request for
7334 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
7335 the right of a person to have access to the information, after:

7336 (a) a contract directly relating to the subject of the request for information has been
7337 awarded and signed by all parties; or

7338 (b) (i) a final determination is made not to enter into a contract that relates to the
7339 subject of the request for information; and

7340 (ii) at least two years have passed after the day on which the request for information is
7341 issued;

7342 (8) records that would identify real property or the appraisal or estimated value of real
7343 or personal property, including intellectual property, under consideration for public acquisition
7344 before any rights to the property are acquired unless:

7345 (a) public interest in obtaining access to the information is greater than or equal to the
7346 governmental entity's need to acquire the property on the best terms possible;

7347 (b) the information has already been disclosed to persons not employed by or under a
7348 duty of confidentiality to the entity;

7349 (c) in the case of records that would identify property, potential sellers of the described
7350 property have already learned of the governmental entity's plans to acquire the property;

7351 (d) in the case of records that would identify the appraisal or estimated value of
7352 property, the potential sellers have already learned of the governmental entity's estimated value
7353 of the property; or

7354 (e) the property under consideration for public acquisition is a single family residence
7355 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
7356 the property as required under Section [78B-6-505](#);

7357 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
7358 compensated transaction of real or personal property including intellectual property, which, if
7359 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
7360 of the subject property, unless:

7361 (a) the public interest in access is greater than or equal to the interests in restricting
7362 access, including the governmental entity's interest in maximizing the financial benefit of the
7363 transaction; or

7364 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
7365 the value of the subject property have already been disclosed to persons not employed by or
7366 under a duty of confidentiality to the entity;

7367 (10) records created or maintained for civil, criminal, or administrative enforcement
7368 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if

7369 release of the records:

7370 (a) reasonably could be expected to interfere with investigations undertaken for
7371 enforcement, discipline, licensing, certification, or registration purposes;

7372 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
7373 proceedings;

7374 (c) would create a danger of depriving a person of a right to a fair trial or impartial
7375 hearing;

7376 (d) reasonably could be expected to disclose the identity of a source who is not
7377 generally known outside of government and, in the case of a record compiled in the course of
7378 an investigation, disclose information furnished by a source not generally known outside of
7379 government if disclosure would compromise the source; or

7380 (e) reasonably could be expected to disclose investigative or audit techniques,
7381 procedures, policies, or orders not generally known outside of government if disclosure would
7382 interfere with enforcement or audit efforts;

7383 (11) records the disclosure of which would jeopardize the life or safety of an
7384 individual;

7385 (12) records the disclosure of which would jeopardize the security of governmental
7386 property, governmental programs, or governmental recordkeeping systems from damage, theft,
7387 or other appropriation or use contrary to law or public policy;

7388 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
7389 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
7390 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

7391 (14) records that, if disclosed, would reveal recommendations made to the Board of
7392 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
7393 Board of Pardons and Parole, or the Department of Human Services that are based on the
7394 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
7395 jurisdiction;

7396 (15) records and audit workpapers that identify audit, collection, and operational
7397 procedures and methods used by the State Tax Commission, if disclosure would interfere with
7398 audits or collections;

7399 (16) records of a governmental audit agency relating to an ongoing or planned audit

7400 until the final audit is released;

7401 (17) records that are subject to the attorney client privilege;

7402 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
7403 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
7404 quasi-judicial, or administrative proceeding;

7405 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
7406 from a member of the Legislature; and

7407 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
7408 legislative action or policy may not be classified as protected under this section; and

7409 (b) (i) an internal communication that is part of the deliberative process in connection
7410 with the preparation of legislation between:

7411 (A) members of a legislative body;

7412 (B) a member of a legislative body and a member of the legislative body's staff; or

7413 (C) members of a legislative body's staff; and

7414 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
7415 legislative action or policy may not be classified as protected under this section;

7416 (20) (a) records in the custody or control of the Office of Legislative Research and
7417 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
7418 legislation or contemplated course of action before the legislator has elected to support the
7419 legislation or course of action, or made the legislation or course of action public; and

7420 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
7421 Office of Legislative Research and General Counsel is a public document unless a legislator
7422 asks that the records requesting the legislation be maintained as protected records until such
7423 time as the legislator elects to make the legislation or course of action public;

7424 (21) research requests from legislators to the Office of Legislative Research and
7425 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
7426 in response to these requests;

7427 (22) drafts, unless otherwise classified as public;

7428 (23) records concerning a governmental entity's strategy about:

7429 (a) collective bargaining; or

7430 (b) imminent or pending litigation;

7431 (24) records of investigations of loss occurrences and analyses of loss occurrences that
7432 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
7433 Uninsured Employers' Fund, or similar divisions in other governmental entities;

7434 (25) records, other than personnel evaluations, that contain a personal recommendation
7435 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
7436 personal privacy, or disclosure is not in the public interest;

7437 (26) records that reveal the location of historic, prehistoric, paleontological, or
7438 biological resources that if known would jeopardize the security of those resources or of
7439 valuable historic, scientific, educational, or cultural information;

7440 (27) records of independent state agencies if the disclosure of the records would
7441 conflict with the fiduciary obligations of the agency;

7442 (28) records of an institution within the state system of higher education defined in
7443 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
7444 retention decisions, and promotions, which could be properly discussed in a meeting closed in
7445 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
7446 the final decisions about tenure, appointments, retention, promotions, or those students
7447 admitted, may not be classified as protected under this section;

7448 (29) records of the governor's office, including budget recommendations, legislative
7449 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
7450 policies or contemplated courses of action before the governor has implemented or rejected
7451 those policies or courses of action or made them public;

7452 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
7453 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
7454 recommendations in these areas;

7455 (31) records provided by the United States or by a government entity outside the state
7456 that are given to the governmental entity with a requirement that they be managed as protected
7457 records if the providing entity certifies that the record would not be subject to public disclosure
7458 if retained by it;

7459 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
7460 public body except as provided in Section 52-4-206;

7461 (33) records that would reveal the contents of settlement negotiations but not including

7462 final settlements or empirical data to the extent that they are not otherwise exempt from
7463 disclosure;

7464 (34) memoranda prepared by staff and used in the decision-making process by an
7465 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
7466 other body charged by law with performing a quasi-judicial function;

7467 (35) records that would reveal negotiations regarding assistance or incentives offered
7468 by or requested from a governmental entity for the purpose of encouraging a person to expand
7469 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
7470 person or place the governmental entity at a competitive disadvantage, but this section may not
7471 be used to restrict access to a record evidencing a final contract;

7472 (36) materials to which access must be limited for purposes of securing or maintaining
7473 the governmental entity's proprietary protection of intellectual property rights including patents,
7474 copyrights, and trade secrets;

7475 (37) the name of a donor or a prospective donor to a governmental entity, including an
7476 institution within the state system of higher education defined in Section 53B-1-102, and other
7477 information concerning the donation that could reasonably be expected to reveal the identity of
7478 the donor, provided that:

7479 (a) the donor requests anonymity in writing;

7480 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
7481 classified protected by the governmental entity under this Subsection (37); and

7482 (c) except for an institution within the state system of higher education defined in
7483 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
7484 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
7485 over the donor, a member of the donor's immediate family, or any entity owned or controlled
7486 by the donor or the donor's immediate family;

7487 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
7488 73-18-13;

7489 (39) a notification of workers' compensation insurance coverage described in Section
7490 34A-2-205;

7491 (40) (a) the following records of an institution within the state system of higher
7492 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,

7493 or received by or on behalf of faculty, staff, employees, or students of the institution:

7494 (i) unpublished lecture notes;

7495 (ii) unpublished notes, data, and information:

7496 (A) relating to research; and

7497 (B) of:

7498 (I) the institution within the state system of higher education defined in Section

7499 [53B-1-102](#); or

7500 (II) a sponsor of sponsored research;

7501 (iii) unpublished manuscripts;

7502 (iv) creative works in process;

7503 (v) scholarly correspondence; and

7504 (vi) confidential information contained in research proposals;

7505 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public

7506 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and

7507 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

7508 (41) (a) records in the custody or control of the Office of the Legislative Auditor

7509 General that would reveal the name of a particular legislator who requests a legislative audit

7510 prior to the date that audit is completed and made public; and

7511 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

7512 Office of the Legislative Auditor General is a public document unless the legislator asks that

7513 the records in the custody or control of the Office of the Legislative Auditor General that would

7514 reveal the name of a particular legislator who requests a legislative audit be maintained as

7515 protected records until the audit is completed and made public;

7516 (42) records that provide detail as to the location of an explosive, including a map or

7517 other document that indicates the location of:

7518 (a) a production facility; or

7519 (b) a magazine;

7520 (43) information:

7521 (a) contained in the statewide database of the Division of Aging and Adult Services

7522 created by Section [62A-3-311.1](#); or

7523 (b) received or maintained in relation to the Identity Theft Reporting Information

7524 System (IRIS) established under Section [67-5-22](#);

7525 (44) information contained in the Licensing Information System described in Title

7526 62A, Chapter 4a, Child and Family Services;

7527 (45) information regarding National Guard operations or activities in support of the

7528 National Guard's federal mission;

7529 (46) records provided by any pawn or secondhand business to a law enforcement

7530 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and

7531 Secondhand Merchandise Transaction Information Act;

7532 (47) information regarding food security, risk, and vulnerability assessments performed

7533 by the Department of Agriculture and Food;

7534 (48) except to the extent that the record is exempt from this chapter pursuant to Section

7535 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or

7536 prepared or maintained by the Division of Emergency Management, and the disclosure of

7537 which would jeopardize:

7538 (a) the safety of the general public; or

7539 (b) the security of:

7540 (i) governmental property;

7541 (ii) governmental programs; or

7542 (iii) the property of a private person who provides the Division of Emergency

7543 Management information;

7544 (49) records of the Department of Agriculture and Food that provides for the

7545 identification, tracing, or control of livestock diseases, including any program established under

7546 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

7547 of Animal Disease;

7548 (50) as provided in Section [26-39-501](#):

7549 (a) information or records held by the Department of Health related to a complaint

7550 regarding a child care program or residential child care which the department is unable to

7551 substantiate; and

7552 (b) information or records related to a complaint received by the Department of Health

7553 from an anonymous complainant regarding a child care program or residential child care;

7554 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as

7555 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
7556 personal mobile phone number, if:

7557 (a) the individual is required to provide the information in order to comply with a law,
7558 ordinance, rule, or order of a government entity; and

7559 (b) the subject of the record has a reasonable expectation that this information will be
7560 kept confidential due to:

7561 (i) the nature of the law, ordinance, rule, or order; and

7562 (ii) the individual complying with the law, ordinance, rule, or order;

7563 (52) the portion of the following documents that contains a candidate's residential or
7564 mailing address, if the candidate provides to the filing officer another address or phone number
7565 where the candidate may be contacted:

7566 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
7567 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
7568 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);

7569 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or

7570 (c) a notice of intent to gather signatures for candidacy, described in Section
7571 [20A-9-408](#);

7572 (53) the name, home address, work addresses, and telephone numbers of an individual
7573 that is engaged in, or that provides goods or services for, medical or scientific research that is:

7574 (a) conducted within the state system of higher education, as defined in Section
7575 [53B-1-102](#); and

7576 (b) conducted using animals;

7577 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
7578 Evaluation Commission concerning an individual commissioner's vote on whether or not to
7579 recommend that the voters retain a judge including information disclosed under Subsection
7580 [78A-12-203\(5\)\(e\)](#);

7581 (55) information collected and a report prepared by the Judicial Performance
7582 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
7583 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
7584 the information or report;

7585 (56) records provided or received by the Public Lands Policy Coordinating Office in

7586 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;
7587 (57) information requested by and provided to the 911 Division under Section
7588 63H-7a-302;
7589 (58) in accordance with Section 73-10-33:
7590 (a) a management plan for a water conveyance facility in the possession of the Division
7591 of Water Resources or the Board of Water Resources; or
7592 (b) an outline of an emergency response plan in possession of the state or a county or
7593 municipality;
7594 (59) the following records in the custody or control of the Office of Inspector General
7595 of Medicaid Services, created in Section 63A-13-201:
7596 (a) records that would disclose information relating to allegations of personal
7597 misconduct, gross mismanagement, or illegal activity of a person if the information or
7598 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
7599 through other documents or evidence, and the records relating to the allegation are not relied
7600 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
7601 report or final audit report;
7602 (b) records and audit workpapers to the extent they would disclose the identity of a
7603 person who, during the course of an investigation or audit, communicated the existence of any
7604 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
7605 regulation adopted under the laws of this state, a political subdivision of the state, or any
7606 recognized entity of the United States, if the information was disclosed on the condition that
7607 the identity of the person be protected;
7608 (c) before the time that an investigation or audit is completed and the final
7609 investigation or final audit report is released, records or drafts circulated to a person who is not
7610 an employee or head of a governmental entity for the person's response or information;
7611 (d) records that would disclose an outline or part of any investigation, audit survey
7612 plan, or audit program; or
7613 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
7614 investigation or audit;
7615 (60) records that reveal methods used by the Office of Inspector General of Medicaid
7616 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or

7617 abuse;

7618 (61) information provided to the Department of Health or the Division of
7619 [~~Occupational and~~] Professional Licensing under Subsections 58-67-304(3) and (4) and
7620 Subsections 58-68-304(3) and (4);

7621 (62) a record described in Section 63G-12-210;

7622 (63) captured plate data that is obtained through an automatic license plate reader
7623 system used by a governmental entity as authorized in Section 41-6a-2003;

7624 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
7625 victim, including:

7626 (a) a victim's application or request for benefits;

7627 (b) a victim's receipt or denial of benefits; and

7628 (c) any administrative notes or records made or created for the purpose of, or used to,
7629 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
7630 Reparations Fund;

7631 (65) an audio or video recording created by a body-worn camera, as that term is
7632 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
7633 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
7634 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
7635 that term is defined in Section 62A-2-101, except for recordings that:

7636 (a) depict the commission of an alleged crime;

7637 (b) record any encounter between a law enforcement officer and a person that results in
7638 death or bodily injury, or includes an instance when an officer fires a weapon;

7639 (c) record any encounter that is the subject of a complaint or a legal proceeding against
7640 a law enforcement officer or law enforcement agency;

7641 (d) contain an officer involved critical incident as defined in Subsection

7642 76-2-408(1)(f); or

7643 (e) have been requested for reclassification as a public record by a subject or
7644 authorized agent of a subject featured in the recording;

7645 (66) a record pertaining to the search process for a president of an institution of higher
7646 education described in Section 53B-2-102, except for application materials for a publicly
7647 announced finalist;

- 7648 (67) an audio recording that is:
- 7649 (a) produced by an audio recording device that is used in conjunction with a device or
- 7650 piece of equipment designed or intended for resuscitating an individual or for treating an
- 7651 individual with a life-threatening condition;
- 7652 (b) produced during an emergency event when an individual employed to provide law
- 7653 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
- 7654 (i) is responding to an individual needing resuscitation or with a life-threatening
- 7655 condition; and
- 7656 (ii) uses a device or piece of equipment designed or intended for resuscitating an
- 7657 individual or for treating an individual with a life-threatening condition; and
- 7658 (c) intended and used for purposes of training emergency responders how to improve
- 7659 their response to an emergency situation;
- 7660 (68) records submitted by or prepared in relation to an applicant seeking a
- 7661 recommendation by the Research and General Counsel Subcommittee, the Budget
- 7662 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
- 7663 employment position with the Legislature;
- 7664 (69) work papers as defined in Section 31A-2-204;
- 7665 (70) a record made available to Adult Protective Services or a law enforcement agency
- 7666 under Section 61-1-206;
- 7667 (71) a record submitted to the Insurance Department in accordance with Section
- 7668 31A-37-201;
- 7669 (72) a record described in Section 31A-37-503;
- 7670 (73) any record created by the Division of [~~Occupational and~~] Professional Licensing
- 7671 as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 7672 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
- 7673 involving an amusement ride;
- 7674 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
- 7675 on a political petition, or on a request to withdraw a signature from a political petition,
- 7676 including a petition or request described in the following titles:
- 7677 (a) Title 10, Utah Municipal Code;
- 7678 (b) Title 17, Counties;

- 7679 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
7680 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
7681 (e) Title 20A, Election Code;
- 7682 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
7683 a voter registration record;
- 7684 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
7685 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
7686 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 7687 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
7688 5, Victims Guidelines for Prosecutors Act;
- 7689 (79) a record submitted to the Insurance Department under Subsection
7690 31A-48-103(1)(b);
- 7691 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
7692 prohibited under Section 63G-26-103;
- 7693 (81) (a) an image taken of an individual during the process of booking the individual
7694 into jail, unless:
- 7695 (i) the individual is convicted of a criminal offense based upon the conduct for which
7696 the individual was incarcerated at the time the image was taken;
- 7697 (ii) a law enforcement agency releases or disseminates the image after determining
7698 that:
- 7699 (A) the individual is a fugitive or an imminent threat to an individual or to public
7700 safety; and
- 7701 (B) releasing or disseminating the image will assist in apprehending the individual or
7702 reducing or eliminating the threat; or
- 7703 (iii) a judge orders the release or dissemination of the image based on a finding that the
7704 release or dissemination is in furtherance of a legitimate law enforcement interest.
- 7705 (82) a record:
- 7706 (a) concerning an interstate claim to the use of waters in the Colorado River system;
7707 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
7708 representative from another state or the federal government as provided in Section
7709 63M-14-205; and

7710 (c) the disclosure of which would:
7711 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
7712 Colorado River system;
7713 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
7714 negotiate the best terms and conditions regarding the use of water in the Colorado River
7715 system; or
7716 (iii) give an advantage to another state or to the federal government in negotiations
7717 regarding the use of water in the Colorado River system; and

7718 (83) any part of an application described in Section 63N-16-201 that the Governor's
7719 Office of Economic Opportunity determines is nonpublic, confidential information that if
7720 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
7721 not be used to restrict access to a record evidencing a final contract or approval decision.

7722 Section 114. Section 63I-1-258 is amended to read:

7723 **63I-1-258. Repeal dates, Title 58.**

7724 (1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July
7725 1, 2026.

7726 [~~(2) Section 58-11a-302.5 is repealed July 1, 2022.~~]

7727 [~~(3)~~] (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
7728 repealed July 1, 2026.

7729 [~~(4)~~] (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1,
7730 2025.

7731 [~~(5)~~] (4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
7732 2028.

7733 [~~(6)~~] (5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of
7734 Legislative Research and General Counsel is authorized to renumber the remaining subsections
7735 accordingly.

7736 [~~(7)~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
7737 [~~2023~~] 2033.

7738 [~~(8)~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
7739 Act, is repealed July 1, 2029.

7740 [~~(9)~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,

7741 2025.

7742 [~~(10)~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
7743 repealed July 1, 2023.

7744 [~~(11)~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
7745 2024.

7746 [~~(12)~~] (11) Subsection 58-55-201(2), which creates the Alarm System and Security
7747 Licensing Advisory Board, is repealed July 1, 2027.

7748 [~~(13)~~] (12) Subsection 58-60-405(3), regarding certain educational qualifications for
7749 licensure and reporting, is repealed July 1, 2022.

7750 [~~(14)~~] (13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
7751 July 1, 2026.

7752 [~~(15)~~] (14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

7753 [~~(16)~~] (15) The following sections are repealed on July 1, 2022:

7754 (a) Section 58-5a-502;

7755 (b) Section 58-31b-502.5;

7756 (c) Section 58-67-502.5;

7757 (d) Section 58-68-502.5; and

7758 (e) Section 58-69-502.5.

7759 Section 115. Section 63J-1-602.1 is amended to read:

7760 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

7761 Appropriations made from the following accounts or funds are nonlapsing:

7762 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
7763 and Leadership Restricted Account created in Section 4-42-102.

7764 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.

7765 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
7766 Section 9-18-102.

7767 (4) The National Professional Men's Soccer Team Support of Building Communities
7768 Restricted Account created in Section 9-19-102.

7769 (5) Funds collected for directing and administering the C-PACE district created in
7770 Section 11-42a-106.

7771 (6) Money received by the Utah Inland Port Authority, as provided in Section

- 7772 11-58-105.
- 7773 (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.
- 7774 (8) The Clean Air Support Restricted Account created in Section 19-1-109.
- 7775 (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in
- 7776 Section 19-2a-106.
- 7777 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
- 7778 Section 19-5-126.
- 7779 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
- 7780 Section 23-14-13.5.
- 7781 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
- 7782 Section 24-4-117.
- 7783 (13) Funds collected from the program fund for local health department expenses
- 7784 incurred in responding to a local health emergency under Section 26-1-38.
- 7785 (14) The Children with Cancer Support Restricted Account created in Section
- 7786 26-21a-304.
- 7787 (15) State funds for matching federal funds in the Children's Health Insurance Program
- 7788 as provided in Section 26-40-108.
- 7789 (16) The Children with Heart Disease Support Restricted Account created in Section
- 7790 26-58-102.
- 7791 (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.
- 7792 (18) The Technology Development Restricted Account created in Section 31A-3-104.
- 7793 (19) The Criminal Background Check Restricted Account created in Section
- 7794 31A-3-105.
- 7795 (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except
- 7796 to the extent that Section 31A-3-304 makes the money received under that section free revenue.
- 7797 (21) The Title Licensee Enforcement Restricted Account created in Section
- 7798 31A-23a-415.
- 7799 (22) The Health Insurance Actuarial Review Restricted Account created in Section
- 7800 31A-30-115.
- 7801 (23) The Insurance Fraud Investigation Restricted Account created in Section
- 7802 31A-31-108.

- 7803 (24) The Underage Drinking Prevention Media and Education Campaign Restricted
7804 Account created in Section [32B-2-306](#).
- 7805 (25) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 7806 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
7807 products or services, as provided in Section [35A-13-202](#).
- 7808 (27) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 7809 (28) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 7810 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
7811 [40-6-23](#).
- 7812 (30) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
7813 the Motor Vehicle Division.
- 7814 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
7815 created by Section [41-3-110](#) to the State Tax Commission.
- 7816 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
7817 Section [53-1-120](#).
- 7818 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
7819 Management, as provided in Section [53-2a-603](#).
- 7820 (34) The Department of Public Safety Restricted Account to the Department of Public
7821 Safety, as provided in Section [53-3-106](#).
- 7822 (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
7823 [53-8-303](#).
- 7824 (36) The DNA Specimen Restricted Account created in Section [53-10-407](#).
- 7825 (37) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 7826 (38) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 7827 (39) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 7828 (40) A certain portion of money collected for administrative costs under the School
7829 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 7830 (41) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),
7831 subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 7832 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
7833 electronic reference library, as provided in Section [58-3a-105](#).

7834 (43) Certain fines collected by the Division of [~~Occupational and~~] Professional
7835 Licensing for violation of unlawful or unprofessional conduct that are used for education and
7836 enforcement purposes, as provided in Section [58-17b-505](#).

7837 (44) Funds collected from a surcharge fee to provide certain licensees with access to an
7838 electronic reference library, as provided in Section [58-22-104](#).

7839 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
7840 electronic reference library, as provided in Section [58-55-106](#).

7841 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
7842 electronic reference library, as provided in Section [58-56-3.5](#).

7843 (47) Certain fines collected by the Division of [~~Occupational and~~] Professional
7844 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
7845 provided in Section [58-63-103](#).

7846 (48) The Relative Value Study Restricted Account created in Section [59-9-105](#).

7847 (49) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

7848 (50) Funds paid to the Division of Real Estate for the cost of a criminal background
7849 check for a mortgage loan license, as provided in Section [61-2c-202](#).

7850 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
7851 check for principal broker, associate broker, and sales agent licenses, as provided in Section
7852 [61-2f-204](#).

7853 (52) Certain funds donated to the Department of Human Services, as provided in
7854 Section [62A-1-111](#).

7855 (53) The National Professional Men's Basketball Team Support of Women and
7856 Children Issues Restricted Account created in Section [62A-1-202](#).

7857 (54) Certain funds donated to the Division of Child and Family Services, as provided
7858 in Section [62A-4a-110](#).

7859 (55) The Choose Life Adoption Support Restricted Account created in Section
7860 [62A-4a-608](#).

7861 (56) Funds collected by the Office of Administrative Rules for publishing, as provided
7862 in Section [63G-3-402](#).

7863 (57) The Immigration Act Restricted Account created in Section [63G-12-103](#).

7864 (58) Money received by the military installation development authority, as provided in

- 7865 Section [63H-1-504](#).
- 7866 (59) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 7867 (60) The Unified Statewide 911 Emergency Service Account created in Section
- 7868 [63H-7a-304](#).
- 7869 (61) The Utah Statewide Radio System Restricted Account created in Section
- 7870 [63H-7a-403](#).
- 7871 (62) The Utah Capital Investment Restricted Account created in Section [63N-6-204](#).
- 7872 (63) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 7873 (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
- 7874 as provided under Section [63N-10-301](#).
- 7875 (65) Funds collected by the housing of state probationary inmates or state parole
- 7876 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 7877 (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
- 7878 and State Lands, as provided in Section [65A-8-103](#).
- 7879 (67) The Transportation of Veterans to Memorials Support Restricted Account created
- 7880 in Section [71-14-102](#).
- 7881 (68) The Amusement Ride Safety Restricted Account, as provided in Section
- 7882 [72-16-204](#).
- 7883 (69) Certain funds received by the Office of the State Engineer for well drilling fines or
- 7884 bonds, as provided in Section [73-3-25](#).
- 7885 (70) The Water Resources Conservation and Development Fund, as provided in
- 7886 Section [73-23-2](#).
- 7887 (71) Funds donated or paid to a juvenile court by private sources, as provided in
- 7888 Subsection [78A-6-203\(1\)\(c\)](#).
- 7889 (72) Fees for certificate of admission created under Section [78A-9-102](#).
- 7890 (73) Funds collected for adoption document access as provided in Sections [78B-6-141](#),
- 7891 [78B-6-144](#), and [78B-6-144.5](#).
- 7892 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
- 7893 Utah Indigent Defense Commission.
- 7894 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
- 7895 Section [79-3-403](#).

7896 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
7897 Park, and Green River State Park, as provided under Section 79-4-403.

7898 (77) Certain funds received by the Division of State Parks from the sale or disposal of
7899 buffalo, as provided under Section 79-4-1001.

7900 (78) The Drinking While Pregnant Prevention Media and Education Campaign
7901 Restricted Account created in Section 32B-2-308.

7902 Section 116. Section 63N-1b-301 is amended to read:

7903 **63N-1b-301. Talent, Education, and Industry Alignment Subcommittee --**

7904 **Creation -- Membership -- Expenses -- Duties.**

7905 (1) There is created a subcommittee of the commission called the Talent, Education,
7906 and Industry Alignment Subcommittee composed of the following members:

7907 (a) the state superintendent of public instruction or the superintendent's designee;

7908 (b) the commissioner of higher education or the commissioner of higher education's
7909 designee;

7910 (c) the chair of the State Board of Education or the chair's designee;

7911 (d) the executive director of the Department of Workforce Services or the executive
7912 director of the department's designee;

7913 (e) the executive director of the GO Utah office or the executive director's designee;

7914 (f) the director of the Division of [~~Occupational and~~] Professional Licensing or the
7915 director's designee;

7916 (g) the governor's education advisor or the advisor's designee;

7917 (h) one member of the Senate, appointed by the president of the Senate;

7918 (i) one member of the House of Representatives, appointed by the speaker of the House
7919 of Representatives;

7920 (j) the president of the Salt Lake Chamber or the president's designee;

7921 (k) three representatives of private industry chosen by the commission;

7922 (l) a representative of the technology industry chosen by the commission;

7923 (m) the lieutenant governor or the lieutenant governor's designee; and

7924 (n) any additional individuals appointed by the commission who represent:

7925 (i) one or more individual educational institutions; or

7926 (ii) education or industry professionals.

7927 (2) The commission shall select a chair and vice chair from among the members of the
7928 talent subcommittee.

7929 (3) The talent subcommittee shall meet at least quarterly.

7930 (4) Attendance of a majority of the members of the talent subcommittee constitutes a
7931 quorum for the transaction of official talent subcommittee business.

7932 (5) Formal action by the talent subcommittee requires the majority vote of a quorum.

7933 (6) A member of the talent subcommittee:

7934 (a) may not receive compensation or benefits for the member's service; and

7935 (b) who is not a legislator may receive per diem and travel expenses in accordance

7936 with:

7937 (i) Section 63A-3-106;

7938 (ii) Section 63A-3-107; and

7939 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7940 63A-3-107.

7941 (7) The talent subcommittee shall:

7942 (a) (i) review and develop metrics to measure the progress, performance, effectiveness,
7943 and scope of any state operation, activity, program, or service that primarily involves
7944 employment training or placement; and

7945 (ii) ensure that the metrics described in Subsection (7)(a) are consistent and
7946 comparable for each state operation, activity, program, or service that primarily involves
7947 employment training or placement;

7948 (b) make recommendations to the commission regarding how to better align training
7949 and education in the state with industry demand;

7950 (c) make recommendations to the commission regarding how to better align technical
7951 education with current and future workforce needs; and

7952 (d) coordinate with the commission to meet the responsibilities described in Subsection
7953 63N-1b-302(4).

7954 Section 117. Section 76-10-3201 is enacted to read:

7955 **Part 32. Health Care Lien Prohibition**

7956 **76-10-3201. Health care lien prohibition.**

7957 (1) As used in this section:

7958 (a) "Debt or lien" means a debt or lien arising from a health service a patient receives.

7959 (b) "Financial interest" means:

7960 (i) ownership of a share; or

7961 (ii) receipt of a profit or compensation.

7962 (c) "Health care provider" means the same as that term is defined in Section

7963 [78B-3-403.](#)

7964 (2) (a) A health care provider may not purchase or acquire a debt or a lien from or sell
7965 a debt or lien to another health care provider if:

7966 (i) the patient has filed a claim or intends to file a claim for damages from an injury
7967 that led to the creation of the debt or lien; and

7968 (ii) the health care provider provided any health service to the patient in relation to the
7969 claim for damages.

7970 (b) An actor may not have a financial interest in a health care provider that purchases
7971 or acquires a debt or a lien from or sells a debt or lien to another health care provider if:

7972 (i) the patient subject to the debt or lien has filed a claim or intends to file a claim for
7973 damages from an injury that led to the creation of the debt or lien; and

7974 (ii) the health care provider in which the actor has a financial interest provides any
7975 health service to the patient in relation to the claim for damages.

7976 (3) A violation of Subsection (2)(a) or (b) is a third degree felony.

7977 Section 118. Section **76-10-3202** is enacted to read:

7978 **76-10-3202. Prohibition on kickbacks.**

7979 (1) As used in this section:

7980 (a) "Health care provider" means the same as that term is defined in Section

7981 [78B-3-403.](#)

7982 (b) (i) "Kickback or bribe" means a rebate, compensation, or any other form of
7983 remuneration, that is:

7984 (A) direct or indirect;

7985 (B) overt or covert; or

7986 (C) in cash or in kind.

7987 (ii) "Kickback or bribe" does not include a fee that is:

7988 (A) shared between two or more individuals, each of whom is licensed to practice law;

7989 and

7990 (B) charged for services provided in the individual's capacity as a licensee described in
7991 Subsection (1)(b)(ii)(A).

7992 (2) (a) An actor may not solicit or receive a kickback or bribe in return for the referral
7993 of a person to another person for the furnishing of any good or service that relates to any
7994 insurance claim or a claim for damages.

7995 (b) An actor may not offer or pay a kickback or bribe to induce the referral of a person
7996 to another person for the furnishing of any good or service that relates to any insurance claim or
7997 a claim for damages.

7998 (3) A violation of Subsection (2)(a) or (b) is a third degree felony.

7999 (4) This section does not apply to an individual licensed to practice law who refers the
8000 individual's client to a health care provider for medical evaluation or treatment.

8001 Section 119. Section **78B-3-403** is amended to read:

8002 **78B-3-403. Definitions.**

8003 As used in this part:

8004 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
8005 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

8006 (2) "Certified social worker" means a person licensed to practice as a certified social
8007 worker under Section [58-60-205](#).

8008 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
8009 Title 58, Chapter 73, Chiropractic Physician Practice Act.

8010 (4) "Clinical social worker" means a person licensed to practice as a clinical social
8011 worker under Section [58-60-205](#).

8012 (5) "Commissioner" means the commissioner of insurance as provided in Section
8013 [31A-2-102](#).

8014 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
8015 hygiene as defined in Section [58-69-102](#).

8016 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined
8017 in Section [58-69-102](#).

8018 (8) "Division" means the Division of [~~Occupational and~~] Professional Licensing
8019 created in Section [58-1-103](#).

8020 (9) "Future damages" includes a judgment creditor's damages for future medical
8021 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
8022 suffering.

8023 (10) "Health care" means any act or treatment performed or furnished, or which should
8024 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
8025 during the patient's medical care, treatment, or confinement.

8026 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
8027 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
8028 ambulatory surgical facilities, small health care facilities, health care facilities owned or
8029 operated by health maintenance organizations, and end stage renal disease facilities.

8030 (12) "Health care provider" includes any person, partnership, association, corporation,
8031 or other facility or institution who causes to be rendered or who renders health care or
8032 professional services as a hospital, health care facility, physician, physician assistant, registered
8033 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental
8034 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical
8035 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic
8036 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
8037 speech-language pathologist, clinical social worker, certified social worker, social service
8038 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or
8039 others rendering similar care and services relating to or arising out of the health needs of
8040 persons or groups of persons and officers, employees, or agents of any of the above acting in
8041 the course and scope of their employment.

8042 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
8043 21, Health Care Facility Licensing and Inspection Act.

8044 (14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,
8045 Athletic Trainer Licensing Act.

8046 (15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry
8047 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
8048 [58-77-102](#).

8049 (16) "Licensed practical nurse" means a person licensed to practice as a licensed
8050 practical nurse as provided in Section [58-31b-301](#).

8051 (17) "Malpractice action against a health care provider" means any action against a
8052 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
8053 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
8054 or which should have been rendered by the health care provider.

8055 (18) "Marriage and family therapist" means a person licensed to practice as a marriage
8056 therapist or family therapist under Sections 58-60-305 and 58-60-405.

8057 (19) "Naturopathic physician" means a person licensed to engage in the practice of
8058 naturopathic medicine as defined in Section 58-71-102.

8059 (20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
8060 under Section 58-44a-301.

8061 (21) "Optometrist" means a person licensed to practice optometry under Title 58,
8062 Chapter 16a, Utah Optometry Practice Act.

8063 (22) "Osteopathic physician" means a person licensed to practice osteopathy under
8064 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

8065 (23) "Patient" means a person who is under the care of a health care provider, under a
8066 contract, express or implied.

8067 (24) "Periodic payments" means the payment of money or delivery of other property to
8068 a judgment creditor at intervals ordered by the court.

8069 (25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section
8070 58-17b-301.

8071 (26) "Physical therapist" means a person licensed to practice physical therapy under
8072 Title 58, Chapter 24b, Physical Therapy Practice Act.

8073 (27) "Physical therapist assistant" means a person licensed to practice physical therapy,
8074 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical
8075 Therapy Practice Act.

8076 (28) "Physician" means a person licensed to practice medicine and surgery under Title
8077 58, Chapter 67, Utah Medical Practice Act.

8078 (29) "Physician assistant" means a person licensed to practice as a physician assistant
8079 under Title 58, Chapter 70a, Utah Physician Assistant Act.

8080 (30) "Podiatric physician" means a person licensed to practice podiatry under Title 58,
8081 Chapter 5a, Podiatric Physician Licensing Act.

8082 (31) "Practitioner of obstetrics" means a person licensed to practice as a physician in
8083 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,
8084 Utah Osteopathic Medical Practice Act.

8085 (32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist
8086 Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

8087 (33) "Registered nurse" means a person licensed to practice professional nursing as
8088 provided in Section 58-31b-301.

8089 (34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother,
8090 child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term
8091 includes relationships that are created as a result of adoption.

8092 (35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,
8093 person designated to make decisions on behalf of a patient under a medical power of attorney,
8094 or other legal agent of the patient.

8095 (36) "Social service worker" means a person licensed to practice as a social service
8096 worker under Section 58-60-205.

8097 (37) "Speech-language pathologist" means a person licensed to practice
8098 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and
8099 Audiology Licensing Act.

8100 (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or
8101 omission proximately causing injury or damage to another.

8102 (39) "Unanticipated outcome" means the outcome of a medical treatment or procedure
8103 that differs from an expected result.

8104 Section 120. **Repealer.**

8105 This bill repeals:

8106 Section 58-1-101, **Short title.**

8107 Section 58-5a-305, **License by endorsement.**

8108 Section 58-15-1, **Title.**

8109 Section 121. **Revisor instructions.**

8110 The Legislature intends that the Office of Legislative Research and General Counsel, in
8111 preparing the Utah Code database for publication, make the following changes in any new
8112 language added to the Utah Code by legislation passed during the 2022 General Session:

8113 (1) replace "Division of Occupational and Professional Licensing" with "Division of
8114 Professional Licensing"; and

8115 (2) replace "Division of Occupational and Professional Licensing Act" with "Division
8116 of Professional Licensing Act."

8117 Section 122. **Coordinating S.B. 43 with H.B. 176 -- Substantive and technical**
8118 **amendments.**

8119 If this S.B. 43 and H.B. 176, Utah Health Workforce Act, both pass and become law, it
8120 is the intent of the Legislature that on July 1, 2022, the Office of Legislative Research and
8121 General Counsel, in preparing the Utah Code database for publication, modify:

8122 (1) Subsection 26-69-405(2) to read:

8123 "[(4)] (2) use federal money for necessary administrative expenses to carry out [the
8124 council's] UMEC's duties and powers as permitted by federal law;" and

8125 (2) Subsection 26-69-405(4) to read:

8126 "[(6)] (4) as is necessary to carry out [the council's] UMEC's duties under Section
8127 [53B24-303: (a) hire employees; and (b)] 26-69-404, adopt rules in accordance with Title 63G,
8128 Chapter 3, Utah Administrative Rulemaking Act."