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 kickback or bribe for a referral for a good or service that relates to an
37 insurance claim or claim for damages;
38 ▸ creates a criminal penalty for certain prohibited activities; and
39 ▸ makes technical and conforming changes.
40 **Money Appropriated in this Bill:**
41 None
42 **Other Special Clauses:**
43 This bill provides revisor instructions.
44 This bill provides a coordination clause.
45 **Utah Code Sections Affected:**
46 AMENDS:
47 **13-1-2**, as last amended by Laws of Utah 2021, Chapter 345
48 **13-23-2**, as last amended by Laws of Utah 2021, Chapter 266
49 **15A-1-102**, as last amended by Laws of Utah 2020, Chapter 43
50 **15A-3-402**, as last amended by Laws of Utah 2020, Chapter 441
51 **17-21-18.5**, as last amended by Laws of Utah 2019, Chapter 302
52 **17-22-30**, as last amended by Laws of Utah 2021, Chapter 148
53 **17-23-17**, as last amended by Laws of Utah 2016, Chapter 303
54 **26-2-2**, as last amended by Laws of Utah 2020, Chapter 251
55 **26-4-10.5**, as enacted by Laws of Utah 2016, Chapter 104
56 **26-6-27**, as last amended by Laws of Utah 2021, Chapter 345

57 **26-7-13**, as enacted by Laws of Utah 2020, Chapter 201
58 **26-8a-310**, as last amended by Laws of Utah 2021, Chapters 237 and 262
59 **26-15-3**, as last amended by Laws of Utah 2011, Chapter 14
60 **26-21-22**, as enacted by Laws of Utah 1998, Chapter 288
61 **26-21-26**, as last amended by Laws of Utah 2016, Chapter 99
62 **26-21-204**, as last amended by Laws of Utah 2021, Chapter 262
63 **26-49-205**, as enacted by Laws of Utah 2008, Chapter 242
64 **26-55-105**, as enacted by Laws of Utah 2016, Chapter 208 and last amended by
65 Coordination Clause, Laws of Utah 2016, Chapter 202
66 **26-55-108**, as last amended by Laws of Utah 2018, Chapter 38
67 **26-60-104**, as enacted by Laws of Utah 2017, Chapter 241
68 **26-61-202**, as last amended by Laws of Utah 2020, Chapter 12
69 **26-61a-103**, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350
70 **26-61a-106**, as last amended by Laws of Utah 2021, Chapters 337 and 350
71 **26-61a-303**, as last amended by Laws of Utah 2021, Chapters 84 and 345
72 **26-61a-401**, as last amended by Laws of Utah 2021, Chapter 337
73 **26-61a-403**, as last amended by Laws of Utah 2021, Chapters 337 and 350
74 **26-61a-501**, as last amended by Laws of Utah 2021, Chapters 337 and 350
75 **26-61a-503**, as last amended by Laws of Utah 2021, Chapter 337
76 **26-61a-506**, as last amended by Laws of Utah 2020, Chapter 12
77 **26-61a-605**, as last amended by Laws of Utah 2021, Chapter 350
78 **26-61a-606**, as last amended by Laws of Utah 2021, Chapter 350
79 **26-64-102**, as enacted by Laws of Utah 2018, Chapter 295
80 **26A-1-113**, as last amended by Laws of Utah 2011, Chapter 14
81 **26A-1-114**, as last amended by Laws of Utah 2021, Chapter 437
82 **26A-1-126**, as last amended by Laws of Utah 2013, Chapter 44
83 **31A-22-642**, as last amended by Laws of Utah 2019, Chapter 332
84 **32B-4-305**, as last amended by Laws of Utah 2021, Chapter 260
85 **34-38-13**, as last amended by Laws of Utah 2004, Chapter 152
86 **35A-6-105**, as last amended by Laws of Utah 2021, Chapters 282 and 301
87 **36-23-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

88 **36-23-107**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
89 **38-1a-102**, as last amended by Laws of Utah 2019, Chapter 250
90 **38-1b-102**, as last amended by Laws of Utah 2016, Chapter 350
91 **38-11-102**, as last amended by Laws of Utah 2020, Chapters 154 and 339
92 **38-11-103**, as last amended by Laws of Utah 1995, Chapter 172
93 **41-6a-502**, as last amended by Laws of Utah 2020, Chapter 177
94 **41-6a-502.5**, as last amended by Laws of Utah 2021, Chapter 79
95 **53-2a-1205**, as enacted by Laws of Utah 2014, Chapter 376
96 **53-10-114**, as enacted by Laws of Utah 1998, Chapter 101
97 **53B-24-304**, as renumbered and amended by Laws of Utah 2013, Chapter 28
98 **53F-2-305**, as last amended by Laws of Utah 2020, Chapters 308 and 408
99 **53F-2-405**, as last amended by Laws of Utah 2020, Chapters 308 and 408
100 **58-1-102**, as last amended by Laws of Utah 2016, Chapter 127
101 **58-1-103**, as renumbered and amended by Laws of Utah 1993, Chapter 297
102 **58-1-202**, as last amended by Laws of Utah 2018, Chapter 129
103 **58-1-301**, as last amended by Laws of Utah 2019, Chapter 133
104 **58-1-302**, as last amended by Laws of Utah 2020, Chapter 339
105 **58-3a-302**, as last amended by Laws of Utah 2020, Chapter 339
106 **58-9-302**, as last amended by Laws of Utah 2018, Chapter 326
107 **58-16a-302**, as last amended by Laws of Utah 2020, Chapter 339
108 **58-17b-504**, as last amended by Laws of Utah 2020, Chapter 339
109 **58-20b-102**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
110 **58-22-102**, as last amended by Laws of Utah 2020, Chapter 339
111 **58-28-304**, as last amended by Laws of Utah 2020, Chapter 339
112 **58-28-503**, as last amended by Laws of Utah 2018, Chapter 318
113 **58-31b-303**, as last amended by Laws of Utah 2006, Chapter 291
114 **58-31b-503**, as last amended by Laws of Utah 2020, Chapter 339
115 **58-37-2**, as last amended by Laws of Utah 2020, Chapter 12
116 **58-37-6**, as last amended by Laws of Utah 2021, Chapters 23, 165, and 262
117 **58-37-8**, as last amended by Laws of Utah 2021, Chapter 236
118 **58-37c-5**, as repealed and reenacted by Laws of Utah 1992, Chapter 155

119 **58-37c-6**, as last amended by Laws of Utah 2008, Chapter 382
120 **58-37c-21**, as last amended by Laws of Utah 1999, Chapter 21
121 **58-37d-9**, as last amended by Laws of Utah 1999, Chapter 21
122 **58-38a-201**, as last amended by Laws of Utah 2020, Chapter 26
123 **58-41-4**, as last amended by Laws of Utah 2019, Chapter 349
124 **58-44a-302**, as last amended by Laws of Utah 2016, Chapter 238
125 **58-44a-402**, as last amended by Laws of Utah 2018, Chapter 318
126 **58-55-102**, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
127 **58-55-302**, as last amended by Laws of Utah 2020, Chapter 339
128 **58-55-502**, as last amended by Laws of Utah 2011, Chapters 170 and 413
129 **58-55-503**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
130 **58-56-2**, as enacted by Laws of Utah 1989, Chapter 269
131 **58-57-14**, as last amended by Laws of Utah 2008, Chapter 382
132 **58-61-704**, as last amended by Laws of Utah 2020, Chapter 339
133 **58-63-102**, as last amended by Laws of Utah 2017, Chapter 197
134 **58-63-302**, as last amended by Laws of Utah 2020, Chapter 339
135 **58-67-503**, as last amended by Laws of Utah 2020, Chapter 339
136 **58-68-503**, as last amended by Laws of Utah 2020, Chapter 339
137 **58-71-402**, as last amended by Laws of Utah 2008, Chapter 382
138 **58-73-302**, as last amended by Laws of Utah 2020, Chapter 339
139 **58-73-501**, as last amended by Laws of Utah 1998, Chapter 26
140 **58-83-102**, as enacted by Laws of Utah 2010, Chapter 180
141 **58-83-302**, as enacted by Laws of Utah 2010, Chapter 180
142 **58-83-401**, as last amended by Laws of Utah 2011, Chapter 367
143 **58-83-502**, as last amended by Laws of Utah 2020, Chapter 25
144 **58-87-103**, as renumbered and amended by Laws of Utah 2017, Chapter 225
145 **59-10-1111**, as enacted by Laws of Utah 2016, Chapter 407
146 **62A-3-202**, as last amended by Laws of Utah 2018, Chapter 60
147 **62A-3-305**, as last amended by Laws of Utah 2021, Chapter 419
148 **62A-3-311.1**, as last amended by Laws of Utah 2017, Chapter 195
149 **62A-3-312**, as last amended by Laws of Utah 2017, Chapter 176

150 **62A-4a-411**, as last amended by Laws of Utah 2021, Chapter 419
151 **62A-4a-603**, as last amended by Laws of Utah 2020, Chapter 250
152 **62A-15-103**, as last amended by Laws of Utah 2021, Chapters 231 and 277
153 **63G-2-305**, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
154 and 382
155 **63I-1-258**, as last amended by Laws of Utah 2021, Chapter 32
156 **63J-1-602.1**, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
157 **63N-1b-301**, as renumbered and amended by Laws of Utah 2021, Chapter 282
158 **78B-3-403**, as last amended by Laws of Utah 2019, Chapter 349
159 ENACTS:
160 **76-10-3201**, Utah Code Annotated 1953
161 RENUMBERS AND AMENDS:
162 **58-15-101**, (Renumbered from 58-15-2, as last amended by Laws of Utah 2016,
163 Chapter 238)
164 **58-15-201**, (Renumbered from 58-15-3, as last amended by Laws of Utah 2011,
165 Chapter 366)
166 **58-15-301**, (Renumbered from 58-15-4, as last amended by Laws of Utah 2009,
167 Chapter 183)
168 **58-15-302**, (Renumbered from 58-15-4.5, as enacted by Laws of Utah 1993, Chapter
169 297)
170 **58-15-303**, (Renumbered from 58-15-11, as last amended by Laws of Utah 2020,
171 Chapter 339)
172 **58-15-401**, (Renumbered from 58-15-12, as enacted by Laws of Utah 1993, Chapter
173 297)
174 **58-15-501**, (Renumbered from 58-15-10, as repealed and reenacted by Laws of Utah
175 1993, Chapter 297)
176 REPEALS:
177 **58-1-101**, as renumbered and amended by Laws of Utah 1993, Chapter 297
178 **58-5a-305**, as last amended by Laws of Utah 1996, Chapter 232
179 **58-15-1**, as enacted by Laws of Utah 1985, Chapter 49
180 **Utah Code Sections Affected by Coordination Clause:**

181 26-69-405, Utah Code Annotated 1953
182
183 *Be it enacted by the Legislature of the state of Utah:*
184 Section 1. Section **13-1-2** is amended to read:
185 **13-1-2. Creation and functions of department -- Divisions created -- Fees --**
186 **Commerce Service Account.**
187 (1) (a) There is created the Department of Commerce.
188 (b) The department shall:
189 (i) execute and administer state laws regulating business activities and occupations
190 affecting the public interest; and
191 (ii) ensure that any training or certification required of a public official or public
192 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
193 22, State Training and Certification Requirements, if the training or certification is required:
194 (A) under this title;
195 (B) by the department; or
196 (C) by an agency or division within the department.
197 (2) Within the department the following divisions are created:
198 (a) the Division of [~~Occupational and~~] Professional Licensing;
199 (b) the Division of Real Estate;
200 (c) the Division of Securities;
201 (d) the Division of Public Utilities;
202 (e) the Division of Consumer Protection; and
203 (f) the Division of Corporations and Commercial Code.
204 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
205 fees assessed for services provided by the department by following the procedures and
206 requirements of Section 63J-1-504.
207 (b) The department shall submit each fee established in this manner to the Legislature
208 for [~~its~~] the Legislature's approval as part of the department's annual appropriations request.
209 (c) (i) There is created a restricted account within the General Fund known as the
210 "Commerce Service Account."
211 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by

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

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

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

305 (b) for the development or preservation of physical fitness or well-being, through
306 exercise, weight control, or athletics.
307 (7) (a) "Health spa service" means instruction, a service, a privilege, or a right that a
308 health spa offers for sale.
309 (b) "Health spa service" includes a personal training service.
310 (8) "Personal training service" means the personalized instruction, training,
311 supervision, or monitoring of an individual's physical fitness or well-being, through exercise,
312 weight control, or athletics.
313 Section 3. Section **15A-1-102** is amended to read:
314 **15A-1-102. Definitions.**
315 As used in this title:
316 (1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.
317 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
318 created in Section 58-1-103, except as provided in:
319 (a) Part 4, State Fire Code Administration Act; and
320 (b) Chapter 5, State Fire Code Act.
321 (3) "State Construction Code" means the State Construction Code adopted by:
322 (a) Chapter 2, Adoption of State Construction Code;
323 (b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as
324 Part of State Construction Code;
325 (c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;
326 (d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code;
327 and
328 (e) Chapter 6, Additional Construction Requirements.
329 (4) "State Fire Code" means the State Fire Code adopted by Chapter 5, State Fire Code
330 Act.
331 (5) "Utah Code" means the Utah Code Annotated (1953), as amended.
332 Section 4. Section **15A-3-402** is amended to read:
333 **15A-3-402. Amendments to Chapters 1 through 5 of IMC.**
334 (1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:
335 "h. 1. A nail salon shall provide each manicure station where a nail technician files or

336 shapes an acrylic nail, as defined by rule by the Division of [~~Occupational and~~] Professional
337 Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
338 with:
339 a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and
340 an activated carbon filter that is capable of filtering and recirculating air to inside space at a
341 rate not less than 50 cfm per station; or
342 b. a source capture system capable of exhausting not less than 50 cfm per station.
343 c. A nail salon that complies with Note h. la or h. lb is not required to comply with the
344 labeling, listing, or testing requirements described in International Mechanical Code sections
345 301.7 or 301.8.
346 2. For a source capture system described in paragraph 1, the source capture system
347 inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.
348 3. Where one or more exhausting source capture systems described in paragraph 1
349 operate continuously during occupancy, the source capture system exhaust rate shall be
350 permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.
351 4. The requirements of this note apply to:
352 a. an existing nail salon that remodels the nail salon after July 1, 2017;
353 b. a new nail salon that begins construction after July 1, 2017; and
354 c. all nail salons beginning on July 1, 2020."
355 (2) In IMC, Section 502.20 is deleted and rewritten as follows:
356 "502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide
357 each manicure station with a source capture system in accordance with Table 403.3.1.1, note h.
358 For a manicure table that does not have factory-installed source capture system inlets for
359 recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for
360 recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and
361 vertically from the point of any acrylic chemical application.
362 Exception: Section 502.20 applies to a manicure station in:
363 a. an existing nail salon that remodels the nail salon after July 1, 2017;
364 b. a new nail salon that begins construction after July 1, 2017; and
365 c. all nail salons beginning on July 1, 2020."
366 Section 5. Section **17-21-18.5** is amended to read:

367 **17-21-18.5. Fees of county recorder.**
368 (1) The county recorder shall receive the following fees:
369 (a) for recording any instrument, not otherwise provided for, other than bonds of public
370 officers, $40;
371 (b) for recording any instrument, including those provided for under Title 70A,
372 Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
373 for, $40, and if an instrument contains more than 10 descriptions, $2 for each additional
374 description;
375 (c) for recording mining location notices and affidavits of labor affecting mining
376 claims, $40; and
377 (d) for an affidavit or proof of labor which contains more than 10 mining claims, $2 for
378 each additional mining claim.
379 (2) (a) Each county recorder shall record the mining rules of the several mining
380 districts in each county without fee.
381 (b) Certified copies of these records shall be received in all tribunals and before all
382 officers of this state as prima facie evidence of the rules.
383 (3) The county recorder shall receive the following fees:
384 (a) for copies of any record or document, a reasonable fee as determined by the county
385 legislative body;
386 (b) for each certificate under seal, $5;
387 (c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;
388 (d) for taking and certifying acknowledgments, including seal, $5 for one name and $2
389 for each additional name;
390 (e) for recording any license issued by the Division of [~~Occupational and~~] Professional
391 Licensing, $40; and
392 (f) for recording a federal tax lien, $40, and for the discharge of the lien, $40.
393 (4) A county recorder may not charge more than one recording fee for each instrument,
394 regardless of whether the instrument bears multiple descriptive titles or includes one or more
395 attachments as part of the instrument.
396 (5) By January 1, 2022, each county shall accept and provide for electronic recording
397 of instruments.

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

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

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

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

522 section corner or quarter-section corner, or their accessories, the surveyor shall complete and
523 submit to the county surveyor or designated office a record of the changes made.
524 (b) The record shall be submitted within 45 days of the corner visits and shall include
525 the surveyor's seal, business name, and address.
526 (8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the
527 license of any land surveyor who fails to comply with the requirements of this section,
528 according to the procedures set forth in Title 58, Chapter 1, Division of [~~Occupational and~~]
529 Professional Licensing Act.
530 (9) Each federal or state agency, board, or commission, local district, special service
531 district, or municipal corporation that makes a boundary survey of lands within this state shall
532 comply with this section.
533 Section 8. Section **26-2-2** is amended to read:
534 **26-2-2. Definitions.**
535 As used in this chapter:
536 (1) "Adoption document" means an adoption-related document filed with the office, a
537 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
538 in support of a supplementary birth certificate.
539 (2) "Certified nurse midwife" means an individual who:
540 (a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a,
541 Nurse Midwife Practice Act; and
542 (b) has completed an education program regarding the completion of a certificate of
543 death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah
544 Administrative Rulemaking Act.
545 [~~(2)~~] (3) "Custodial funeral service director" means a funeral service director who:
546 (a) is employed by a licensed funeral establishment; and
547 (b) has custody of a dead body.
548 [~~(3)~~] (4) "Dead body" or "decedent" means a human body or parts of the human body
549 from the condition of which it reasonably may be concluded that death occurred.
550 [~~(4)~~] (5) "Dead fetus" means a product of human conception, other than those
551 circumstances described in Subsection 76-7-301(1):
552 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual

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

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

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

646 local health departments only in accordance with the requirements of this chapter and as
647 follows:
648 (a) specific medical or epidemiological information may be released with the written
649 consent of the individual identified in that information or, if that individual is deceased, his
650 next-of-kin;
651 (b) specific medical or epidemiological information may be released to medical
652 personnel or peace officers in a medical emergency, as determined by the department in
653 accordance with guidelines it has established, only to the extent necessary to protect the health
654 or life of the individual identified in the information, or of the attending medical personnel or
655 law enforcement or public safety officers;
656 (c) specific medical or epidemiological information may be released to authorized
657 personnel within the department, local health departments, public health authorities, official
658 health agencies in other states, the United States Public Health Service, the Centers for Disease
659 Control and Prevention (CDC), or when necessary to continue patient services or to undertake
660 public health efforts to interrupt the transmission of disease;
661 (d) if the individual identified in the information is under the age of 18, the information
662 may be released to the Division of Child and Family Services within the Department of Human
663 Services in accordance with Section 62A-4a-403. If that information is required in a court
664 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against
665 the Person, the information shall be disclosed in camera and sealed by the court upon
666 conclusion of the proceedings;
667 (e) specific medical or epidemiological information may be released to authorized
668 personnel in the department or in local health departments, and to the courts, to carry out the
669 provisions of this title, and rules adopted by the department in accordance with this title;
670 (f) specific medical or epidemiological information may be released to blood banks,
671 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
672 communicable diseases. The department may, by rule, designate the diseases about which
673 information may be disclosed under this subsection, and may choose to release the name of an
674 infected individual to those organizations without disclosing the specific disease;
675 (g) specific medical or epidemiological information may be released in such a way that
676 no individual is identifiable;

677 (h) specific medical or epidemiological information may be released to a "health care
678 provider" as defined in Section 78B-3-403, health care personnel, and public health personnel
679 who have a legitimate need to have access to the information in order to assist the patient, or to
680 protect the health of others closely associated with the patient;
681 (i) specific medical or epidemiological information regarding a health care provider, as
682 defined in Section 78B-3-403, may be released to the department, the appropriate local health
683 department, and the Division of [~~Occupational and~~] Professional Licensing within the
684 Department of Commerce, if the identified health care provider is endangering the safety or life
685 of any individual by his continued practice of health care;
686 (j) specific medical or epidemiological information may be released in accordance with
687 Section 26-6-31 if an individual is not identifiable; and
688 (k) specific medical or epidemiological information may be released to a state agency
689 as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4)
690 if the state agency agrees to act in accordance with the requirements in this chapter.
691 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
692 intended only to aid health care providers in their treatment and containment of infectious
693 disease.
694 Section 11. Section **26-7-13** is amended to read:
695 **26-7-13. Opioid and Overdose Fatality Review Committee.**
696 (1) As used in this section:
697 (a) "Committee" means the Opioid and Overdose Fatality Review Committee created
698 in this section.
699 (b) "Opioid overdose death" means a death primarily caused by opioids or another
700 substance that closely resembles an opioid.
701 (2) The department shall establish the Opioid and Overdose Fatality Review
702 Committee.
703 (3) (a) The committee shall consist of:
704 (i) the attorney general, or the attorney general's designee;
705 (ii) a state, county, or municipal law enforcement officer;
706 (iii) the manager of the department's Violence Injury Program, or the manager's
707 designee;

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

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

770 for individuals for whom the department has previously granted background clearance.
771 (3) The department shall determine whether to grant, deny, or revoke background
772 clearance for an individual based on an initial and ongoing evaluation of information the
773 department obtains under Subsections (5) and (11), which, at a minimum, shall include an
774 initial criminal background check of state, regional, and national databases using the
775 individual's fingerprints.
776 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
777 Administrative Rulemaking Act, that specify:
778 (a) the criteria the department will use under Subsection (3) to determine whether to
779 grant, deny, or revoke background clearance; and
780 (b) the other personal identification information an individual seeking licensure or
781 certification under Section 26-8a-302 must submit under Subsection (1).
782 (5) To determine whether to grant, deny, or revoke background clearance, the
783 department may access and evaluate any of the following:
784 (a) Department of Public Safety arrest, conviction, and disposition records described in
785 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
786 information in state, regional, and national records files;
787 (b) adjudications by a juvenile court of committing an act that if committed by an adult
788 would be a felony or misdemeanor, if:
789 (i) the applicant is under 28 years old; or
790 (ii) the applicant:
791 (A) is over 28 years old; and
792 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
793 abeyance or diversion agreement for a felony or misdemeanor;
794 (c) juvenile court arrest, adjudication, and disposition records, other than those under
795 Subsection (5)(b), as allowed under Section 78A-6-209;
796 (d) child abuse or neglect findings described in Section 80-3-404;
797 (e) the Department of Human Services' Division of Child and Family Services
798 Licensing Information System described in Section 62A-4a-1006;
799 (f) the Department of Human Services' Division of Aging and Adult Services database
800 of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

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

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

863 acute hospital shall, within three business days after the day on which the person is admitted,
864 send a written report to the Division of [~~Occupational and~~] Professional Licensing, created in
865 Section 58-1-103, that includes:
866 (a) the patient's name and date of birth;
867 (b) each drug or other substance found in the person's system that may have
868 contributed to the poisoning or overdose, if known;
869 (c) the name of each person who the general acute hospital has reason to believe may
870 have prescribed a controlled substance described in Subsection (1)(b) to the person, if known;
871 and
872 (d) the name of the hospital and the date of admission.
873 (2) Nothing in this section may be construed as creating a new cause of action.
874 Section 16. Section **26-21-204** is amended to read:
875 **26-21-204. Clearance.**
876 (1) The department shall determine whether to grant clearance for each applicant for
877 whom it receives:
878 (a) the personal identification information specified by the department under
879 Subsection 26-21-204(4)(b); and
880 (b) any fees established by the department under Subsection 26-21-204(9).
881 (2) The department shall establish a procedure for obtaining and evaluating relevant
882 information concerning covered individuals, including fingerprinting the applicant and
883 submitting the prints to the Criminal Investigations and Technical Services Division of the
884 Department of Public Safety for checking against applicable state, regional, and national
885 criminal records files.
886 (3) The department may review the following sources to determine whether an
887 individual should be granted or retain clearance, which may include:
888 (a) Department of Public Safety arrest, conviction, and disposition records described in
889 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
890 information in state, regional, and national records files;
891 (b) juvenile court arrest, adjudication, and disposition records, as allowed under
892 Section 78A-6-209;
893 (c) federal criminal background databases available to the state;

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

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

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

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

1018 overdose event;
1019 (ii) a family member of, friend of, or other person, including a person described in
1020 Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an
1021 individual who is at increased risk of experiencing an opiate-related drug overdose event; or
1022 (iii) an overdose outreach provider for:
1023 (A) furnishing to an individual who is at increased risk of experiencing an
1024 opiate-related drug overdose event, or to a family member of, friend of, or other individual who
1025 is in a position to assist an individual who is at increased risk of experiencing an opiate-related
1026 drug overdose event, as provided in Section 26-55-106; or
1027 (B) administering to an individual experiencing an opiate-related drug overdose event;
1028 (b) requires the physician to specify the persons, by professional license number,
1029 authorized to dispense the opiate antagonist;
1030 (c) requires the physician to review at least annually the dispensing practices of those
1031 authorized by the physician to dispense the opiate antagonist;
1032 (d) requires those authorized by the physician to dispense the opiate antagonist to make
1033 and retain a record of each person to whom the opiate antagonist is dispensed, which shall
1034 include:
1035 (i) the name of the person;
1036 (ii) the drug dispensed; and
1037 (iii) other relevant information; and
1038 (e) is approved by the Division of [~~Occupational and~~] Professional Licensing within
1039 the Department of Commerce by administrative rule made in accordance with Title 63G,
1040 Chapter 3, Utah Administrative Rulemaking Act.
1041 Section 19. Section **26-55-108** is amended to read:
1042 **26-55-108. Coprescription guidelines.**
1043 (1) As used in this section:
1044 (a) "Controlled substance prescriber" means the same as that term is defined in Section
1045 58-37-6.5.
1046 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a
1047 prescription for an opiate.
1048 (2) The department shall, in consultation with the Physicians Licensing Board created

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

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

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

1142 (iv) notate a determination of physical difficulty or undue hardship, described in
1143 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
1144 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
1145 verification system is functionally capable of facility medical cannabis pharmacy recording,
1146 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in
1147 accordance with Subsection 26-61a-501(11)(a), to record:
1148 (i) a patient's recommendation from a limited medical provider, including any
1149 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
1150 and
1151 (ii) a limited medical provider's renewal of the provider's previous recommendation;
1152 (e) connects with:
1153 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1154 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1155 medicinal dosage form, or a medical cannabis device, including:
1156 (A) the time and date of each purchase;
1157 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1158 purchased;
1159 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1160 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1161 device; and
1162 (D) the personally identifiable information of the medical cannabis cardholder who
1163 made the purchase; and
1164 (ii) any commercially available inventory control system that a cannabis production
1165 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1166 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1167 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1168 track and confirm compliance;
1169 (f) provides access to:
1170 (i) the department to the extent necessary to carry out the department's functions and
1171 responsibilities under this chapter;
1172 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

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

1204 provider;
1205 (ii) the qualified medical provider provides written notice to the department of the
1206 employee's identity and the designation described in Subsection (3)(a)(i); and
1207 (iii) the department grants to the employee access to the electronic verification system.
1208 (b) An employee of a business that employs a qualified medical provider may access
1209 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1210 qualified medical provider if:
1211 (i) the qualified medical provider has designated the employee as an individual
1212 authorized to access the electronic verification system on behalf of the qualified medical
1213 provider;
1214 (ii) the qualified medical provider and the employing business jointly provide written
1215 notice to the department of the employee's identity and the designation described in Subsection
1216 (3)(b)(i); and
1217 (iii) the department grants to the employee access to the electronic verification system.
1218 (4) (a) As used in this Subsection (4), "prescribing provider" means:
1219 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
1220 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1221 Practice Act;
1222 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1223 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
1224 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1225 Assistant Act.
1226 (b) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1227 verification system is functionally capable of allowing provider access under this Subsection
1228 (4), a prescribing provider may access information in the electronic verification system
1229 regarding a patient the prescribing provider treats.
1230 (5) The department may release limited data that the system collects for the purpose of:
1231 (a) conducting medical and other department approved research;
1232 (b) providing the report required by Section 26-61a-703; and
1233 (c) other official department purposes.
1234 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

1235 Administrative Rulemaking Act, to establish:
1236 (a) the limitations on access to the data in the state electronic verification system as
1237 described in this section; and
1238 (b) standards and procedures to ensure accurate identification of an individual
1239 requesting information or receiving information in this section.
1240 (7) (a) Any person who knowingly and intentionally releases any information in the
1241 state electronic verification system in violation of this section is guilty of a third degree felony.
1242 (b) Any person who negligently or recklessly releases any information in the state
1243 electronic verification system in violation of this section is guilty of a class C misdemeanor.
1244 (8) (a) Any person who obtains or attempts to obtain information from the state
1245 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
1246 (b) Any person who obtains or attempts to obtain information from the state electronic
1247 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1248 degree felony.
1249 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1250 intentionally use, release, publish, or otherwise make available to any other person information
1251 obtained from the state electronic verification system for any purpose other than a purpose
1252 specified in this section.
1253 (b) Each separate violation of this Subsection (9) is:
1254 (i) a third degree felony; and
1255 (ii) subject to a civil penalty not to exceed $5,000.
1256 (c) The department shall determine a civil violation of this Subsection (9) in
1257 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
1258 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1259 General Fund.
1260 (e) This Subsection (9) does not prohibit a person who obtains information from the
1261 state electronic verification system under Subsection (2)(a), (c), or (f) from:
1262 (i) including the information in the person's medical chart or file for access by a person
1263 authorized to review the medical chart or file;
1264 (ii) providing the information to a person in accordance with the requirements of the
1265 Health Insurance Portability and Accountability Act of 1996; or

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

1297 cannabis pharmacy; or
1298 (B) that the individual gives to the patient in writing for the patient to deliver to a
1299 medical cannabis pharmacy; and
1300 (ii) may include:
1301 (A) directions of use or dosing guidelines; and
1302 (B) an indication of a need for a caregiver in accordance with Subsection
1303 26-61a-201(3)(c).
1304 (d) If the limited medical provider gives the patient a written recommendation to
1305 deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical
1306 provider shall ensure that the document includes all of the information that is included on a
1307 prescription the provider would issue for a controlled substance, including:
1308 (i) the date of issuance;
1309 (ii) the provider's name, address and contact information, controlled substance license
1310 information, and signature; and
1311 (iii) the patient's name, address and contact information, age, and diagnosed qualifying
1312 condition.
1313 (e) In considering making a recommendation as a limited medical provider, an
1314 individual may consult information that the department makes available on the department's
1315 website for recommending providers.
1316 (2) (a) The department shall, within 15 days after the day on which the department
1317 receives an application from an individual, register and issue a qualified medical provider
1318 registration card to the individual if the individual:
1319 (i) provides to the department the individual's name and address;
1320 (ii) provides to the department a report detailing the individual's completion of the
1321 applicable continuing education requirement described in Subsection (3);
1322 (iii) provides to the department evidence that the individual meets the recommending
1323 qualifications;
1324 (iv) for an applicant on or after November 1, 2021, provides to the department the
1325 information described in Subsection (10)(a); and
1326 (v) pays the department a fee in an amount that:
1327 (A) the department sets, in accordance with Section 63J-1-504; and

1328 (B) does not exceed $300 for an initial registration.
1329 (b) The department may not register an individual as a qualified medical provider if the
1330 individual is:
1331 (i) a pharmacy medical provider; or
1332 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1333 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.
1334 (3) (a) An individual shall complete the continuing education described in this
1335 Subsection (3) in the following amounts:
1336 (i) for an individual as a condition precedent to registration, four hours; and
1337 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1338 every two years.
1339 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:
1340 (i) complete continuing education:
1341 (A) regarding the topics described in Subsection (3)(d); and
1342 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1343 continuing education provider that the department recognizes as offering continuing education
1344 appropriate for the recommendation of cannabis to patients; and
1345 (ii) make a continuing education report to the department in accordance with a process
1346 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1347 Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~]
1348 Professional Licensing and:
1349 (A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing
1350 Act, the Podiatric Physician Board;
1351 (B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1352 Nurse Practice Act, the Board of Nursing;
1353 (C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1354 Practice Act, the Physicians Licensing Board;
1355 (D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1356 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1357 and
1358 (E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

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

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

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

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

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

1514 registered as an agent.
1515 (5) A medical cannabis pharmacy agent shall comply with a certification standard that
1516 the department develops in collaboration with the Division of [~~Occupational and~~] Professional
1517 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1518 designates by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1519 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1520 Administrative Rulemaking Act.
1521 (6) The department shall ensure that the certification standard described in Subsection
1522 (5) includes training in:
1523 (a) Utah medical cannabis law; and
1524 (b) medical cannabis pharmacy best practices.
1525 (7) The department may revoke the medical cannabis pharmacy agent registration card
1526 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
1527 who:
1528 (a) violates the requirements of this chapter; or
1529 (b) is convicted under state or federal law of:
1530 (i) a felony; or
1531 (ii) after December 3, 2018, a misdemeanor for drug distribution.
1532 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1533 day on which the department issues or renews the card.
1534 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
1535 agent:
1536 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1537 section;
1538 (ii) certifies to the department in a renewal application that the information in
1539 Subsection (3)(a) is accurate or updates the information; and
1540 (iii) pays to the department a renewal fee in an amount that:
1541 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1542 Section 63J-1-504; and
1543 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1544 comparison to the original application process.

1545 Section 26. Section **26-61a-403** is amended to read:
1546 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**
1547 (1) (a) A medical cannabis pharmacy:
1548 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
1549 Practice Act, as a pharmacy medical provider;
1550 (ii) may employ a physician who has the authority to write a prescription and is
1551 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1552 Osteopathic Medical Practice Act, as a pharmacy medical provider;
1553 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
1554 works onsite during all business hours; and
1555 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
1556 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
1557 cannabis pharmacy.
1558 (b) An individual may not serve as a pharmacy medical provider unless the department
1559 registers the individual as a pharmacy medical provider in accordance with Subsection (2).
1560 (2) (a) The department shall, within 15 days after the day on which the department
1561 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
1562 medical provider, register and issue a pharmacy medical provider registration card to the
1563 prospective pharmacy medical provider if the medical cannabis pharmacy:
1564 (i) provides to the department:
1565 (A) the prospective pharmacy medical provider's name and address;
1566 (B) the name and location of the licensed medical cannabis pharmacy where the
1567 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
1568 (C) a report detailing the completion of the continuing education requirement described
1569 in Subsection (3); and
1570 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
1571 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
1572 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
1573 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
1574 (ii) pays a fee to the department in an amount that, subject to Subsection
1575 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

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

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

1638 (2) An individual may not enter a medical cannabis pharmacy unless the individual:
1639 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and
1640 (b) except as provided in Subsection (5):
1641 (i) possesses a valid:
1642 (A) medical cannabis pharmacy agent registration card;
1643 (B) pharmacy medical provider registration card; or
1644 (C) medical cannabis card;
1645 (ii) is an employee of the department or the Department of Agriculture and Food
1646 performing an inspection under Section 26-61a-504; or
1647 (iii) is another individual as the department provides.
1648 (3) A medical cannabis pharmacy may not employ an individual who is younger than
1649 21 years old.
1650 (4) A medical cannabis pharmacy may not employ an individual who has been
1651 convicted of a felony under state or federal law.
1652 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an
1653 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
1654 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
1655 the individual at all times while the individual is at the medical cannabis pharmacy and
1656 maintains a record of the individual's access.
1657 (6) A medical cannabis pharmacy shall operate in a facility that has:
1658 (a) a single, secure public entrance;
1659 (b) a security system with a backup power source that:
1660 (i) detects and records entry into the medical cannabis pharmacy; and
1661 (ii) provides notice of an unauthorized entry to law enforcement when the medical
1662 cannabis pharmacy is closed; and
1663 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
1664 cannabis product.
1665 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1666 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
1667 26-61a-502(2).
1668 (8) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a

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

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

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

1762 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a
1763 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
1764 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical
1765 cannabis treatment recommendation if:
1766 (a) the pharmacy medical provider determined dosing parameters for the partial fill
1767 under Subsection 26-61a-502(4) or (5); and
1768 (b) the medical cannabis cardholder reports that:
1769 (i) the partial fill did not substantially affect the qualifying condition underlying the
1770 medical cannabis recommendation; or
1771 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise
1772 unable to successfully use the partial fill.
1773 Section 29. Section **26-61a-506** is amended to read:
1774 **26-61a-506. Medical cannabis transportation.**
1775 (1) Only the following individuals may transport medical cannabis under this chapter:
1776 (a) a registered medical cannabis pharmacy agent;
1777 (b) a registered medical cannabis courier agent;
1778 (c) a registered pharmacy medical provider; or
1779 (d) a medical cannabis cardholder who is transporting a medical cannabis treatment
1780 that the cardholder is authorized to transport.
1781 (2) Except for an individual with a valid medical cannabis card under this chapter who
1782 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
1783 individual described in Subsection (1) shall possess a transportation manifest that:
1784 (a) includes a unique identifier that links the cannabis or cannabis product to a relevant
1785 inventory control system;
1786 (b) includes origin and destination information for the medical cannabis that the
1787 individual is transporting; and
1788 (c) identifies the departure and arrival times and locations of the individual
1789 transporting the medical cannabis.
1790 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
1791 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1792 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

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

1824 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
1825 Subsection (2)(a), the pharmacy shall:
1826 (i) impose security and personnel requirements on the medical cannabis courier
1827 sufficient to ensure the security and safety of medical cannabis shipments; and
1828 (ii) provide regular oversight of the medical cannabis courier.
1829 (3) Except for an individual with a valid medical cannabis card who transports a
1830 shipment the individual receives, an individual may not transport a medical cannabis shipment
1831 unless the individual is:
1832 (a) a registered pharmacy medical provider;
1833 (b) a registered medical cannabis pharmacy agent; or
1834 (c) a registered agent of the medical cannabis courier described in Subsection (2).
1835 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
1836 possess a physical or electronic transportation manifest that:
1837 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
1838 inventory control system;
1839 (b) includes origin and destination information for the medical cannabis shipment the
1840 individual is transporting; and
1841 (c) indicates the departure and estimated arrival times and locations of the individual
1842 transporting the medical cannabis shipment.
1843 (5) In addition to the requirements in Subsections (3) and (4), the department may
1844 establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional
1845 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1846 Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that
1847 are related to safety for human consumption of cannabis or a cannabis product.
1848 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
1849 manifest that does not meet the requirements of Subsection (4).
1850 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
1851 (6)(a) is:
1852 (i) guilty of an infraction; and
1853 (ii) subject to a $100 fine.
1854 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not

1855 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1856 underlying the violation described in Subsection (6)(b).
1857 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
1858 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
1859 minimis administrative error:
1860 (i) this chapter does not apply; and
1861 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
1862 Substances Act.
1863 Section 31. Section **26-61a-606** is amended to read:
1864 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
1865 **card -- Rebuttable presumption.**
1866 (1) An individual may not serve as a medical cannabis courier agent unless:
1867 (a) the individual is an employee of a licensed medical cannabis courier; and
1868 (b) the department registers the individual as a medical cannabis courier agent.
1869 (2) (a) The department shall, within 15 days after the day on which the department
1870 receives a complete application from a medical cannabis courier on behalf of a medical
1871 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
1872 the prospective agent if the medical cannabis courier:
1873 (i) provides to the department:
1874 (A) the prospective agent's name and address;
1875 (B) the name and address of the medical cannabis courier;
1876 (C) the name and address of each home delivery medical cannabis pharmacy with
1877 which the medical cannabis courier contracts to deliver medical cannabis shipments; and
1878 (D) the submission required under Subsection (2)(b);
1879 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
1880 law of:
1881 (A) a felony; or
1882 (B) after December 3, 2018, a misdemeanor for drug distribution; and
1883 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
1884 the department sets in accordance with Section 63J-1-504.
1885 (b) Except for an applicant reapplying for a medical cannabis courier agent registration

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

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

1948 (i) a felony; or
1949 (ii) after December 3, 2018, a misdemeanor for drug distribution.
1950 (7) A medical cannabis courier agent whom the department has registered under this
1951 section shall carry the agent's medical cannabis courier agent registration card with the agent at
1952 all times when:
1953 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
1954 pharmacy, or a medical cannabis cardholder's home address; and
1955 (b) the agent is handling a medical cannabis shipment.
1956 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
1957 the shipment in compliance with Subsection (7):
1958 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
1959 (b) there is no probable cause, based solely on the agent's possession of the medical
1960 cannabis shipment that the agent is engaging in illegal activity.
1961 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
1962 (i) guilty of an infraction; and
1963 (ii) subject to a $100 fine.
1964 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
1965 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1966 underlying the violation described in Subsection (9)(a).
1967 Section 32. Section **26-64-102** is amended to read:
1968 **26-64-102. Definitions.**
1969 As used in this chapter:
1970 (1) "Dispense" means the same as that term is defined in Section 58-17b-102.
1971 (2) "Division" means the Division of [~~Occupational and~~] Professional Licensing
1972 created in Section 58-1-103.
1973 (3) "Local health department" means:
1974 (a) a local health department, as defined in Section 26A-1-102; or
1975 (b) a multicounty local health department, as defined in Section 26A-1-102.
1976 (4) "Patient counseling" means the same as that term is defined in Section 58-17b-102.
1977 (5) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
1978 (6) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

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

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

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

2072 (ii) delineates the responsibilities of the department and each local health department
2073 for the efficient delivery of environmental programs using federal, state, and local authorities,
2074 responsibilities, and resources;
2075 (iii) provides for the delegation of authority and pass through of funding to local health
2076 departments for environmental programs, to the extent allowed by applicable law, identified in
2077 the plan, and requested by the local health department; and
2078 (iv) is reviewed and updated annually.
2079 (3) The local health department has the following duties regarding public and private
2080 schools within [~~its~~] the local health department's boundaries:
2081 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
2082 persons attending public and private schools;
2083 (b) exclude from school attendance any person, including teachers, who is suffering
2084 from any communicable or infectious disease, whether acute or chronic, if the person is likely
2085 to convey the disease to those in attendance; and
2086 (c) (i) make regular inspections of the health-related condition of all school buildings
2087 and premises;
2088 (ii) report the inspections on forms furnished by the department to those responsible for
2089 the condition and provide instructions for correction of any conditions that impair or endanger
2090 the health or life of those attending the schools; and
2091 (iii) provide a copy of the report to the department at the time the report is made.
2092 (4) If those responsible for the health-related condition of the school buildings and
2093 premises do not carry out any instructions for corrections provided in a report in Subsection
2094 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
2095 persons responsible.
2096 (5) The local health department may exercise incidental authority as necessary to carry
2097 out the provisions and purposes of this part.
2098 (6) Nothing in this part may be construed to authorize a local health department to
2099 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
2100 monoxide detector in a residential dwelling against anyone other than the occupant of the
2101 dwelling.
2102 (7) (a) Except as provided in Subsection (7)(c), a local health department may not

2103 declare a public health emergency or issue an order of constraint until the local health
2104 department has provided notice of the proposed action to the chief executive officer of the
2105 relevant county no later than 24 hours before the local health department issues the order or
2106 declaration.
2107 (b) The local health department:
2108 (i) shall provide the notice required by Subsection (7)(a) using the best available
2109 method under the circumstances as determined by the local health department;
2110 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and
2111 (iii) shall provide the notice in written form, if practicable.
2112 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
2113 public health emergency or issue an order of constraint without approval of the chief executive
2114 officer of the relevant county if the passage of time necessary to obtain approval of the chief
2115 executive officer of the relevant county as required in Subsection (7)(a) would substantially
2116 increase the likelihood of loss of life due to an imminent threat.
2117 (ii) If a local health department declares a public health emergency or issues an order
2118 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
2119 chief executive officer of the relevant county before issuing the order of constraint.
2120 (iii) The chief executive officer of the relevant county may terminate a declaration of a
2121 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
2122 within 72 hours of declaration of the public health emergency or issuance of the order of
2123 constraint.
2124 (d) The relevant county governing body may at any time terminate a public health
2125 emergency or an order of constraint issued by the local health department by majority vote of
2126 the county governing body in response to a declared public health emergency.
2127 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
2128 a local health department expires at the earliest of:
2129 (i) the local health department or the chief executive officer of the relevant county
2130 finding that the threat or danger has passed or the public health emergency reduced to the
2131 extent that emergency conditions no longer exist;
2132 (ii) 30 days after the date on which the local health department declared the public
2133 health emergency; or

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

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

2196 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
2197 prevent the violation of this Subsection (10).
2198 (c) During a public health emergency declared as described in this title, the department
2199 or a local health department shall not issue a public health order or impose or implement a
2200 regulation that substantially burdens an individual's exercise of religion unless the department
2201 or local health department demonstrates that the application of the burden to the individual:
2202 (i) is in furtherance of a compelling government interest; and
2203 (ii) is the least restrictive means of furthering that compelling government interest.
2204 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
2205 department shall allow reasonable accommodations for an individual to perform or participate
2206 in a religious practice or rite.
2207 Section 35. Section **26A-1-126** is amended to read:
2208 **26A-1-126. Medical reserve corps.**
2209 (1) In addition to the duties listed in Section 26A-1-114, a local health department may
2210 establish a medical reserve corps in accordance with this section.
2211 (2) The purpose of a medical reserve corps is to enable a local health authority to
2212 respond with appropriate health care professionals to a national, state, or local emergency, a
2213 public health emergency as defined in Section 26-23b-102, or a declaration by the president of
2214 the United States or other federal official requesting public health related activities.
2215 (3) (a) A local health department may train health care professionals who participate in
2216 a medical reserve corps to respond to an emergency or declaration for public health related
2217 activities pursuant to Subsection (2).
2218 (b) When an emergency or request for public health related activities has been declared
2219 in accordance with Subsection (2), a local health department may activate a medical reserve
2220 corps for the duration of the emergency or declaration for public health related activities.
2221 (4) For purposes of this section, a medical reserve corps may include persons who:
2222 (a) are licensed under Title 58, Occupations and Professions, and who are operating
2223 within the scope of their practice;
2224 (b) are exempt from licensure, or operating under modified scope of practice
2225 provisions in accordance with Subsections 58-1-307(4) and (5); and
2226 (c) within the 10 years preceding the declared emergency, held a valid license, in good

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

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

2289 (D) psychological care; and
2290 (E) therapeutic care.
2291 (2) (a) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan
2292 offered in the individual market or the large group market and entered into or renewed on or
2293 after January 1, 2016, and before January 1, 2020, shall provide coverage for the diagnosis and
2294 treatment of autism spectrum disorder:
2295 (i) for a child who is at least two years old, but younger than 10 years old; and
2296 (ii) in accordance with the requirements of this section and rules made by the
2297 commissioner.
2298 (b) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan
2299 offered in the individual market or the large group market and entered into or renewed on or
2300 after January 1, 2020, shall provide coverage for the diagnosis and treatment of autism
2301 spectrum disorder in accordance with the requirements of this section and rules made by the
2302 commissioner.
2303 (3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah
2304 Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of
2305 autism spectrum disorder.
2306 (4) Subject to Subsection (5), the rules described in Subsection (3) shall establish
2307 durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of
2308 autism spectrum disorder that are similar to, or identical to, the coverage provided for other
2309 illnesses or diseases.
2310 (5) (a) Coverage for behavioral health treatment for a person with an autism spectrum
2311 disorder shall cover at least 600 hours a year.
2312 (b) Notwithstanding Subsection (5)(a), for a health benefit plan offered in the
2313 individual market or the large group market and entered into or renewed on or after January 1,
2314 2020, coverage for behavioral health treatment for a person with an autism spectrum disorder
2315 may not have a limit on the number of hours covered.
2316 (c) Other terms and conditions in the health benefit plan that apply to other benefits
2317 covered by the health benefit plan apply to coverage required by this section.
2318 (d) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment
2319 under Subsections (5)(a) and (b) shall include in the plan's provider network both board

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

2351 (e) This section may not be construed as affecting, limiting, or restricting a proceeding
2352 that otherwise may be taken for the imposition of any other punishment or the modes of
2353 enforcement or recovery of fines or penalties.
2354 (4) (a) Upon the conviction of a business entity required to have a business license to
2355 operate [~~its~~] the business entity's activities, or upon the conviction of any of [~~its~~] the business
2356 entity's staff of any offense defined in this title, with the knowledge, consent, or acquiescence
2357 of the business entity, the department shall forward a copy of the judgment of conviction to the
2358 appropriate governmental entity responsible for issuing and revoking the business license.
2359 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)
2360 may institute appropriate proceedings to revoke the business license.
2361 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a
2362 business license to the business entity for at least one year from the date of revocation.
2363 (d) Upon the conviction for a second or other offense, the governmental entity may not
2364 issue a business license for at least two years from the date of revocation.
2365 (5) (a) Upon conviction of one of the following of an offense defined in this title, the
2366 department shall forward a certified copy of the judgment of conviction to the Division of
2367 [~~Occupational and~~] Professional Licensing:
2368 (i) a health care practitioner; or
2369 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary
2370 Practice Act.
2371 (b) The Division of [~~Occupational and~~] Professional Licensing may bring a proceeding
2372 in accordance with Title 58, Occupations and Professions, to revoke the license issued under
2373 Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).
2374 (c) Upon revocation of a license under Subsection (5)(b):
2375 (i) the Division of [~~Occupational and~~] Professional Licensing may not issue a license to
2376 the individual under Title 58, Occupations and Professions, for at least one year from the date
2377 of revocation; and
2378 (ii) if the individual is convicted of a second or subsequent offense, the Division of
2379 [~~Occupational and~~] Professional Licensing may not issue a license to the individual under Title
2380 58, Occupations and Professions, for at least two years from the date of revocation.
2381 Section 38. Section **34-38-13** is amended to read:

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

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

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

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

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

2537 (3) "Applicable county recorder" means the office of the recorder of each county in
2538 which any part of the property on which a claimant claims or intends to claim a preconstruction
2539 or construction lien is located.
2540 (4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which
2541 the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting
2542 shares or other ownership interest.
2543 (5) "Claimant" means a person entitled to claim a preconstruction or construction lien.
2544 (6) "Compensation" means the payment of money for a service rendered or an expense
2545 incurred, whether based on:
2546 (a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or
2547 percentage fee, or commission; or
2548 (b) a combination of the bases listed in Subsection (6)(a).
2549 (7) "Construction lender" means a person who makes a construction loan.
2550 (8) "Construction lien" means a lien under this chapter for construction work.
2551 (9) "Construction loan" does not include a consumer loan secured by the equity in the
2552 consumer's home.
2553 (10) "Construction project" means an improvement that is constructed pursuant to an
2554 original contract.
2555 (11) "Construction work":
2556 (a) means labor, service, material, or equipment provided for the purpose and during
2557 the process of constructing, altering, or repairing an improvement; and
2558 (b) includes scheduling, estimating, staking, supervising, managing, materials testing,
2559 inspection, observation, and quality control or assurance involved in constructing, altering, or
2560 repairing an improvement.
2561 (12) "Contestable notice" means a notice of preconstruction service under Section
2562 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under
2563 Section 38-1a-506.
2564 (13) "Contesting person" means an owner, original contractor, subcontractor, or other
2565 interested person.
2566 (14) "Designated agent" means the third party the division contracts with as provided
2567 in Section 38-1a-202 to create and maintain the registry.

2568 (15) "Division" means the Division of [~~Occupational and~~] Professional Licensing
2569 created in Section 58-1-103.
2570 (16) "Entry number" means the reference number that:
2571 (a) the designated agent assigns to each notice or other document filed with the
2572 registry; and
2573 (b) is unique for each notice or other document.
2574 (17) "Final completion" means:
2575 (a) the date of issuance of a permanent certificate of occupancy by the local
2576 government entity having jurisdiction over the construction project, if a permanent certificate
2577 of occupancy is required;
2578 (b) the date of the final inspection of the construction work by the local government
2579 entity having jurisdiction over the construction project, if an inspection is required under a
2580 state-adopted building code applicable to the construction work, but no certificate of occupancy
2581 is required;
2582 (c) unless the owner is holding payment to ensure completion of construction work, the
2583 date on which there remains no substantial work to be completed to finish the construction
2584 work under the original contract, if a certificate of occupancy is not required and a final
2585 inspection is not required under an applicable state-adopted building code; or
2586 (d) the last date on which substantial work was performed under the original contract,
2587 if, because the original contract is terminated before completion of the construction work
2588 defined by the original contract, the local government entity having jurisdiction over the
2589 construction project does not issue a certificate of occupancy or perform a final inspection.
2590 (18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).
2591 (19) "First preliminary notice filing" means a preliminary notice that:
2592 (a) is the earliest preliminary notice filed on the construction project for which the
2593 preliminary notice is filed;
2594 (b) is filed on a construction project that, at the time the preliminary notice is filed, has
2595 not reached final completion; and
2596 (c) is not cancelled under Section 38-1a-307.
2597 (20) "Government project-identifying information" has the same meaning as defined in
2598 Section 38-1b-102.

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

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

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

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

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

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

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

2816 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
2817 conviction.
2818 (b) The court may enter a conviction of impaired driving immediately under
2819 Subsection (1)(b).
2820 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
2821 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
2822 degree.
2823 (5) (a) The court shall notify the Driver License Division of each conviction entered
2824 under this section.
2825 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
2826 [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the
2827 name, case number, and, if known, the date of birth of each person convicted during the
2828 preceding month of a violation of this section for whom there is evidence that the person was
2829 driving while impaired, in whole or in part, by a prescribed controlled substance.
2830 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
2831 sentencing court to order a convicted person to participate in a screening, an assessment, or an
2832 educational series, or obtain substance abuse treatment or do a combination of those things,
2833 apply to a conviction entered under this section.
2834 (b) The court shall render the same order regarding screening, assessment, an
2835 educational series, or substance abuse treatment in connection with a first, second, or
2836 subsequent conviction under this section as the court would render in connection with applying
2837 respectively, the first, second, or subsequent conviction requirements of Subsections
2838 41-6a-505(1), (3), (5), and (7).
2839 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
2840 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
2841 reporting court notifies the Driver License Division that the defendant is participating in or has
2842 successfully completed the program of a driving under the influence court.
2843 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:
2844 (i) a CDL license holder; or
2845 (ii) a violation that occurred in a commercial motor vehicle.
2846 (8) The provisions of this section are not available:

2847 (a) to a person who has a prior conviction as that term is defined in Subsection
2848 41-6a-501(2); or
2849 (b) where there is admissible evidence that the individual:
2850 (i) had a blood alcohol level of .16 or higher;
2851 (ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled
2852 substance; or
2853 (iii) had a combination of two or more controlled substances in the person's body that
2854 were not:
2855 (A) prescribed by a licensed physician; or
2856 (B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis
2857 Act.
2858 Section 48. Section **53-2a-1205** is amended to read:
2859 **53-2a-1205. Administration -- Notification and procedures.**
2860 (1) Any out-of-state business that enters the state shall, within a reasonable time after
2861 entry, not to exceed 30 days, provide to the Division of [~~Occupational and~~] Professional
2862 Licensing a statement that it is in the state for purposes of responding to the disaster or
2863 emergency, which statement shall include the business's:
2864 (a) name;
2865 (b) state of domicile;
2866 (c) principal business address;
2867 (d) federal tax identification number;
2868 (e) date of entry;
2869 (f) contact information; and
2870 (g) evidence of compliance with the regulatory or licensing requirements in Section
2871 53-2a-1203, such as a copy of applicable permits or licenses.
2872 (2) Any affiliate of a registered business in the state and any out-of-state business that
2873 is registered as a public utility in another state and that is providing assistance under the terms
2874 of a utility multistate mutual aid agreement shall not be required to provide the information
2875 required in Subsection (1), unless requested by the Division of [~~Occupational and~~] Professional
2876 Licensing within a reasonable period of time.
2877 (3) An out-of-state business or an out-of-state employee that remains in the state after

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

2909 (2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information
2910 obtained by the Division of Workforce Information and Payment Services under the provisions
2911 of Section 35A-4-312 for purposes consistent with the council's duties as identified under
2912 Section 53B-24-303, including identifying changes in the medical and health care workforce
2913 numbers, types, and geographic distribution;
2914 (3) appoint advisory committees of broad representation on interdisciplinary clinical
2915 education, workforce mix planning and projections, funding mechanisms, and other topics as is
2916 necessary;
2917 (4) use federal money for necessary administrative expenses to carry out [~~its~~] the
2918 council's duties and powers as permitted by federal law;
2919 (5) distribute program money in accordance with Subsection 53B-24-303(7); and
2920 (6) as is necessary to carry out [~~its~~] the council's duties under Section 53B-24-303:
2921 (a) hire employees; and
2922 (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
2923 Rulemaking Act.
2924 Section 51. Section **53F-2-305** is amended to read:
2925 **53F-2-305. Professional staff weighted pupil units.**
2926 (1) Professional staff weighted pupil units are computed and distributed in accordance
2927 with the following schedule:
2928 (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
2930	1	1.00	1.05	1.10	1.15	1.20
2931	2	1.05	1.10	1.15	1.20	1.25
2932	3	1.10	1.15	1.20	1.25	1.30
2933	4	1.15	1.20	1.25	1.30	1.35
2934	5	1.20	1.25	1.30	1.35	1.40
2935	6	1.25	1.30	1.35	1.40	1.45
2936	7	1.30	1.35	1.40	1.45	1.50

8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

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

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

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

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

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

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

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

(b) a position as a social worker.

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

53F-2-405. Educator salary adjustments.

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

(a) (i) a license issued by the state board; and

(ii) a position as a:

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

2998 (5) The state board may make rules as necessary to administer this section in
2999 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
3000 (6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient
3001 money each year to:
3002 (i) maintain educator salary adjustments provided in prior years; and
3003 (ii) provide educator salary adjustments to new employees.
3004 (b) Money appropriated for educator salary adjustments shall include money for the
3005 following employer-paid benefits:
3006 (i) retirement;
3007 (ii) worker's compensation;
3008 (iii) social security; and
3009 (iv) Medicare.
3010 (7) (a) Subject to future budget constraints, the Legislature shall:
3011 (i) maintain the salary adjustments provided to school administrators in the 2007-08
3012 school year; and
3013 (ii) provide salary adjustments for new school administrators in the same amount as
3014 provided for existing school administrators.
3015 (b) The appropriation provided for educator salary adjustments shall include salary
3016 adjustments for school administrators as specified in Subsection (7)(a).
3017 (c) In distributing and awarding salary adjustments for school administrators, the state
3018 board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall
3019 comply with the requirements for the distribution and award of educator salary adjustments as
3020 provided in Subsections (3) and (4).
3021 Section 53. Section **58-1-102** is amended to read:
3022 **58-1-102. Definitions.**
3023 For purposes of this title:
3024 (1) "Ablative procedure" is as defined in Section 58-67-102.
3025 (2) "Cosmetic medical procedure":
3026 (a) is as defined in Section 58-67-102; and
3027 (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah
3028 Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual

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

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

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

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

3153 (b) the person's license is in good standing in the state, district, or territory of the
3154 United States where the license was issued; and
3155 (c) the division determines that the license issued by the state, district, or territory of
3156 the United States encompasses a similar scope of practice as the license sought in this state.
3157 (2) Subject to Subsections (3) through (6), the division may issue a license to a person
3158 who:
3159 (a) has been licensed in a state, district, or territory of the United States, or in a
3160 jurisdiction outside of the United States, if:
3161 (i) (A) after being licensed, the person has at least one year of experience in the
3162 jurisdiction where the license was issued; and
3163 (B) the division determines that the person's education, experience, and skills
3164 demonstrate competency in the occupation or profession for which the person seeks licensure;
3165 or
3166 (ii) the division determines that the licensure requirements of the jurisdiction at the
3167 time the license was issued were substantially similar to the current licensure requirements of
3168 this state; or
3169 (b) has never been licensed in a state, district, or territory of the United States, or in a
3170 jurisdiction outside of the United States, if:
3171 (i) the person was educated in or obtained relevant experience in a state, district, or
3172 territory of the United States, or a jurisdiction outside of the United States; and
3173 (ii) the division determines that the education or experience was substantially similar to
3174 the current education or experience requirements for licensure in this state.
3175 [~~(2)~~] (3) The division, in consultation with the applicable licensing board, may make
3176 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3177 prescribing the administration and requirements of this section.
3178 [~~(3) Notwithstanding the provisions of Subsection (1), the~~]
3179 (4) The division may refuse to issue a license to a person under the provisions of this
3180 section if:
3181 (a) the division determines that there is reasonable cause to believe that the person is
3182 not qualified to receive a license in this state; or
3183 (b) the person has a previous or pending disciplinary action related to the person's

3184 license.
3185 [~~(4)~~] (5) Before a person may be issued a license under this section, the person shall:
3186 (a) pay a fee determined by the department under Section 63J-1-504; and
3187 (b) produce satisfactory evidence of the person's identity, qualifications, and good
3188 standing in the occupation or profession for which licensure is sought.
3189 [~~(5)~~] (6) In accordance with Section 58-1-107, licensure endorsement provisions in this
3190 section are subject to and may be supplemented or altered by licensure endorsement provisions
3191 or multistate licensure compacts in specific chapters of this title.
3192 [~~(6)~~] (7) On or before October 1, 2022, the division shall provide a written report to the
3193 Business and Labor Interim Committee regarding the effectiveness and sufficiency of the
3194 provisions of this section at ensuring that persons receiving a license without examination
3195 under the provisions of this section are qualified to receive a license in this state.
3196 Section 58. Section **58-3a-302** is amended to read:
3197 **58-3a-302. Qualifications for licensure.**
3198 (1) Except as provided in Subsection (2), each applicant for licensure as an architect
3199 shall:
3200 (a) submit an application in a form prescribed by the division;
3201 (b) pay a fee determined by the department under Section 63J-1-504;
3202 (c) have graduated and received an earned bachelors or masters degree from an
3203 architecture program meeting criteria established by rule by the division in collaboration with
3204 the board;
3205 (d) have successfully completed a program of diversified practical experience
3206 established by rule by the division in collaboration with the board;
3207 (e) have successfully passed examinations established by rule by the division in
3208 collaboration with the board; and
3209 (f) meet with the board or representative of the division upon request for the purpose of
3210 evaluating the applicant's qualifications for license.
3211 (2) Each applicant for licensure as an architect by endorsement shall:
3212 (a) submit an application in a form prescribed by the division;
3213 (b) pay a fee determined by the department under Section 63J-1-504;
3214 (c) submit satisfactory evidence of:

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

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

3277 applicant will use in the sale of preneed funeral arrangements;
3278 (f) provide evidence of appropriate licensure with the Insurance Department if the
3279 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
3280 in part by an insurance policy or product to be sold by the provider or the provider's sales
3281 agent; and
3282 (g) if the applicant intends to offer alkaline hydrolysis in a funeral service
3283 establishment, provide evidence that in accordance with rules made by the division in
3284 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
3285 (i) the funeral service establishment meets the minimum standards for the handling,
3286 holding, and processing of deceased human remains in a safe, clean, private, and respectful
3287 manner; and
3288 (ii) all operators of the alkaline hydrolysis equipment have received adequate training.
3289 (4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:
3290 (a) submit an application in a form prescribed by the division;
3291 (b) pay a fee as determined by the department under Section 63J-1-504;
3292 [~~(c) be of good moral character in that the applicant has not been convicted of:~~]
3293 [~~(i) a first or second degree felony;~~]
3294 [~~(ii) a misdemeanor involving moral turpitude; or~~]
3295 [~~(iii) any other crime that when considered with the duties and responsibilities of a~~
3296 ~~preneed funeral sales agent is considered by the division and the board to indicate that the best~~
3297 ~~interests of the public are not served by granting the applicant a license;~~]
3298 [~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education
3299 degree;
3300 [~~(e)~~] (d) have obtained a passing score on an examination approved by the division in
3301 collaboration with the board;
3302 [~~(f)~~] (e) affiliate with a licensed funeral service establishment; and
3303 [~~(g)~~] (f) provide evidence of appropriate licensure with the Insurance Department if the
3304 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
3305 in part by an insurance policy or product.
3306 Section 60. Section **58-15-101**, which is renumbered from Section 58-15-2 is
3307 renumbered and amended to read:

3308 **CHAPTER 15. HEALTH FACILITY ADMINISTRATOR ACT**

3309 **Part 1. General Provisions**

3310 **[~~58-15-2~~]. 58-15-101. Definitions.**

3311 In addition to the definitions in Section 58-1-102, as used in this chapter:

3312 (1) "Administrator" means a person who is charged with the general administration of a
3313 health facility, regardless of whether [~~that~~]:

3314 (a) the person has an ownership interest in the facility [~~and whether his~~]; or

3315 (b) the person's functions and duties are shared with one or more persons.

3316 (2) "Board" means the Health Facility Administrators Licensing Board created in
3317 Section [~~58-15-3~~] 58-15-201.

3318 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an
3319 intermediate care facility for individuals with an intellectual disability.

3320 (4) "Intermediate care facility" means an institution that provides, on a regular basis,
3321 health care and services to individuals who do not require the degree of care and treatment a
3322 hospital or skilled nursing facility provides, but who require health care and services in
3323 addition to room and board.

3324 (5) "Intermediate care facility for people with an intellectual disability" means an
3325 institution that provides, on a regular basis, health-related care and service to individuals with
3326 intellectual disabilities as defined in Section 68-3-12.5 or individuals with related conditions,
3327 who do not require the degree of care and treatment a hospital or skilled nursing facility
3328 provides, but who require health-related care and services above the need for room and board.

3329 (6) "Skilled nursing facility" means an institution primarily providing inpatients with
3330 skilled nursing care and related services on a continuing basis for patients who require mental,
3331 medical, or nursing care, or service for the rehabilitation of an injured individual, a sick
3332 individual, or an individual with a disability.

3333 (7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further
3334 defined by rule includes:

3335 (a) intentionally filing a false report or record, intentionally failing to file a report or
3336 record required by state or federal law, or [~~wilfully~~] willfully impeding or obstructing the filing
3337 of a required report. These reports or records only include those which are signed in the
3338 capacity of a licensed health facility administrator; and

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

3370 ~~pursuant to~~] to the department a fee in an amount determined by the department in accordance
3371 with Section 63J-1-504 for:
3372 (a) admission to the examination[~~, for~~];
3373 (b) an initial license[~~, and for~~]; and
3374 (c) a renewal license.
3375 (4) (a) The applicant shall pass a written examination in subjects determined by the
3376 board.
3377 (b) Upon the applicant passing the examination described in Subsection (4)(a) and
3378 [~~payment of~~] paying the license fee described in Subsection (3), the board shall recommend
3379 issuance to the applicant of a license to practice as a health facility administrator.
3380 (5) (a) A temporary license may be issued without examination to a person who meets
3381 the requirements established by statute and by rule for an administrator. [~~The~~]
3382 (b) A temporary license may be issued only:
3383 (i) to fill a position of administrator that unexpectedly becomes vacant; and [~~may be~~
3384 ~~issued for only a single period not to exceed six months.~~]
3385 (ii) for a single period of six months or less.
3386 [~~(6) A license may be granted to an applicant who is a licensed nursing home~~
3387 ~~administrator in another state if the standards for licensure in the other state are equivalent to~~
3388 ~~those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.~~]
3389 Section 63. Section **58-15-302**, which is renumbered from Section 58-15-4.5 is
3390 renumbered and amended to read:
3391 **[~~58-15-4.5~~]. 58-15-302. Term of license -- Expiration -- Renewal.**
3392 (1) (a) Each license issued under this chapter shall be issued in accordance with a
3393 two-year renewal cycle established by rule.
3394 (b) A renewal period described in Subsection (1)(a) may be extended or shortened by
3395 as much as one year to maintain established renewal cycles or to change an established renewal
3396 cycle.
3397 (2) Each license automatically expires on the expiration date shown on the license
3398 unless renewed by the licensee in accordance with Section 58-1-308.
3399 Section 64. Section **58-15-303**, which is renumbered from Section 58-15-11 is
3400 renumbered and amended to read:

3401 **[~~58-15-11~~]. 58-15-303. Exemptions to chapter.**
3402 (1) In addition to the exemptions described in Section 58-1-307, this chapter does not
3403 apply to:
3404 (a) a facility of a recognized church or denomination that cares for the sick and
3405 suffering by mental or spiritual means if no drug or material remedy is used in the care
3406 provided; or
3407 (b) the superintendent of the Utah State Developmental Center described in Section
3408 62A-5-201.
3409 (2) Any facility or person exempted under this section shall comply with each statute
3410 and rule on sanitation and life safety.
3411 Section 65. Section **58-15-401**, which is renumbered from Section 58-15-12 is
3412 renumbered and amended to read:
3413 **Part 4. License Denial and Discipline**
3414 **[~~58-15-12~~]. 58-15-401. Grounds for denial of license -- Disciplinary**
3415 **proceedings.**
3416 Grounds for refusal to issue a license to an applicant, for refusal to renew the license of
3417 a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a
3418 public or private reprimand to a licensee, and to issue cease and desist orders shall be in
3419 accordance with Section 58-1-401.
3420 Section 66. Section **58-15-501**, which is renumbered from Section 58-15-10 is
3421 renumbered and amended to read:
3422 **Part 5. Unlawful Conduct**
3423 **[~~58-15-10~~]. 58-15-501. Penalty for unlawful conduct.**
3424 [~~Any~~] A person who violates the unlawful conduct provisions defined in Subsection
3425 58-1-501(1) is guilty of a class B misdemeanor.
3426 Section 67. Section **58-16a-302** is amended to read:
3427 **58-16a-302. Qualifications for licensure.**
3428 [~~(1)~~] An applicant for licensure as an optometrist shall:
3429 [~~(a)~~] (1) submit an application in a form prescribed by the division;
3430 [~~(b)~~] (2) pay a fee as determined by the division under Section 63J-1-504;
3431 [~~(c) (i)~~] (3) (a) be a doctoral graduate of a recognized school of optometry accredited

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

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

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

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

3556 (xii) rabies control;
3557 (xiii) public health nuisances;
3558 (xiv) indoor clean air regulations;
3559 (xv) institutional and residential sanitation; or
3560 (xvi) recreational facilities sanitation; or
3561 (b) representing oneself in any manner as, or using the titles "environmental health
3562 scientist," "environmental health scientist-in-training," or "registered sanitarian."
3563 (5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.
3564 (6) "Unprofessional conduct" means the same as that term is defined in Sections
3565 58-1-501 and 58-20b-501 and as may be further defined by division rule.
3566 Section 70. Section **58-22-102** is amended to read:
3567 **58-22-102. Definitions.**
3568 In addition to the definitions in Section 58-1-102, as used in this chapter:
3569 (1) "Board" means the Professional Engineers and Professional Land Surveyors
3570 Licensing Board created in Section 58-22-201.
3571 (2) "Building" means a structure which has human occupancy or habitation as its
3572 principal purpose, and includes the structural, mechanical, and electrical systems, utility
3573 services, and other facilities required for the building, and is otherwise governed by the State
3574 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
3575 Act.
3576 (3) "Complete construction plans" means a final set of plans, specifications, and reports
3577 for a building or structure that normally includes:
3578 (a) floor plans;
3579 (b) elevations;
3580 (c) site plans;
3581 (d) foundation, structural, and framing detail;
3582 (e) electrical, mechanical, and plumbing design;
3583 (f) information required by the energy code;
3584 (g) specifications and related calculations as appropriate; and
3585 (h) all other documents required to obtain a building permit.
3586 (4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation

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

3618 (11) "Professional land surveying" or "the practice of land surveying" means a service
3619 or work, the adequate performance of which requires the application of special knowledge of
3620 the principles of mathematics, the related physical and applied sciences, and the relevant
3621 requirements of law for adequate evidence to the act of measuring and locating lines, angles,
3622 elevations, natural and man-made features in the air, on the surface of the earth, within
3623 underground workings, and on the beds of bodies of water for the purpose of determining areas
3624 and volumes, for the monumenting or locating of property boundaries or points controlling
3625 boundaries, and for the platting and layout of lands and subdivisions of lands, including the
3626 topography, alignment and grades of streets, and for the preparation and perpetuation of maps,
3627 record plats, field notes records, and property descriptions that represent these surveys and
3628 other duties as sound surveying practices could direct.
3629 (12) "Professional land surveyor" means an individual licensed under this chapter as a
3630 professional land surveyor.
3631 (13) "Professional structural engineer" means a person licensed under this chapter as a
3632 professional structural engineer.
3633 (14) (a) "Professional structural engineering" or "the practice of structural engineering"
3634 means a service or creative work providing structural engineering services for significant
3635 structures, including:
3636 (i) buildings and other structures representing a substantial hazard to human life, which
3637 include:
3638 (A) buildings and other structures whose primary occupancy is public assembly with an
3639 occupant load greater than 300;
3640 (B) buildings and other structures with elementary school, secondary school, or day
3641 care facilities with an occupant load greater than 250;
3642 (C) buildings and other structures with an occupant load greater than 500 for colleges
3643 or adult education facilities;
3644 (D) health care facilities with an occupant load of 50 or more resident patients, but not
3645 having surgery or emergency treatment facilities;
3646 (E) jails and detention facilities with a gross area greater than 3,000 square feet; and
3647 (F) buildings and other structures with an occupant load greater than 5,000;
3648 (ii) buildings and other structures designated as essential facilities, including:

3649 (A) hospitals and other health care facilities having surgery or emergency treatment
3650 facilities with a gross area greater than 3,000 square feet;
3651 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
3652 greater than 24 feet or a gross area greater than 5,000 square feet;
3653 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
3654 greater than 3,000 square feet;
3655 (D) designated emergency preparedness, communication, and operation centers and
3656 other buildings required for emergency response with a mean height more than 24 feet or a
3657 gross area greater than 5,000 square feet;
3658 (E) power-generating stations and other public utility facilities required as emergency
3659 backup facilities with a gross area greater than 3,000 square feet;
3660 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
3661 square feet containing highly toxic materials as defined by the division by rule, where the
3662 quantity of the material exceeds the maximum allowable quantities set by the division by rule;
3663 and
3664 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars
3665 at commercial service and cargo air services airports as defined by the Federal Aviation
3666 Administration with a mean height greater than 35 feet or a gross area greater than 20,000
3667 square feet; and
3668 (iii) buildings and other structures requiring special consideration, including:
3669 (A) structures or buildings that are normally occupied by human beings and are five
3670 stories or more in height;
3671 (B) structures or buildings that are normally occupied by human beings and have an
3672 average roof height more than 60 feet above the average ground level measured at the
3673 perimeter of the structure; and
3674 (C) buildings that are over 200,000 aggregate gross square feet in area.
3675 (b) "Professional structural engineering" or "the practice of structural engineering":
3676 (i) includes the definition of professional engineering or the practice of professional
3677 engineering as provided in Subsection (9); and
3678 (ii) may be further defined by rules made by the division in collaboration with the
3679 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3680 (15) "Structure" means that which is built or constructed, an edifice or building of any
3681 kind, or a piece of work artificially built up or composed of parts joined together in a definite
3682 manner, and as otherwise governed by the State Construction Code or an approved code under
3683 Title 15A, State Construction and Fire Codes Act.
3684 (16) "Supervision [~~of an employee, subordinate, associate, or drafter of a licensee~~]"
3685 means that a licensed professional engineer, professional structural engineer, or professional
3686 land surveyor is responsible for and personally reviews, corrects when necessary, and approves
3687 work performed by an employee, subordinate, associate, or drafter under the direction of the
3688 licensee, and may be further defined by rule by the division in collaboration with the board.
3689 (17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation
3690 Board for Engineering and Technology.
3691 (18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
3692 and 58-22-501.
3693 (19) "Unprofessional conduct" means the same as that term is defined in Sections
3694 58-1-501 and 58-22-502.5.
3695 Section 71. Section **58-28-304** is amended to read:
3696 **58-28-304. Temporary license -- License reciprocity.**
3697 (1) The division may issue a temporary license to practice veterinary medicine, surgery,
3698 and dentistry to any person not qualified for licensure under [~~Subsection (4)~~] Section 58-1-302
3699 who meets all requirements of Section 58-28-302 with the exception of Subsections
3700 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date
3701 examination results are available for the examination next following the date of the issuance of
3702 the temporary license.
3703 (2) The temporary license shall permit the holder to practice under the indirect
3704 supervision of a veterinarian licensed to practice in this state.
3705 (3) The division may extend the expiration date of the temporary license until the
3706 following examination date if:
3707 (a) the applicant shows to the board good cause for failing to take or pass the
3708 examination; and
3709 (b) the majority of the board members recommend the extension.
3710 [~~(4) Upon the recommendation of the board, the division may issue a license without~~

3711 ~~examination to a person who:~~]
3712 [~~(a) has been licensed or registered to practice veterinary medicine, surgery, and~~
3713 ~~dentistry in any state, district, or territory of the United States or in any foreign country, whose~~
3714 ~~educational, examination, and experience requirements are or were at the time the license was~~
3715 ~~issued equal to those of this state;~~]
3716 [~~(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while~~
3717 ~~licensed by another jurisdiction for at least two years;~~]
3718 [~~(c) obtained the license in another jurisdiction after passing an examination~~
3719 ~~component acceptable to the division and the board;~~]
3720 [~~(d) produces satisfactory evidence of having practiced veterinary medicine~~
3721 ~~competently and in accordance with the standards and ethics of the profession while practicing~~
3722 ~~in another jurisdiction; and~~]
3723 [~~(e) produces satisfactory evidence of identity and good moral character as it relates to~~
3724 ~~the applicant's functions and practice as a licensed veterinarian.~~]
3725 Section 72. Section **58-28-503** is amended to read:
3726 **58-28-503. Penalty for unlawful or unprofessional conduct.**
3727 (1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is
3728 guilty of a third degree felony.
3729 (2) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act,
3730 and Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may
3731 impose administrative penalties of up to $10,000 for acts of unprofessional conduct or
3732 unlawful conduct under this chapter.
3733 (3) Assessment of a penalty under this section does not affect any other action the
3734 division is authorized to take regarding a license issued under this chapter.
3735 (4) (a) The director may collect a penalty that is not paid by:
3736 (i) referring the matter to a collection agency; or
3737 (ii) bringing an action in the district court of the county where the person against whom
3738 the penalty is imposed resides or in the county where the office of the director is located.
3739 (b) A county attorney or the attorney general of the state shall provide legal assistance
3740 and advice to the director in an action to collect a penalty.
3741 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an

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

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

3804 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled
3805 Substances Act, or any rule or order issued with respect to those provisions.
3806 (c) Except for an administrative fine and a cease and desist order, the licensure
3807 sanctions cited in Section 58-31b-401 may not be assessed through a citation.
3808 (d) Each citation issued under this section shall:
3809 (i) be in writing; and
3810 (ii) clearly describe or explain:
3811 (A) the nature of the violation, including a reference to the provision of the chapter,
3812 rule, or order alleged to have been violated;
3813 (B) that the recipient must notify the division in writing within 20 calendar days of
3814 service of the citation in order to contest the citation at a hearing conducted under Title 63G,
3815 Chapter 4, Administrative Procedures Act; and
3816 (C) the consequences of failure to timely contest the citation or to make payment of
3817 any fines assessed by the citation within the time specified in the citation; and
3818 (iii) be served upon any person upon whom a summons may be served:
3819 (A) in accordance with the Utah Rules of Civil Procedure;
3820 (B) personally or upon the person's agent by a division investigator or by any person
3821 specially designated by the director; or
3822 (C) by mail.
3823 (e) If within 20 calendar days from the service of a citation, the person to whom the
3824 citation was issued fails to request a hearing to contest the citation, the citation becomes the
3825 final order of the division and is not subject to further agency review. The period to contest the
3826 citation may be extended by the division for cause.
3827 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
3828 the license of a licensee who fails to comply with the citation after it becomes final.
3829 (g) The failure of an applicant for licensure to comply with a citation after it becomes
3830 final is a ground for denial of license.
3831 (h) No citation may be issued under this section after the expiration of one year
3832 following the date on which the violation that is the subject of the citation is reported to the
3833 division.
3834 (7) (a) The director may collect a penalty that is not paid by:

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

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

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

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

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

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

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

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

4083 to exercise dominion and control over it.
4084 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
4085 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
4086 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
4087 in teaching or chemical analysis a controlled substance in the course of professional practice or
4088 research in this state.
4089 (kk) "Prescribe" means to issue a prescription:
4090 (i) orally or in writing; or
4091 (ii) by telephone, facsimile transmission, computer, or other electronic means of
4092 communication as defined by division rule.
4093 (ll) "Prescription" means an order issued:
4094 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
4095 by collaborative pharmacy practice agreement; and
4096 (ii) for a controlled substance or other prescription drug or device for use by a patient
4097 or an animal.
4098 (mm) "Production" means the manufacture, planting, cultivation, growing, or
4099 harvesting of a controlled substance.
4100 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
4101 property.
4102 (oo) "State" means the state of Utah.
4103 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
4104 for the person's own use, for the use of a member of the person's household, or for
4105 administration to an animal owned by the person or a member of the person's household.
4106 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
4107 Utah Criminal Code, shall apply.
4108 Section 76. Section **58-37-6** is amended to read:
4109 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
4110 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
4111 **required -- Prescriptions.**
4112 (1) (a) The division may adopt rules relating to the licensing and control of the
4113 manufacture, distribution, production, prescription, administration, dispensing, conducting of

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

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

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

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

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

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

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

4331 (C) a second or third prescription shall include the date of issuance and the date for
4332 dispensing.
4333 (g) An order for a controlled substance in Schedules II through V for use by an
4334 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
4335 Subsection (7) if the order is:
4336 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
4337 with the federal Drug Enforcement Administration, and an active Utah controlled substance
4338 license in good standing issued by the division under this section, or a medical resident who is
4339 exempted from licensure under Subsection 58-1-307(1)(c);
4340 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
4341 practitioner designates the quantity ordered;
4342 (iii) entered upon the record of the patient, the record is signed by the prescriber
4343 affirming the prescriber's authorization of the order within 48 hours after filling or
4344 administering the order, and the patient's record reflects the quantity actually administered; and
4345 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within
4346 the physical structure of the hospital, or the order is taken from a supply lawfully maintained by
4347 the hospital and the amount taken from the supply is administered directly to the patient
4348 authorized to receive it.
4349 (h) A practitioner licensed under this chapter may not prescribe, administer, or
4350 dispense a controlled substance to a child, without first obtaining the consent required in
4351 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except
4352 in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as
4353 defined in Section 80-1-102, and "emergency" means any physical condition requiring the
4354 administration of a controlled substance for immediate relief of pain or suffering.
4355 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
4356 of a controlled substance in excess of medically recognized quantities necessary to treat the
4357 ailment, malady, or condition of the ultimate user.
4358 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
4359 any controlled substance to another person knowing that the other person is using a false name,
4360 address, or other personal information for the purpose of securing the controlled substance.
4361 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense

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

4393 (iii) on third or subsequent conviction, guilty of a third degree felony.
4394 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
4395 (o) shall upon conviction be guilty of a third degree felony.
4396 (9) Any information communicated to any licensed practitioner in an attempt to
4397 unlawfully procure, or to procure the administration of, a controlled substance is not considered
4398 to be a privileged communication.
4399 (10) A person holding a valid license under this chapter who is engaged in medical
4400 research may produce, possess, administer, prescribe, or dispense a controlled substance for
4401 research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense
4402 a controlled substance listed in Section 58-37-4.2.
4403 (11) (a) As used in this Subsection (11):
4404 (i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that
4405 is written to continue for longer than 30 consecutive days.
4406 (ii) "Database" means the controlled substance database created in Section 58-37f-201.
4407 (b) A practitioner who issues a high risk prescription to a patient shall, before issuing
4408 the high risk prescription to the patient, verify in the database that the patient does not have a
4409 high risk prescription from a different practitioner that is currently active.
4410 (c) If the database shows that the patient has received a high risk prescription that is
4411 currently active from a different practitioner, the practitioner may not issue a high risk
4412 prescription to the patient unless the practitioner:
4413 (i) contacts and consults with each practitioner who issued a high risk prescription that
4414 is currently active to the patient;
4415 (ii) documents in the patient's medical record that the practitioner made contact with
4416 each practitioner in accordance with Subsection (11)(c)(i); and
4417 (iii) documents in the patient's medical record the reason why the practitioner believes
4418 that the patient needs multiple high risk prescriptions from different practitioners.
4419 (d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a
4420 timely manner, which may be after the practitioner issues the high risk prescription to the
4421 patient.
4422 Section 77. Section **58-37-8** is amended to read:
4423 **58-37-8. Prohibited acts -- Penalties.**

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

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

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

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

4548 [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if
4549 known, the date of birth of each person convicted of violating Subsection (2)(a).
4550 (3) Prohibited acts C -- Penalties:
4551 (a) It is unlawful for a person knowingly and intentionally:
4552 (i) to use in the course of the manufacture or distribution of a controlled substance a
4553 license number which is fictitious, revoked, suspended, or issued to another person or, for the
4554 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
4555 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
4556 person;
4557 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4558 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
4559 attempting to acquire or obtain possession of, or to procure the administration of a controlled
4560 substance by misrepresentation or failure by the person to disclose receiving a controlled
4561 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
4562 prescription or written order for a controlled substance, or the use of a false name or address;
4563 (iii) to make a false or forged prescription or written order for a controlled substance,
4564 or to utter the same, or to alter a prescription or written order issued or written under the terms
4565 of this chapter; or
4566 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
4567 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
4568 device of another or any likeness of any of the foregoing upon any drug or container or labeling
4569 so as to render a drug a counterfeit controlled substance.
4570 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
4571 misdemeanor.
4572 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4573 degree felony.
4574 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
4575 (4) Prohibited acts D -- Penalties:
4576 (a) Notwithstanding other provisions of this section, a person not authorized under this
4577 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
4578 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier

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

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

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

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

4703 (v) cooperates with the responding medical provider, emergency medical service
4704 provider, and law enforcement officer, including providing information regarding the person
4705 experiencing the overdose event and any substances the person may have injected, inhaled, or
4706 otherwise introduced into the person's body; and
4707 (vi) is alleged to have committed the offense in the same course of events from which
4708 the reported overdose arose.
4709 (b) The offenses referred to in Subsection (16)(a) are:
4710 (i) the possession or use of less than 16 ounces of marijuana;
4711 (ii) the possession or use of a scheduled or listed controlled substance other than
4712 marijuana; and
4713 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
4714 Imitation Controlled Substances Act.
4715 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
4716 include seeking medical assistance under this section during the course of a law enforcement
4717 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.
4718 (17) If any provision of this chapter, or the application of any provision to any person
4719 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
4720 invalid provision or application.
4721 (18) A legislative body of a political subdivision may not enact an ordinance that is
4722 less restrictive than any provision of this chapter.
4723 (19) If a minor who is under 18 years old is found by a court to have violated this
4724 section, the court may order the minor to complete:
4725 (a) a screening as defined in Section 41-6a-501;
4726 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
4727 assessment to be appropriate; and
4728 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
4729 treatment as indicated by an assessment.
4730 Section 78. Section **58-37c-5** is amended to read:
4731 **58-37c-5. Responsibility of Department of Commerce -- Delegation to the**
4732 **Division of Professional Licensing -- Rulemaking authority of the division.**
4733 (1) Responsibility for the enforcement of the licensing and reporting provisions of this

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

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

4796 Licensing, created under Section 58-1-103, to accomplish the purposes of this section.
4797 Section 82. Section **58-38a-201** is amended to read:
4798 **58-38a-201. Controlled Substances Advisory Committee.**
4799 There is created within the Division of [~~Occupational and~~] Professional Licensing the
4800 Controlled Substances Advisory Committee. The committee consists of:
4801 (1) the director of the Department of Health or the director's designee;
4802 (2) the State Medical Examiner or the examiner's designee;
4803 (3) the commissioner of the Department of Public Safety or the commissioner's
4804 designee;
4805 (4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the
4806 director's designee;
4807 (5) the director of the Utah Poison Control Center or the director's designee;
4808 (6) one physician who is a member of the Physicians Licensing Board and is
4809 designated by that board;
4810 (7) one pharmacist who is a member of the Utah State Board of Pharmacy and is
4811 designated by that board;
4812 (8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
4813 and is designated by that board;
4814 (9) one physician who is currently licensed and practicing in the state, to be appointed
4815 by the governor;
4816 (10) one psychiatrist who is currently licensed and practicing in the state, to be
4817 appointed by the governor;
4818 (11) one individual with expertise in substance abuse addiction, to be appointed by the
4819 governor;
4820 (12) one representative from the Statewide Association of Prosecutors, to be
4821 designated by that association;
4822 (13) one naturopathic physician who is currently licensed and practicing in the state, to
4823 be appointed by the governor;
4824 (14) one advanced practice registered nurse who is currently licensed and practicing in
4825 this state, to be appointed by the governor; and
4826 (15) one member of the public, to be appointed by the governor.

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

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

4889 (k) a corporation, partnership, trust, association, group practice, or [~~like~~] similar
4890 organization engaging in speech-language pathology or audiology services without certification
4891 or license, if [~~it acts~~] acting only through employees or [~~consists~~] consisting only of persons
4892 who are licensed under this chapter;
4893 (l) [~~performance of~~] a person who is not a resident of this state performing
4894 speech-language pathology or audiology services in this state [~~by a speech-language pathologist~~
4895 ~~or audiologist who is not a resident of this state and is not licensed under this chapter if those~~]
4896 if:
4897 (i) the services are performed for no more than one month in any calendar year in
4898 association with a speech-language pathologist or audiologist licensed under this chapter[~~, and~~
4899 ~~if that~~]; and
4900 (ii) the person meets the qualifications and requirements for application for licensure
4901 described in Section 58-41-5; [~~and~~]
4902 (m) a person certified under Title 53E, Public Education System -- State
4903 Administration, as a teacher of the deaf, from providing the services or performing the
4904 functions [~~he~~] the person is certified to perform[~~.~~]; and
4905 (n) a person who is:
4906 (i) trained in newborn hearing screening as described in rules made by the Department
4907 of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
4908 (ii) is working under the indirect supervision of a licensed audiologist responsible for a
4909 newborn hearing screening program established by the Department of Health under Section
4910 26-10-6.
4911 (2) No person is exempt from the requirements of this chapter who performs or
4912 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
4913 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
4914 engages any part of his professional work for a fee practicing in conjunction with, by
4915 permission of, or apart from his position of employment as speech-language pathologist or
4916 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
4917 identified in this section.
4918 Section 84. Section **58-44a-302** is amended to read:
4919 **58-44a-302. Qualifications for licensure.**

4920 (1) An applicant for licensure as a nurse midwife shall:
4921 (a) submit an application in a form as prescribed by the division;
4922 (b) pay a fee as determined by the department under Section 63J-1-504;
4923 [~~(c) be of good moral character;~~]
4924 [~~(d)~~] (c) at the time of application for licensure hold a license in good standing as a
4925 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
4926 Title 58, Chapter 31b, Nurse Practice Act;
4927 [~~(e)~~] (d) have completed:
4928 (i) a certified nurse midwifery education program accredited by the Accreditation
4929 Commission for Midwifery Education and approved by the division; or
4930 (ii) a nurse midwifery education program located outside of the United States which is
4931 approved by the division and is equivalent to a program accredited by the Accreditation
4932 Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for
4933 the national certifying examination administered by the Accreditation Commission for
4934 Midwifery Education or its designee; and
4935 [~~(f)~~] (e) have passed examinations established by the division rule in collaboration with
4936 the board within two years after completion of the approved education program required under
4937 Subsection [~~(1)(e)~~] (1)(d).
4938 (2) For purposes of Subsection [~~(1)(e)~~] (1)(d), as of January 1, 2010, the accredited
4939 education program or it's equivalent must grant a graduate degree, including post-master's
4940 certificate, in nurse midwifery.
4941 Section 85. Section **58-44a-402** is amended to read:
4942 **58-44a-402. Authority to assess penalty.**
4943 (1) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures
4944 Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the
4945 division may impose an administrative penalty of up to $10,000 for unprofessional or unlawful
4946 conduct under this chapter in accordance with a fine schedule established by rule.
4947 (2) The assessment of a penalty under this section does not affect any other action the
4948 division is authorized to take regarding a license issued under this chapter.
4949 (3) The division may impose an administrative penalty of up to $500 for any violation
4950 of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.

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

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

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

5044 (A) performs or offers to perform construction consulting;
5045 (B) performs or offers to perform management of construction subcontractors;
5046 (C) provides or offers to provide a list of subcontractors or suppliers; or
5047 (D) provides or offers to provide management or counseling services on a construction
5048 project.
5049 (b) "Contractor" does not include:
5050 (i) an alarm company or alarm company agent; or
5051 (ii) a material supplier who provides consulting to customers regarding the design and
5052 installation of the material supplier's products.
5053 (14) (a) "Electrical trade" means the performance of any electrical work involved in the
5054 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
5055 buildings, or appendages or appurtenances.
5056 (b) "Electrical trade" does not include:
5057 (i) transporting or handling electrical materials;
5058 (ii) preparing clearance for raceways for wiring;
5059 (iii) work commonly done by unskilled labor on any installations under the exclusive
5060 control of electrical utilities;
5061 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
5062 hazard; or
5063 (v) work involving class two or class three power-limited circuits as defined in the
5064 National Electrical Code.
5065 (15) "Elevator" means the same as that term is defined in Section 34A-7-202, except
5066 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
5067 incline platform lift.
5068 (16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
5069 this chapter that is engaged in the business of erecting, constructing, installing, altering,
5070 servicing, repairing, or maintaining an elevator.
5071 (17) "Elevator mechanic" means an individual who is licensed under this chapter as an
5072 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
5073 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.
5074 (18) "Employee" means an individual as defined by the division by rule giving

5075 consideration to the definition adopted by the Internal Revenue Service and the Department of
5076 Workforce Services.
5077 (19) "Engage in a construction trade" means to:
5078 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
5079 in a construction trade; or
5080 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
5081 to believe one is or will act as a contractor.
5082 (20) (a) "Financial responsibility" means a demonstration of a current and expected
5083 future condition of financial solvency evidencing a reasonable expectation to the division and
5084 the board that an applicant or licensee can successfully engage in business as a contractor
5085 without jeopardy to the public health, safety, and welfare.
5086 (b) Financial responsibility may be determined by an evaluation of the total history
5087 concerning the licensee or applicant including past, present, and expected condition and record
5088 of financial solvency and business conduct.
5089 (21) "Gas appliance" means any device that uses natural gas to produce light, heat,
5090 power, steam, hot water, refrigeration, or air conditioning.
5091 (22) (a) "General building contractor" means a person licensed under this chapter as a
5092 general building contractor qualified by education, training, experience, and knowledge to
5093 perform or superintend construction of structures for the support, shelter, and enclosure of
5094 persons, animals, chattels, or movable property of any kind or any of the components of that
5095 construction except plumbing, electrical work, mechanical work, work related to the operating
5096 integrity of an elevator, and manufactured housing installation, for which the general building
5097 contractor shall employ the services of a contractor licensed in the particular specialty, except
5098 that a general building contractor engaged in the construction of single-family and multifamily
5099 residences up to four units may perform the mechanical work and hire a licensed plumber or
5100 electrician as an employee.
5101 (b) The division may by rule exclude general building contractors from engaging in the
5102 performance of other construction specialties in which there is represented a substantial risk to
5103 the public health, safety, and welfare, and for which a license is required unless that general
5104 building contractor holds a valid license in that specialty classification.
5105 (23) (a) "General electrical contractor" means a person licensed under this chapter as a

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

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

5168 (27) "Individual" means a natural person.
5169 (28) "Journeyman electrician" means a person licensed under this chapter as a
5170 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
5171 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.
5172 (29) "Journeyman plumber" means a person licensed under this chapter as a
5173 journeyman plumber having the qualifications, training, experience, and technical knowledge
5174 to engage in the plumbing trade.
5175 (30) "Master electrician" means a person licensed under this chapter as a master
5176 electrician having the qualifications, training, experience, and knowledge to properly plan,
5177 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
5178 for light, heat, power, and other purposes.
5179 (31) "Master plumber" means a person licensed under this chapter as a master plumber
5180 having the qualifications, training, experience, and knowledge to properly plan and layout
5181 projects and supervise persons in the plumbing trade.
5182 (32) "Person" means a natural person, sole proprietorship, joint venture, corporation,
5183 limited liability company, association, or organization of any type.
5184 (33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
5185 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
5186 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:
5187 (i) delivery of the water supply;
5188 (ii) discharge of liquid and water carried waste;
5189 (iii) building drainage system within the walls of the building; and
5190 (iv) delivery of gases for lighting, heating, and industrial purposes.
5191 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
5192 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
5193 safe and adequate supply of gases, together with their devices, appurtenances, and connections
5194 where installed within the outside walls of the building.
5195 (34) "Ratio of apprentices" means the number of licensed plumber apprentices or
5196 licensed electrician apprentices that are allowed to be under the immediate supervision of a
5197 licensed supervisor as established by the provisions of this chapter and by rules made by the
5198 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5199 Utah Administrative Rulemaking Act.
5200 (35) "Residential and small commercial contractor" means a person licensed under this
5201 chapter as a residential and small commercial contractor qualified by education, training,
5202 experience, and knowledge to perform or superintend the construction of single-family
5203 residences, multifamily residences up to four units, and commercial construction of not more
5204 than three stories above ground and not more than 20,000 square feet, or any of the components
5205 of that construction except plumbing, electrical work, mechanical work, and manufactured
5206 housing installation, for which the residential and small commercial contractor shall employ
5207 the services of a contractor licensed in the particular specialty, except that a residential and
5208 small commercial contractor engaged in the construction of single-family and multifamily
5209 residences up to four units may perform the mechanical work and hire a licensed plumber or
5210 electrician as an employee.
5211 (36) "Residential building," as it relates to the license classification of residential
5212 journeyman plumber and residential master plumber, means a single or multiple family
5213 dwelling of up to four units.
5214 (37) (a) "Residential electrical contractor" means a person licensed under this chapter
5215 as a residential electrical contractor qualified by education, training, experience, and
5216 knowledge to perform the fabrication, construction, and installation of services, disconnecting
5217 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
5218 appliances, and fixtures in a residential unit.
5219 (b) The scope of work of a residential electrical contractor may be further defined by
5220 rules made by the commission, with the concurrence of the director, in accordance with Title
5221 63G, Chapter 3, Utah Administrative Rulemaking Act.
5222 (38) "Residential journeyman electrician" means a person licensed under this chapter
5223 as a residential journeyman electrician having the qualifications, training, experience, and
5224 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
5225 and other purposes on buildings using primarily nonmetallic sheath cable.
5226 (39) "Residential journeyman plumber" means a person licensed under this chapter as a
5227 residential journeyman plumber having the qualifications, training, experience, and knowledge
5228 to engage in the plumbing trade as limited to the plumbing of residential buildings.
5229 (40) "Residential master electrician" means a person licensed under this chapter as a

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

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

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

5323 (iv) complete a five-hour business and law course established by rule by the
5324 commission with the concurrence of the director, which is taught by an approved prelicensure
5325 course provider, if an applicant for licensure as a general building contractor, general
5326 engineering contractor, residential and small commercial contractor, general plumbing
5327 contractor, residential plumbing contractor, general electrical contractor, or residential
5328 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
5329 completed before July 1, 2019, the applicant does not need to take the business and law course;
5330 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
5331 license or a licensed master residential electrician if an applicant for a residential electrical
5332 contractor's license;
5333 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
5334 a licensed master residential plumber if an applicant for a residential plumbing contractor's
5335 license; or
5336 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
5337 experience as an elevator mechanic if an applicant for an elevator contractor's license; and
5338 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
5339 individuals who hold an ownership interest in the applicant as of the day on which the
5340 application is filed that includes for each individual:
5341 (A) the individual's name, address, birth date, and social security number; and
5342 (B) whether the individual will engage in a construction trade; and
5343 (f) if an applicant for a construction trades instructor license, satisfy any additional
5344 requirements established by rule.
5345 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
5346 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
5347 evidence of two years full-time paid employment experience as a building inspector, which
5348 shall include at least one year full-time experience as a licensed combination inspector.
5349 (b) The applicant shall file the following with the division before the division issues the
5350 license:
5351 (i) proof of workers' compensation insurance which covers employees of the applicant
5352 in accordance with applicable Utah law;
5353 (ii) proof of public liability insurance in coverage amounts and form established by rule

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

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

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

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

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

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

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

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

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

5633 (iii) (A) the applicant is an individual or sole proprietorship; and
5634 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5635 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
5636 this chapter, suspended or revoked within two years before the date of the applicant's
5637 application; or
5638 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
5639 an unincorporated entity at the time the entity's license under this chapter was revoked; and
5640 (B) the application for licensure is filed within 60 months after the revocation of the
5641 unincorporated entity's license.
5642 (b) An application for licensure under this chapter shall be reviewed by the appropriate
5643 licensing board prior to approval if:
5644 (i) the applicant has had a previous license, which was issued under this chapter,
5645 suspended or revoked more than two years before the date of the applicant's application;
5646 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
5647 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5648 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5649 status, performing similar functions, or directly or indirectly controlling the applicant has
5650 served in any similar capacity with any person or entity which has had a previous license,
5651 which was issued under this chapter, suspended or revoked more than two years before the date
5652 of the applicant's application; or
5653 (iii) (A) the applicant is an individual or sole proprietorship; and
5654 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5655 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
5656 this chapter, suspended or revoked more than two years before the date of the applicant's
5657 application.
5658 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
5659 report with the division every 30 days after the day on which the license is issued if the licensee
5660 has more than five owners who are individuals who:
5661 (A) own an interest in the contractor that is an unincorporated entity;
5662 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
5663 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the

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

5695 interest in the unincorporated entity that includes for each individual:
5696 (A) the individual's name, address, birth date, and social security number; and
5697 (B) whether the individual will engage in a construction trade; and
5698 (ii) every 30 days after the day on which the unincorporated entity provides the list
5699 described in Subsection (11)(a)(i), an ownership status report containing the information that
5700 would be required under Subsection (10) if the unincorporated entity were a licensed
5701 contractor.
5702 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
5703 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
5704 the division in accordance with Section 63J-1-504.
5705 (12) This chapter may not be interpreted to create or support an express or implied
5706 independent contractor relationship between an unincorporated entity described in Subsection
5707 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
5708 withholding.
5709 (13) A social security number provided under Subsection (1)(e)(vi) is a private record
5710 under Subsection 63G-2-302(1)(i).
5711 Section 88. Section **58-55-502** is amended to read:
5712 **58-55-502. Unprofessional conduct.**
5713 Unprofessional conduct includes:
5714 (1) failing to establish, maintain, or demonstrate financial responsibility while licensed
5715 as a contractor under this chapter;
5716 (2) disregarding or violating through gross negligence or a pattern of negligence:
5717 (a) the building or construction laws of this state or any political subdivision;
5718 (b) the safety and labor laws applicable to a project;
5719 (c) any provision of the health laws applicable to a project;
5720 (d) the workers' compensation insurance laws of this state applicable to a project;
5721 (e) the laws governing withholdings for employee state and federal income taxes,
5722 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
5723 (f) any reporting, notification, and filing laws of this state or the federal government;
5724 (3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a
5725 licensee's direction which causes material injury to another;

5726 (4) contract violations that pose a threat or potential threat to the public health, safety,
5727 and welfare including:
5728 (a) willful, deliberate, or grossly negligent departure from or disregard for plans or
5729 specifications, or abandonment or failure to complete a project without the consent of the
5730 owner or the owner's duly authorized representative or the consent of any other person entitled
5731 to have the particular project completed in accordance with the plans, specifications, and
5732 contract terms;
5733 (b) failure to deposit funds to the benefit of an employee as required under any written
5734 contractual obligation the licensee has to the employee;
5735 (c) failure to maintain in full force and effect any health insurance benefit to an
5736 employee that was extended as a part of any written contractual obligation or representation by
5737 the licensee, unless the employee is given written notice of the licensee's intent to cancel or
5738 reduce the insurance benefit at least 45 days before the effective date of the cancellation or
5739 reduction;
5740 (d) failure to reimburse the Residence Lien Recovery Fund as required by Section
5741 38-11-207;
5742 (e) failure to provide, when applicable, the information required by Section 38-11-108;
5743 and
5744 (f) willfully or deliberately misrepresenting or omitting a material fact in connection
5745 with an application to claim recovery from the Residence Lien Recovery Fund under Section
5746 38-11-204;
5747 (5) failing as an alarm company to notify the division of the cessation of performance
5748 of its qualifying agent, or failing to replace its qualifying agent as required under Section
5749 58-55-304;
5750 (6) failing as an alarm company agent to carry or display a copy of the licensee's
5751 license as required under Section 58-55-311;
5752 (7) failing to comply with operating standards established by rule in accordance with
5753 Section 58-55-308;
5754 (8) an unincorporated entity licensed under this chapter having an individual who owns
5755 an interest in the unincorporated entity engage in a construction trade in Utah while not
5756 lawfully present in the United States;

5757 (9) an unincorporated entity failing to provide the following for an individual who
5758 engages, or will engage, in a construction trade in Utah for the unincorporated entity:
5759 (a) workers' compensation coverage to the extent required by Title 34A, Chapter 2,
5760 Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and
5761 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
5762 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
5763 interest in the unincorporated entity, as defined by rule made by the division in accordance with
5764 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [~~or~~]
5765 (10) the failure of an alarm company or alarm company agent to inform a potential
5766 customer, before the customer's purchase of an alarm system or alarm service from the alarm
5767 company, of the policy of the county, city, or town within which the customer resides relating
5768 to priority levels for responding to an alarm signal transmitted by the alarm system that the
5769 alarm company provides the customer[~~.~~]; or
5770 (11) failing to continuously maintain insurance and registration as required under
5771 Subsection 58-55-302(2).
5772 Section 89. Section **58-55-503** is amended to read:
5773 **58-55-503. Penalty for unlawful conduct -- Citations.**
5774 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
5775 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
5776 (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under
5777 this section after it is final, is guilty of a class A misdemeanor.
5778 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
5779 individual and does not include a sole proprietorship, joint venture, corporation, limited
5780 liability company, association, or organization of any type.
5781 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
5782 awarded and may not accept a contract for the performance of the work.
5783 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
5784 infraction unless the violator did so with the intent to deprive the person to whom money is to
5785 be paid of the money received, in which case the violator is guilty of theft, as classified in
5786 Section 76-6-412.
5787 (3) Grounds for immediate suspension of a licensee's license by the division and the

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

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

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

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

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

5943 Professional Licensing when a person registered under this part is no longer employed as a
5944 registered behavior specialist or a registered assistant behavior specialist.
5945 Section 93. Section **58-63-102** is amended to read:
5946 **58-63-102. Definitions.**
5947 In addition to the definitions in Section 58-1-102, as used in this chapter:
5948 (1) "Agreement for services" means a written and signed agreement between a security
5949 service provider and a client that:
5950 (a) contains clear language that addresses and assigns financial responsibility;
5951 (b) describes the length, duties, and scope of the security services that will be provided;
5952 and
5953 (c) describes the compensation that will be paid by the client for the security services,
5954 including the compensation for each security officer.
5955 (2) "Armed courier service" means a person engaged in business as a contract security
5956 company who transports or offers to transport tangible personal property from one place or
5957 point to another under the control of an armed security officer employed by that service.
5958 (3) "Armed private security officer" means an individual:
5959 (a) employed by a contract security company;
5960 (b) whose primary duty is:
5961 (i) guarding personal or real property; or
5962 (ii) providing protection or security to the life and well being of humans or animals;
5963 and
5964 (c) who wears, carries, possesses, or has immediate access to a firearm in the
5965 performance of the individual's duties.
5966 (4) "Armored car company" means a person engaged in business under contract to
5967 others who transports or offers to transport tangible personal property, currency, valuables,
5968 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that
5969 require secured delivery from one place to another under the control of an armored car security
5970 officer employed by the company using a specially equipped motor vehicle offering a high
5971 degree of security.
5972 (5) "Armored car security officer" means an individual:
5973 (a) employed by an armored car company;

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

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

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

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

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

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

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

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

6222 division in collaboration with the board;
6223 (i) pass the examination requirements established by rule by the division in
6224 collaboration with the board; and
6225 (j) meet with the division and board if requested by the division or the board.
6226 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6227 division may make a rule establishing when the division shall request a Federal Bureau of
6228 Investigation records' review for an applicant who is applying for licensure or licensure renewal
6229 under this chapter.
6230 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
6231 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
6232 cards to the Department of Public Safety with the division's request to:
6233 (a) conduct a search of records of the Department of Public Safety for criminal history
6234 information relating to each applicant for licensure under this chapter and each applicant's
6235 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
6236 responsible management personnel; and
6237 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
6238 requiring a check of records of the FBI for criminal history information under this section.
6239 (7) The Department of Public Safety shall send the division:
6240 (a) a written record of criminal history, or certification of no criminal history record, as
6241 contained in the records of the Department of Public Safety in a timely manner after receipt of
6242 a fingerprint card from the division and a request for review of Department of Public Safety
6243 records; and
6244 (b) the results of the FBI review concerning an applicant in a timely manner after
6245 receipt of information from the FBI.
6246 (8) (a) The division shall charge each applicant a fee, in accordance with Section
6247 63J-1-504, equal to the cost of performing the records reviews under this section.
6248 (b) The division shall pay the Department of Public Safety the costs of all records
6249 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
6250 under this chapter.
6251 (9) The division shall use or disseminate the information it obtains from the reviews of
6252 criminal history records of the Department of Public Safety and the FBI only to determine if an

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

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

6315 (c) A court shall award reasonable attorney fees and costs to the prevailing party in an
6316 action brought by the division to collect a penalty.
6317 Section 96. Section **58-68-503** is amended to read:
6318 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**
6319 **conduct.**
6320 (1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or
6321 Section 58-1-501 is guilty of a third degree felony.
6322 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
6323 conduct by:
6324 (i) assessing administrative penalties; or
6325 (ii) taking any other appropriate administrative action.
6326 (b) A monetary administrative penalty imposed under this section shall be deposited
6327 [~~in~~] into the Physician Education Fund described in Section 58-67a-1.
6328 (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501,
6329 before an administrative proceeding regarding the same conduct, the licensee may not be
6330 assessed an administrative fine under this chapter for the same conduct.
6331 (4) (a) If the division concludes that an individual has violated the provisions of
6332 Section 58-68-501, Section 58-68-502, Chapter 1, Division of [~~Occupational and~~] Professional
6333 Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
6334 respect to these provisions, and disciplinary action is appropriate, the director or director's
6335 designee shall:
6336 (i) issue a citation to the individual;
6337 (ii) attempt to negotiate a stipulated settlement; or
6338 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
6339 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
6340 appear.
6341 (b) The division may take the following action against an individual who is in violation
6342 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
6343 stipulated settlement, or a finding of violation in an adjudicative proceeding:
6344 (i) assess a fine of up to $10,000 per single violation or $2,000 per day of ongoing
6345 violation, whichever is greater, in accordance with a fine schedule established by rule; or

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

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

6408 (ii) the Utah Chiropractic Law and Rules Examination; and
6409 (iii) a practical examination approved by the division in collaboration with the board;
6410 and
6411 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
6412 qualifications for licensure.
6413 (2) Each applicant for licensure as a chiropractic physician based on licensure as a
6414 chiropractor or chiropractic physician in another jurisdiction shall:
6415 (a) submit an application in the form prescribed by the division;
6416 (b) pay a fee determined by the department under Section 63J-1-504;
6417 (c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in
6418 another state under education requirements which were equivalent to the education
6419 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
6420 the applicant obtained the license in the other state;
6421 (d) demonstrate successful completion of:
6422 (i) the Utah Chiropractic Law and Rules Examination; and
6423 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
6424 of Chiropractic Examiners;
6425 (e) have been actively engaged in the practice of chiropractic for not less than two
6426 years immediately preceding application for licensure in this state; and
6427 (f) meet with the board, if requested, for the purpose of reviewing the applicant's
6428 qualifications for licensure.
6429 Section 99. Section **58-73-501** is amended to read:
6430 **58-73-501. Unprofessional conduct.**
6431 Unprofessional conduct is as defined in Section 58-1-501, as defined by division rule,
6432 and also includes:
6433 (1) engaging in practice as a chiropractic physician after electing to place his license on
6434 inactive status, without having established with the board that he has initiated or completed
6435 continuing education necessary to reinstate active status of his license;
6436 (2) failing to complete required continuing professional education;
6437 (3) violating any of the scope of practice standards set forth in Section 58-73-601;
6438 (4) failing to maintain patient records in sufficient detail to clearly substantiate a

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

6470 or associations; [~~and~~]
6471 (14) knowingly failing to transfer a copy of pertinent and necessary medical records or
6472 a summary of them to another physician when requested to do so by the subject patient or his
6473 designated representative[~~.~~];
6474 (15) making a false entry in, or altering, a medical record with the intent to conceal:
6475 (a) a wrongful or negligent act or omission of an individual licensed under this chapter
6476 or an individual under the direction or control of an individual licensed under this chapter; or
6477 (b) conduct described in Subsections (1) through (14) or Subsection 58-1-501(1);
6478 (16) sharing professional fees with a person who is not licensed under this chapter; and
6479 (17) paying a person for a patient referral.
6480 Section 100. Section **58-83-102** is amended to read:
6481 **58-83-102. Definitions.**
6482 In addition to the definitions in Section 58-1-102, as used in this chapter:
6483 (1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing
6484 Board created in Section 58-83-201.
6485 (2) "Branching questionnaire" means an adaptive and progressive assessment tool
6486 approved by the board.
6487 (3) "Delivery of online pharmaceutical services" means the process in which a
6488 prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized
6489 by Section 58-83-306, using:
6490 (a) a branching questionnaire or other assessment tool approved by the division for the
6491 purpose of diagnosing and assessing a patient's health status;
6492 (b) an Internet contract pharmacy to:
6493 (i) dispense the prescribed drug; or
6494 (ii) transfer the prescription to another pharmacy; and
6495 (c) an Internet facilitator to facilitate the practices described in Subsections (3)(a) and
6496 (b).
6497 (4) "Division" means the [~~Utah~~] Division of [~~Occupational and~~] Professional
6498 Licensing.
6499 (5) "Internet facilitator" means a licensed provider of a web-based system for electronic
6500 communication between and among an online prescriber, the online prescriber's patient, and

6501 the online contract pharmacy.
6502 (6) "Online contract pharmacy" means a pharmacy licensed and in good standing under
6503 Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed
6504 Door Pharmacy and licensed under this chapter to fulfill prescriptions issued by an online
6505 prescriber through a specific Internet facilitator.
6506 (7) "Online prescriber" means a person:
6507 (a) licensed under another chapter of this title;
6508 (b) whose license under another chapter of this title includes assessing, diagnosing, and
6509 prescribing authority for humans; and
6510 (c) who has obtained a license under this chapter to engage in online prescribing.
6511 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-83-501.
6512 (9) "Unprofessional conduct" is as defined in Sections 58-1-203 and 58-83-502, and as
6513 further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative
6514 Rulemaking Act.
6515 Section 101. Section **58-83-302** is amended to read:
6516 **58-83-302. Qualifications for licensure.**
6517 (1) Each applicant for licensure as an online prescriber under this chapter shall:
6518 (a) submit an application in a form prescribed by the division;
6519 (b) pay a fee determined by the department under Section 63J-1-504;
6520 [~~(c) be of good moral character;~~]
6521 [~~(d)~~] (c) document that the applicant holds a Utah license that is active and in good
6522 standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of
6523 human ailments and the prescription of medications;
6524 [~~(e)~~] (d) document that any other professional license the applicant possesses from
6525 other jurisdictions is in good standing;
6526 [~~(f)~~] (e) (i) submit to the division an outline of the applicant's proposed online
6527 assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and
6528 (ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the
6529 board and establish to the board's satisfaction that the utilization of that assessment tool to
6530 facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305
6531 does not compromise the public's health, safety, or welfare;

6532 [~~(g)~~] (f) submit policies and procedures that address patient confidentiality, including
6533 measures that will be taken to ensure that the age and other identifying information of the
6534 person completing the online branching questionnaire are accurate;
6535 [~~(h)~~] (g) describe the mechanism by which the online prescriber and patient will
6536 communicate with one another, including electronic and telephonic communication;
6537 [~~(i)~~] (h) describe how the online prescriber/patient relationship will be established and
6538 maintained;
6539 [~~(j)~~] (i) submit the name, address, and contact person of the Internet facilitator with
6540 whom the online prescriber has contracted to provide services that the online prescriber will
6541 use to engage in online assessment, diagnosis, and prescribing; and
6542 [~~(k)~~] (j) submit documentation satisfactory to the board regarding public health, safety,
6543 and welfare demonstrating:
6544 (i) how the online prescriber will comply with the requirements of Section 58-83-305;
6545 (ii) the contractual services arrangement between the online prescriber and:
6546 (A) the Internet facilitator; and
6547 (B) the online contract pharmacy; and
6548 (iii) how the online prescriber will allow and facilitate the division's ability to conduct
6549 audits in accordance with Section 58-83-308.
6550 (2) An online prescriber may not use the services of an Internet facilitator or online
6551 contract pharmacy whose license is not active and in good standing.
6552 (3) Each applicant for licensure as an online contract pharmacy under this chapter
6553 shall:
6554 (a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B
6555 Closed Door Pharmacy;
6556 (b) submit a written application in the form prescribed by the division;
6557 (c) pay a fee as determined by the department under Section 63J-1-504;
6558 (d) submit any contract between the applicant and the Internet facilitator with which
6559 the applicant is or will be affiliated;
6560 (e) submit proof of liability insurance acceptable to the division that expressly covers
6561 all activities the online contract pharmacy will engage in under this chapter, which coverage
6562 shall be in a minimum amount of $1,000,000 per occurrence with a policy limit of not less than

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

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

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

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

6687 or an individual under the direction or control of an individual licensed under this chapter; or
6688 (b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).
6689 Section 104. Section **58-87-103** is amended to read:
6690 **58-87-103. Administration -- Rulemaking -- Service of process.**
6691 (1) (a) This chapter shall be administered by the division and is subject to the
6692 requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, so long
6693 as the requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act,
6694 are not inconsistent with the requirements of this chapter.
6695 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6696 division may make rules necessary to implement this chapter.
6697 (2) By acting as an athlete agent in this state, a nonresident individual appoints the
6698 director of the division as the individual's agent for service of process in any civil action in this
6699 state related to the individual acting as an athlete agent in this state.
6700 Section 105. Section **59-10-1111** is amended to read:
6701 **59-10-1111. Refundable tax credit for psychiatrists, psychiatric mental health**
6702 **nurse practitioners, and volunteer retired psychiatrists.**
6703 (1) As used in this section:
6704 (a) "Psychiatric mental health nurse practitioner" means the same as that term is
6705 defined in Section 58-1-111.
6706 (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.
6707 (c) "Tax credit certificate" means a certificate issued by the Division of [~~Occupational~~
6708 ~~and~~] Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a
6709 tax credit under this section.
6710 (d) "Volunteer retired psychiatrist" means the same as that term is defined in Section
6711 58-1-111.
6712 (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner
6713 and who submits a tax credit certificate issued by the Division of [~~Occupational and~~]
6714 Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:
6715 (a) as provided in this section; and
6716 (b) in the amount of $10,000.
6717 (3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner

6718 and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable
6719 tax credit:
6720 (a) as provided in this section; and
6721 (b) in the amount of $10,000.
6722 (4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit
6723 certificate under Subsection 58-1-111(5) may claim a refundable tax credit:
6724 (a) as provided in this section; and
6725 (b) in the amount of $10,000.
6726 (5) A claimant may claim a tax credit under Subsections (2) through (4) for no more
6727 than 10 taxable years for each tax credit.
6728 (6) (a) In accordance with any rules prescribed by the commission under Subsection
6729 (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this
6730 section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.
6731 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6732 commission may make rules providing procedures for making a refund to a claimant as
6733 required by Subsection (6)(a).
6734 Section 106. Section **62A-3-202** is amended to read:
6735 **62A-3-202. Definitions.**
6736 As used in this part:
6737 (1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.
6738 (2) "Auxiliary aids and services" means items, equipment, or services that assist in
6739 effective communication between an individual who has a mental, hearing, vision, or speech
6740 disability and another individual.
6741 (3) "Government agency" means any department, division, office, bureau, board,
6742 commission, authority, or any other agency or instrumentality created by the state, or to which
6743 the state is a party, or created by any county or municipality, which is responsible for the
6744 regulation, visitation, inspection, or supervision of facilities, or which provides services to
6745 patients, residents, or clients of facilities.
6746 (4) "Intermediate care facility" means the same as that term is defined in Section
6747 [~~58-15-2~~] 58-15-101.
6748 (5) (a) "Long-term care facility" means:

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

6780 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
6781 protection to the vulnerable adult.
6782 (3) When a report under Subsection (1), or a subsequent investigation by Adult
6783 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
6784 adult:
6785 (a) Adult Protective Services shall notify the nearest local law enforcement agency
6786 regarding the potential offense; and
6787 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
6788 Protective Services.
6789 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
6790 does not apply to:
6791 (a) a member of the clergy, with regard to any confession made to the member of the
6792 clergy while functioning in the ministerial capacity of the member of the clergy and without the
6793 consent of the individual making the confession, if:
6794 (i) the perpetrator made the confession directly to the member of the clergy; and
6795 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
6796 to maintain the confidentiality of that confession; or
6797 (b) an attorney, or an individual employed by the attorney, if knowledge of the
6798 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
6799 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
6800 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in
6801 accordance with Utah Rules of Professional Conduct, Rule 1.6.
6802 (5) (a) When a member of the clergy receives information about abuse, neglect, or
6803 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
6804 member of the clergy is required to report that information even though the member of the
6805 clergy may have also received information about abuse or neglect from the confession of the
6806 perpetrator.
6807 (b) Exemption of the reporting requirement for an individual described in Subsection
6808 (4) does not exempt the individual from any other efforts required by law to prevent further
6809 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.
6810 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to

6811 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
6812 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
6813 (b) The physician-patient privilege does not:
6814 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
6815 vulnerable adult under Subsection (1); or
6816 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
6817 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
6818 resulting from a report under Subsection (1).
6819 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
6820 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
6821 immune from civil and criminal liability in connection with the report or notification.
6822 (b) A covered provider or covered contractor, as defined in Section 26-21-201, that
6823 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
6824 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
6825 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
6826 exploitation of a vulnerable adult that is committed by the individual who was not reported to
6827 Adult Protective Services or to the nearest peace officer or law enforcement agency.
6828 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
6829 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
6830 Act of Utah.
6831 (8) If Adult Protective Services has substantial grounds to believe that an individual
6832 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
6833 accordance with this section, Adult Protective Services shall file a complaint with:
6834 (a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a
6835 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6836 in Section 58-60-102;
6837 (b) the appropriate law enforcement agency if the individual is a law enforcement
6838 officer, as defined in Section 53-13-103; and
6839 (c) the State Board of Education if the individual is an educator, as defined in Section
6840 53E-6-102.
6841 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails

6842 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
6843 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).
6844 (b) If an individual is convicted under Subsection (9)(a), the court may order the
6845 individual, in addition to any other sentence the court imposes, to:
6846 (i) complete community service hours; or
6847 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
6848 adults.
6849 (c) In determining whether it would be appropriate to charge an individual with a
6850 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
6851 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a
6852 vulnerable adult because reporting would have placed the individual in immediate danger of
6853 death or serious bodily injury.
6854 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6855 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
6856 another offense.
6857 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
6858 within two years after the day on which the individual had knowledge of the suspected abuse,
6859 neglect, or exploitation and willfully failed to report.
6860 (10) Under circumstances not amounting to a violation of Section 76-8-508, an
6861 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
6862 attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1),
6863 the individual who made the report under Subsection (1), a witness, or any other person
6864 cooperating with an investigation conducted in accordance with this chapter.
6865 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
6866 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
6867 medical care.
6868 Section 108. Section **62A-3-311.1** is amended to read:
6869 **62A-3-311.1. Statewide database -- Restricted use and access.**
6870 (1) The division shall maintain a database for reports of vulnerable adult abuse,
6871 neglect, or exploitation made pursuant to this part.
6872 (2) The database shall include:

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

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

6935 health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined
6936 in Section 58-60-102;
6937 (b) the appropriate law enforcement agency if the individual is a law enforcement
6938 officer, as defined in Section 53-13-103; and
6939 (c) the State Board of Education if the individual is an educator, as defined in Section
6940 53E-6-102.
6941 (2) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
6942 to report the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in
6943 accordance with this part.
6944 (b) If an individual is convicted under Subsection (2)(a), the court may order the
6945 individual, in addition to any other sentence the court imposes, to:
6946 (i) complete community service hours; or
6947 (ii) complete a program on preventing abuse and neglect of children.
6948 (c) In determining whether it would be appropriate to charge an individual with a
6949 violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a
6950 reasonable individual would not have reported suspected abuse or neglect of a child because
6951 reporting would have placed the individual in immediate danger of death or serious bodily
6952 injury.
6953 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
6954 an individual's violation of Subsection (2)(a) as the basis for charging the individual with
6955 another offense.
6956 (e) A prosecution for failure to report under Subsection (2)(a) shall be commenced
6957 within two years after the day on which the individual had knowledge of the suspected abuse,
6958 neglect, fetal alcohol syndrome, or fetal drug dependency and willfully failed to report.
6959 (3) Under circumstances not amounting to a violation of Section 76-8-508, an
6960 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
6961 attempts to intimidate a child who is the subject of a report under this part, the individual who
6962 made the report, a witness, or any other person cooperating with an investigation conducted in
6963 accordance with this chapter.
6964 Section 111. Section **62A-4a-603** is amended to read:
6965 **62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.**

6966 (1) The Office of Licensing within the department or any interested person may
6967 commence an action in district court to enjoin any person, agency, firm, corporation, or
6968 association violating Section 62A-4a-602.
6969 (2) The Office of Licensing shall:
6970 (a) solicit information from the public relating to violations of Section 62A-4a-602;
6971 and
6972 (b) upon identifying a violation of Section 62A-4a-602:
6973 (i) send a written notice to the person who violated Section 62A-4a-602 that describes
6974 the alleged violation; and
6975 (ii) notify the following persons of the alleged violation:
6976 (A) the local county attorney; and
6977 (B) the Division of [~~Occupational and~~] Professional Licensing.
6978 (3) (a) A county attorney or the attorney general shall institute legal action as necessary
6979 to enforce the provisions of Section 62A-4a-602 after being informed of an alleged violation.
6980 (b) If a county attorney does not take action within 30 days after the day on which the
6981 county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general
6982 may be requested to take action, and shall then institute legal proceedings in place of the county
6983 attorney.
6984 (4) (a) In addition to the remedies provided in Subsections (1) and (3), any person,
6985 agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall
6986 forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil
6987 penalty of not more than $10,000 for each violation.
6988 (b) Each act in violation of Section 62A-4a-602, including each placement or
6989 attempted placement of a child, is a separate violation.
6990 (5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the
6991 General Fund of the prosecuting county, or in the state General Fund if the attorney general
6992 prosecutes.
6993 (b) If two or more governmental entities are involved in the prosecution, the penalty
6994 amounts recovered shall be apportioned by the court among the entities, according to their
6995 involvement.
6996 (6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4)

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

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

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

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

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

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

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

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

7245 course at or before the November meeting each year.
7246 (4) (a) The division may refuse to contract with and may pursue legal remedies against
7247 any local substance abuse authority or local mental health authority that fails, or has failed, to
7248 expend public funds in accordance with state law, division policy, contract provisions, or
7249 directives issued in accordance with state law.
7250 (b) The division may withhold funds from a local substance abuse authority or local
7251 mental health authority if the authority's contract provider of substance abuse or mental health
7252 programs or services fails to comply with state and federal law or policy.
7253 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
7254 or local mental health authority, the division shall review and determine whether the local
7255 substance abuse authority or local mental health authority is complying with the oversight and
7256 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
7257 17-43-309.
7258 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
7259 liability described in Section 17-43-303 and to the responsibility and liability described in
7260 Section 17-43-203.
7261 (6) In carrying out the division's duties and responsibilities, the division may not
7262 duplicate treatment or educational facilities that exist in other divisions or departments of the
7263 state, but shall work in conjunction with those divisions and departments in rendering the
7264 treatment or educational services that those divisions and departments are competent and able
7265 to provide.
7266 (7) The division may accept in the name of and on behalf of the state donations, gifts,
7267 devises, or bequests of real or personal property or services to be used as specified by the
7268 donor.
7269 (8) The division shall annually review with each local substance abuse authority and
7270 each local mental health authority the authority's statutory and contract responsibilities
7271 regarding:
7272 (a) use of public funds;
7273 (b) oversight of public funds; and
7274 (c) governance of substance use disorder and mental health programs and services.
7275 (9) The Legislature may refuse to appropriate funds to the division upon the division's

7276 failure to comply with the provisions of this part.
7277 (10) If a local substance abuse authority contacts the division under Subsection
7278 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant
7279 minor, the division shall:
7280 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
7281 capacity to provide the treatment services; or
7282 (b) otherwise ensure that treatment services are made available to the pregnant woman
7283 or pregnant minor.
7284 (11) The division shall employ a school-based mental health specialist to be housed at
7285 the State Board of Education who shall work with the State Board of Education to:
7286 (a) provide coordination between a local education agency and local mental health
7287 authority;
7288 (b) recommend evidence-based and evidence informed mental health screenings and
7289 intervention assessments for a local education agency; and
7290 (c) coordinate with the local community, including local departments of health, to
7291 enhance and expand mental health related resources for a local education agency.
7292 Section 113. Section **63G-2-305** is amended to read:
7293 **63G-2-305. Protected records.**
7294 The following records are protected if properly classified by a governmental entity:
7295 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
7296 has provided the governmental entity with the information specified in Section 63G-2-309;
7297 (2) commercial information or nonindividual financial information obtained from a
7298 person if:
7299 (a) disclosure of the information could reasonably be expected to result in unfair
7300 competitive injury to the person submitting the information or would impair the ability of the
7301 governmental entity to obtain necessary information in the future;
7302 (b) the person submitting the information has a greater interest in prohibiting access
7303 than the public in obtaining access; and
7304 (c) the person submitting the information has provided the governmental entity with
7305 the information specified in Section 63G-2-309;
7306 (3) commercial or financial information acquired or prepared by a governmental entity

7307 to the extent that disclosure would lead to financial speculations in currencies, securities, or
7308 commodities that will interfere with a planned transaction by the governmental entity or cause
7309 substantial financial injury to the governmental entity or state economy;
7310 (4) records, the disclosure of which could cause commercial injury to, or confer a
7311 competitive advantage upon a potential or actual competitor of, a commercial project entity as
7312 defined in Subsection 11-13-103(4);
7313 (5) test questions and answers to be used in future license, certification, registration,
7314 employment, or academic examinations;
7315 (6) records, the disclosure of which would impair governmental procurement
7316 proceedings or give an unfair advantage to any person proposing to enter into a contract or
7317 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
7318 Subsection (6) does not restrict the right of a person to have access to, after the contract or
7319 grant has been awarded and signed by all parties:
7320 (a) a bid, proposal, application, or other information submitted to or by a governmental
7321 entity in response to:
7322 (i) an invitation for bids;
7323 (ii) a request for proposals;
7324 (iii) a request for quotes;
7325 (iv) a grant; or
7326 (v) other similar document; or
7327 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
7328 (7) information submitted to or by a governmental entity in response to a request for
7329 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
7330 the right of a person to have access to the information, after:
7331 (a) a contract directly relating to the subject of the request for information has been
7332 awarded and signed by all parties; or
7333 (b) (i) a final determination is made not to enter into a contract that relates to the
7334 subject of the request for information; and
7335 (ii) at least two years have passed after the day on which the request for information is
7336 issued;
7337 (8) records that would identify real property or the appraisal or estimated value of real

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

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

7400 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
7401 from a member of the Legislature; and
7402 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
7403 legislative action or policy may not be classified as protected under this section; and
7404 (b) (i) an internal communication that is part of the deliberative process in connection
7405 with the preparation of legislation between:
7406 (A) members of a legislative body;
7407 (B) a member of a legislative body and a member of the legislative body's staff; or
7408 (C) members of a legislative body's staff; and
7409 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
7410 legislative action or policy may not be classified as protected under this section;
7411 (20) (a) records in the custody or control of the Office of Legislative Research and
7412 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
7413 legislation or contemplated course of action before the legislator has elected to support the
7414 legislation or course of action, or made the legislation or course of action public; and
7415 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
7416 Office of Legislative Research and General Counsel is a public document unless a legislator
7417 asks that the records requesting the legislation be maintained as protected records until such
7418 time as the legislator elects to make the legislation or course of action public;
7419 (21) research requests from legislators to the Office of Legislative Research and
7420 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
7421 in response to these requests;
7422 (22) drafts, unless otherwise classified as public;
7423 (23) records concerning a governmental entity's strategy about:
7424 (a) collective bargaining; or
7425 (b) imminent or pending litigation;
7426 (24) records of investigations of loss occurrences and analyses of loss occurrences that
7427 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
7428 Uninsured Employers' Fund, or similar divisions in other governmental entities;
7429 (25) records, other than personnel evaluations, that contain a personal recommendation
7430 concerning an individual if disclosure would constitute a clearly unwarranted invasion of

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

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

7493 (I) the institution within the state system of higher education defined in Section
7494 53B-1-102; or
7495 (II) a sponsor of sponsored research;
7496 (iii) unpublished manuscripts;
7497 (iv) creative works in process;
7498 (v) scholarly correspondence; and
7499 (vi) confidential information contained in research proposals;
7500 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
7501 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
7502 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
7503 (41) (a) records in the custody or control of the Office of the Legislative Auditor
7504 General that would reveal the name of a particular legislator who requests a legislative audit
7505 prior to the date that audit is completed and made public; and
7506 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
7507 Office of the Legislative Auditor General is a public document unless the legislator asks that
7508 the records in the custody or control of the Office of the Legislative Auditor General that would
7509 reveal the name of a particular legislator who requests a legislative audit be maintained as
7510 protected records until the audit is completed and made public;
7511 (42) records that provide detail as to the location of an explosive, including a map or
7512 other document that indicates the location of:
7513 (a) a production facility; or
7514 (b) a magazine;
7515 (43) information:
7516 (a) contained in the statewide database of the Division of Aging and Adult Services
7517 created by Section 62A-3-311.1; or
7518 (b) received or maintained in relation to the Identity Theft Reporting Information
7519 System (IRIS) established under Section 67-5-22;
7520 (44) information contained in the Licensing Information System described in Title
7521 62A, Chapter 4a, Child and Family Services;
7522 (45) information regarding National Guard operations or activities in support of the
7523 National Guard's federal mission;

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

7555 kept confidential due to:
7556 (i) the nature of the law, ordinance, rule, or order; and
7557 (ii) the individual complying with the law, ordinance, rule, or order;
7558 (52) the portion of the following documents that contains a candidate's residential or
7559 mailing address, if the candidate provides to the filing officer another address or phone number
7560 where the candidate may be contacted:
7561 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
7562 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
7563 20A-9-408.5, 20A-9-502, or 20A-9-601;
7564 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
7565 (c) a notice of intent to gather signatures for candidacy, described in Section
7566 20A-9-408;
7567 (53) the name, home address, work addresses, and telephone numbers of an individual
7568 that is engaged in, or that provides goods or services for, medical or scientific research that is:
7569 (a) conducted within the state system of higher education, as defined in Section
7570 53B-1-102; and
7571 (b) conducted using animals;
7572 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
7573 Evaluation Commission concerning an individual commissioner's vote on whether or not to
7574 recommend that the voters retain a judge including information disclosed under Subsection
7575 78A-12-203(5)(e);
7576 (55) information collected and a report prepared by the Judicial Performance
7577 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
7578 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
7579 the information or report;
7580 (56) records provided or received by the Public Lands Policy Coordinating Office in
7581 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;
7582 (57) information requested by and provided to the 911 Division under Section
7583 63H-7a-302;
7584 (58) in accordance with Section 73-10-33:
7585 (a) a management plan for a water conveyance facility in the possession of the Division

7586 of Water Resources or the Board of Water Resources; or
7587 (b) an outline of an emergency response plan in possession of the state or a county or
7588 municipality;
7589 (59) the following records in the custody or control of the Office of Inspector General
7590 of Medicaid Services, created in Section 63A-13-201:
7591 (a) records that would disclose information relating to allegations of personal
7592 misconduct, gross mismanagement, or illegal activity of a person if the information or
7593 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
7594 through other documents or evidence, and the records relating to the allegation are not relied
7595 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
7596 report or final audit report;
7597 (b) records and audit workpapers to the extent they would disclose the identity of a
7598 person who, during the course of an investigation or audit, communicated the existence of any
7599 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
7600 regulation adopted under the laws of this state, a political subdivision of the state, or any
7601 recognized entity of the United States, if the information was disclosed on the condition that
7602 the identity of the person be protected;
7603 (c) before the time that an investigation or audit is completed and the final
7604 investigation or final audit report is released, records or drafts circulated to a person who is not
7605 an employee or head of a governmental entity for the person's response or information;
7606 (d) records that would disclose an outline or part of any investigation, audit survey
7607 plan, or audit program; or
7608 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
7609 investigation or audit;
7610 (60) records that reveal methods used by the Office of Inspector General of Medicaid
7611 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
7612 abuse;
7613 (61) information provided to the Department of Health or the Division of
7614 [~~Occupational and~~] Professional Licensing under Subsections 58-67-304(3) and (4) and
7615 Subsections 58-68-304(3) and (4);
7616 (62) a record described in Section 63G-12-210;

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

7648 enforcement, fire protection, paramedic, emergency medical, or other first responder service:
7649 (i) is responding to an individual needing resuscitation or with a life-threatening
7650 condition; and
7651 (ii) uses a device or piece of equipment designed or intended for resuscitating an
7652 individual or for treating an individual with a life-threatening condition; and
7653 (c) intended and used for purposes of training emergency responders how to improve
7654 their response to an emergency situation;
7655 (68) records submitted by or prepared in relation to an applicant seeking a
7656 recommendation by the Research and General Counsel Subcommittee, the Budget
7657 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
7658 employment position with the Legislature;
7659 (69) work papers as defined in Section 31A-2-204;
7660 (70) a record made available to Adult Protective Services or a law enforcement agency
7661 under Section 61-1-206;
7662 (71) a record submitted to the Insurance Department in accordance with Section
7663 31A-37-201;
7664 (72) a record described in Section 31A-37-503;
7665 (73) any record created by the Division of [~~Occupational and~~] Professional Licensing
7666 as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
7667 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
7668 involving an amusement ride;
7669 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
7670 on a political petition, or on a request to withdraw a signature from a political petition,
7671 including a petition or request described in the following titles:
7672 (a) Title 10, Utah Municipal Code;
7673 (b) Title 17, Counties;
7674 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
7675 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
7676 (e) Title 20A, Election Code;
7677 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
7678 a voter registration record;

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

7710 system; or
7711 (iii) give an advantage to another state or to the federal government in negotiations
7712 regarding the use of water in the Colorado River system; and
7713 (83) any part of an application described in Section 63N-16-201 that the Governor's
7714 Office of Economic Opportunity determines is nonpublic, confidential information that if
7715 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may
7716 not be used to restrict access to a record evidencing a final contract or approval decision.
7717 Section 114. Section **63I-1-258** is amended to read:
7718 **63I-1-258. Repeal dates, Title 58.**
7719 (1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July
7720 1, 2026.
7721 [~~(2) Section 58-11a-302.5 is repealed July 1, 2022.~~]
7722 [~~(3)~~] (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
7723 repealed July 1, 2026.
7724 [~~(4)~~] (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1,
7725 2025.
7726 [~~(5)~~] (4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
7727 2028.
7728 [~~(6)~~] (5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of
7729 Legislative Research and General Counsel is authorized to renumber the remaining subsections
7730 accordingly.
7731 [~~(7)~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
7732 [~~2023~~] 2033.
7733 [~~(8)~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
7734 Act, is repealed July 1, 2029.
7735 [~~(9)~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
7736 2025.
7737 [~~(10)~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
7738 repealed July 1, 2023.
7739 [~~(11)~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
7740 2024.

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

7772 (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
7773 Section 19-5-126.
7774 (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in
7775 Section 23-14-13.5.
7776 (12) Award money under the State Asset Forfeiture Grant Program, as provided under
7777 Section 24-4-117.
7778 (13) Funds collected from the program fund for local health department expenses
7779 incurred in responding to a local health emergency under Section 26-1-38.
7780 (14) The Children with Cancer Support Restricted Account created in Section
7781 26-21a-304.
7782 (15) State funds for matching federal funds in the Children's Health Insurance Program
7783 as provided in Section 26-40-108.
7784 (16) The Children with Heart Disease Support Restricted Account created in Section
7785 26-58-102.
7786 (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.
7787 (18) The Technology Development Restricted Account created in Section 31A-3-104.
7788 (19) The Criminal Background Check Restricted Account created in Section
7789 31A-3-105.
7790 (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except
7791 to the extent that Section 31A-3-304 makes the money received under that section free revenue.
7792 (21) The Title Licensee Enforcement Restricted Account created in Section
7793 31A-23a-415.
7794 (22) The Health Insurance Actuarial Review Restricted Account created in Section
7795 31A-30-115.
7796 (23) The Insurance Fraud Investigation Restricted Account created in Section
7797 31A-31-108.
7798 (24) The Underage Drinking Prevention Media and Education Campaign Restricted
7799 Account created in Section 32B-2-306.
7800 (25) The School Readiness Restricted Account created in Section 35A-15-203.
7801 (26) Money received by the Utah State Office of Rehabilitation for the sale of certain
7802 products or services, as provided in Section 35A-13-202.

7803 (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
7804 (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.
7805 (29) The Division of Oil, Gas, and Mining Restricted account created in Section
7806 40-6-23.
7807 (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to
7808 the Motor Vehicle Division.
7809 (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
7810 created by Section 41-3-110 to the State Tax Commission.
7811 (32) The Utah Law Enforcement Memorial Support Restricted Account created in
7812 Section 53-1-120.
7813 (33) The State Disaster Recovery Restricted Account to the Division of Emergency
7814 Management, as provided in Section 53-2a-603.
7815 (34) The Department of Public Safety Restricted Account to the Department of Public
7816 Safety, as provided in Section 53-3-106.
7817 (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
7818 53-8-303.
7819 (36) The DNA Specimen Restricted Account created in Section 53-10-407.
7820 (37) The Canine Body Armor Restricted Account created in Section 53-16-201.
7821 (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.
7822 (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.
7823 (40) A certain portion of money collected for administrative costs under the School
7824 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.
7825 (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
7826 subject to Subsection 54-5-1.5(4)(d).
7827 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
7828 electronic reference library, as provided in Section 58-3a-105.
7829 (43) Certain fines collected by the Division of [~~Occupational and~~] Professional
7830 Licensing for violation of unlawful or unprofessional conduct that are used for education and
7831 enforcement purposes, as provided in Section 58-17b-505.
7832 (44) Funds collected from a surcharge fee to provide certain licensees with access to an
7833 electronic reference library, as provided in Section 58-22-104.

7834 (45) Funds collected from a surcharge fee to provide certain licensees with access to an
7835 electronic reference library, as provided in Section 58-55-106.
7836 (46) Funds collected from a surcharge fee to provide certain licensees with access to an
7837 electronic reference library, as provided in Section 58-56-3.5.
7838 (47) Certain fines collected by the Division of [~~Occupational and~~] Professional
7839 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
7840 provided in Section 58-63-103.
7841 (48) The Relative Value Study Restricted Account created in Section 59-9-105.
7842 (49) The Cigarette Tax Restricted Account created in Section 59-14-204.
7843 (50) Funds paid to the Division of Real Estate for the cost of a criminal background
7844 check for a mortgage loan license, as provided in Section 61-2c-202.
7845 (51) Funds paid to the Division of Real Estate for the cost of a criminal background
7846 check for principal broker, associate broker, and sales agent licenses, as provided in Section
7847 61-2f-204.
7848 (52) Certain funds donated to the Department of Human Services, as provided in
7849 Section 62A-1-111.
7850 (53) The National Professional Men's Basketball Team Support of Women and
7851 Children Issues Restricted Account created in Section 62A-1-202.
7852 (54) Certain funds donated to the Division of Child and Family Services, as provided
7853 in Section 62A-4a-110.
7854 (55) The Choose Life Adoption Support Restricted Account created in Section
7855 62A-4a-608.
7856 (56) Funds collected by the Office of Administrative Rules for publishing, as provided
7857 in Section 63G-3-402.
7858 (57) The Immigration Act Restricted Account created in Section 63G-12-103.
7859 (58) Money received by the military installation development authority, as provided in
7860 Section 63H-1-504.
7861 (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.
7862 (60) The Unified Statewide 911 Emergency Service Account created in Section
7863 63H-7a-304.
7864 (61) The Utah Statewide Radio System Restricted Account created in Section

7865 63H-7a-403.
7866 (62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
7867 (63) The Motion Picture Incentive Account created in Section 63N-8-103.
7868 (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
7869 as provided under Section 63N-10-301.
7870 (65) Funds collected by the housing of state probationary inmates or state parole
7871 inmates, as provided in Subsection 64-13e-104(2).
7872 (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
7873 and State Lands, as provided in Section 65A-8-103.
7874 (67) The Transportation of Veterans to Memorials Support Restricted Account created
7875 in Section 71-14-102.
7876 (68) The Amusement Ride Safety Restricted Account, as provided in Section
7877 72-16-204.
7878 (69) Certain funds received by the Office of the State Engineer for well drilling fines or
7879 bonds, as provided in Section 73-3-25.
7880 (70) The Water Resources Conservation and Development Fund, as provided in
7881 Section 73-23-2.
7882 (71) Funds donated or paid to a juvenile court by private sources, as provided in
7883 Subsection 78A-6-203(1)(c).
7884 (72) Fees for certificate of admission created under Section 78A-9-102.
7885 (73) Funds collected for adoption document access as provided in Sections 78B-6-141,
7886 78B-6-144, and 78B-6-144.5.
7887 (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
7888 Utah Indigent Defense Commission.
7889 (75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in
7890 Section 79-3-403.
7891 (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
7892 Park, and Green River State Park, as provided under Section 79-4-403.
7893 (77) Certain funds received by the Division of State Parks from the sale or disposal of
7894 buffalo, as provided under Section 79-4-1001.
7895 (78) The Drinking While Pregnant Prevention Media and Education Campaign

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

7927 (5) Formal action by the talent subcommittee requires the majority vote of a quorum.
7928 (6) A member of the talent subcommittee:
7929 (a) may not receive compensation or benefits for the member's service; and
7930 (b) who is not a legislator may receive per diem and travel expenses in accordance
7931 with:
7932 (i) Section 63A-3-106;
7933 (ii) Section 63A-3-107; and
7934 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7935 63A-3-107.
7936 (7) The talent subcommittee shall:
7937 (a) (i) review and develop metrics to measure the progress, performance, effectiveness,
7938 and scope of any state operation, activity, program, or service that primarily involves
7939 employment training or placement; and
7940 (ii) ensure that the metrics described in Subsection (7)(a) are consistent and
7941 comparable for each state operation, activity, program, or service that primarily involves
7942 employment training or placement;
7943 (b) make recommendations to the commission regarding how to better align training
7944 and education in the state with industry demand;
7945 (c) make recommendations to the commission regarding how to better align technical
7946 education with current and future workforce needs; and
7947 (d) coordinate with the commission to meet the responsibilities described in Subsection
7948 63N-1b-302(4).
7949 Section 117. Section **76-10-3201** is enacted to read:
7950 **Part 32. Prohibition on Kickbacks**
7951 **76-10-3201. Prohibition on kickbacks.**
7952 (1) As used in this section:
7953 (a) "Kickback or bribe" means a rebate, compensation, or any other form of
7954 remuneration, that is:
7955 (i) direct or indirect;
7956 (ii) overt or covert; or
7957 (iii) in cash or in kind.

7958 (b) "Kickback or bribe" does not include a fee that is:
7959 (i) shared between two or more individuals, each of whom is licensed to practice law;
7960 and
7961 (ii) charged for services provided in the individual's capacity as a licensee described in
7962 Subsection (1)(b)(i).
7963 (2) (a) An actor may not solicit or receive a kickback or bribe in return for the referral
7964 of a person to another person for the furnishing of any good or service that relates to any
7965 insurance claim or a claim for damages.
7966 (b) An actor may not offer or pay a kickback or bribe to induce the referral of a person
7967 to another person for the furnishing of any good or service that relates to any insurance claim or
7968 a claim for damages.
7969 (3) A violation of Subsection (2)(a) or (b) is a third degree felony.
7970 (4) This section does not apply to an individual licensed to practice law when referring,
7971 without compensation, a client for medical treatment or evaluation.
7972 Section 118. Section **78B-3-403** is amended to read:
7973 **78B-3-403. Definitions.**
7974 As used in this part:
7975 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
7976 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.
7977 (2) "Certified social worker" means a person licensed to practice as a certified social
7978 worker under Section 58-60-205.
7979 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
7980 Title 58, Chapter 73, Chiropractic Physician Practice Act.
7981 (4) "Clinical social worker" means a person licensed to practice as a clinical social
7982 worker under Section 58-60-205.
7983 (5) "Commissioner" means the commissioner of insurance as provided in Section
7984 31A-2-102.
7985 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
7986 hygiene as defined in Section 58-69-102.
7987 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined
7988 in Section 58-69-102.

7989 (8) "Division" means the Division of [~~Occupational and~~] Professional Licensing
7990 created in Section 58-1-103.
7991 (9) "Future damages" includes a judgment creditor's damages for future medical
7992 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
7993 suffering.
7994 (10) "Health care" means any act or treatment performed or furnished, or which should
7995 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
7996 during the patient's medical care, treatment, or confinement.
7997 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
7998 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
7999 ambulatory surgical facilities, small health care facilities, health care facilities owned or
8000 operated by health maintenance organizations, and end stage renal disease facilities.
8001 (12) "Health care provider" includes any person, partnership, association, corporation,
8002 or other facility or institution who causes to be rendered or who renders health care or
8003 professional services as a hospital, health care facility, physician, physician assistant, registered
8004 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental
8005 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical
8006 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic
8007 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
8008 speech-language pathologist, clinical social worker, certified social worker, social service
8009 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or
8010 others rendering similar care and services relating to or arising out of the health needs of
8011 persons or groups of persons and officers, employees, or agents of any of the above acting in
8012 the course and scope of their employment.
8013 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
8014 21, Health Care Facility Licensing and Inspection Act.
8015 (14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,
8016 Athletic Trainer Licensing Act.
8017 (15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry
8018 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
8019 58-77-102.

8020 (16) "Licensed practical nurse" means a person licensed to practice as a licensed
8021 practical nurse as provided in Section 58-31b-301.
8022 (17) "Malpractice action against a health care provider" means any action against a
8023 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
8024 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
8025 or which should have been rendered by the health care provider.
8026 (18) "Marriage and family therapist" means a person licensed to practice as a marriage
8027 therapist or family therapist under Sections 58-60-305 and 58-60-405.
8028 (19) "Naturopathic physician" means a person licensed to engage in the practice of
8029 naturopathic medicine as defined in Section 58-71-102.
8030 (20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
8031 under Section 58-44a-301.
8032 (21) "Optometrist" means a person licensed to practice optometry under Title 58,
8033 Chapter 16a, Utah Optometry Practice Act.
8034 (22) "Osteopathic physician" means a person licensed to practice osteopathy under
8035 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
8036 (23) "Patient" means a person who is under the care of a health care provider, under a
8037 contract, express or implied.
8038 (24) "Periodic payments" means the payment of money or delivery of other property to
8039 a judgment creditor at intervals ordered by the court.
8040 (25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section
8041 58-17b-301.
8042 (26) "Physical therapist" means a person licensed to practice physical therapy under
8043 Title 58, Chapter 24b, Physical Therapy Practice Act.
8044 (27) "Physical therapist assistant" means a person licensed to practice physical therapy,
8045 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical
8046 Therapy Practice Act.
8047 (28) "Physician" means a person licensed to practice medicine and surgery under Title
8048 58, Chapter 67, Utah Medical Practice Act.
8049 (29) "Physician assistant" means a person licensed to practice as a physician assistant
8050 under Title 58, Chapter 70a, Utah Physician Assistant Act.

8051 (30) "Podiatric physician" means a person licensed to practice podiatry under Title 58,
8052 Chapter 5a, Podiatric Physician Licensing Act.
8053 (31) "Practitioner of obstetrics" means a person licensed to practice as a physician in
8054 this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68,
8055 Utah Osteopathic Medical Practice Act.
8056 (32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist
8057 Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.
8058 (33) "Registered nurse" means a person licensed to practice professional nursing as
8059 provided in Section 58-31b-301.
8060 (34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother,
8061 child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term
8062 includes relationships that are created as a result of adoption.
8063 (35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact,
8064 person designated to make decisions on behalf of a patient under a medical power of attorney,
8065 or other legal agent of the patient.
8066 (36) "Social service worker" means a person licensed to practice as a social service
8067 worker under Section 58-60-205.
8068 (37) "Speech-language pathologist" means a person licensed to practice
8069 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and
8070 Audiology Licensing Act.
8071 (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or
8072 omission proximately causing injury or damage to another.
8073 (39) "Unanticipated outcome" means the outcome of a medical treatment or procedure
8074 that differs from an expected result.
8075 Section 119. **Repealer.**
8076 This bill repeals:
8077 Section **58-1-101, Short title.**
8078 Section **58-5a-305, License by endorsement.**
8079 Section **58-15-1, Title.**
8080 Section 120. **Revisor instructions.**
8081 The Legislature intends that the Office of Legislative Research and General Counsel, in

8082 preparing the Utah Code database for publication, make the following changes in any new
8083 language added to the Utah Code by legislation passed during the 2022 General Session:
8084 (1) replace "Division of Occupational and Professional Licensing" with "Division of
8085 Professional Licensing"; and
8086 (2) replace "Division of Occupational and Professional Licensing Act" with "Division
8087 of Professional Licensing Act."
8088 Section 121. **Coordinating S.B. 43 with H.B. 176 -- Substantive and technical**
8089 **amendments.**
8090 If this S.B. 43 and H.B. 176, Utah Health Workforce Act, both pass and become law, it
8091 is the intent of the Legislature that on July 1, 2022, the Office of Legislative Research and
8092 General Counsel, in preparing the Utah Code database for publication, modify:
8093 (1) Subsection 26-69-405(2) to read:
8094 "[~~(4)~~] (2) use federal money for necessary administrative expenses to carry out [~~the~~
8095 ~~council's~~] UMEC's duties and powers as permitted by federal law;" and
8096 (2) Subsection 26-69-405(4) to read:
8097 "[~~(6)~~] (4) as is necessary to carry out [~~the council's~~] UMEC's duties under Section
8098 [~~53B24-303: (a) hire employees; and (b)~~] 26-69-404, adopt rules in accordance with Title 63G,
8099 Chapter 3, Utah Administrative Rulemaking Act."