

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ clarifies the purpose of recommendations provided by a professional licensing board to the director of the Division of Professional Licensing (division);
- ▶ authorizes the director of the division to designate certain professional licensing board members to preside over adjudicative proceedings concerning professional licenses;
- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies professional license application requirements regarding proof of identity;
- ▶ allows the division to designate information regarding proof of identity that is included with a professional license application as a private government record;
- ▶ clarifies supervision requirements for a physician assistant performing a cosmetic medical procedure;
- ▶ removes provisions requiring the division to administer a radiology practical technician examination for radiology-related license applicants;
- ▶ modifies penalties for unlawful conduct by a person licensed to engage in a construction trade;
- ▶ removes requirements a licensed advanced practice registered nurse is required to

meet before prescribing or administering a Schedule II controlled substance;

- removes provisions prohibiting the division from issuing or renewing a nurse's license for past criminal convictions;

- modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, and deception detection examiners;

- modifies background check requirements for licensed pharmacies, alarm companies, security car companies, and deception detector examiners;

- grants administrative rulemaking authority; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-108, as last amended by Laws of Utah 2008, Chapter 382

58-1-109, as last amended by Laws of Utah 2016, Chapter 238

58-1-201, as last amended by Laws of Utah 2013, Chapter 262

58-1-202, as last amended by Laws of Utah 2022, Chapter 415

58-1-301, as last amended by Laws of Utah 2022, Chapters 413, 415

58-1-301.5, as last amended by Laws of Utah 2022, Chapters 221, 438 and 466

58-1-501, as last amended by Laws of Utah 2020, Chapters 289, 339

58-1-506, as last amended by Laws of Utah 2016, Chapter 75

58-9-306, as last amended by Laws of Utah 2007, Chapter 144

58-17b-102, as last amended by Laws of Utah 2021, Chapters 127, 340

58-17b-306, as last amended by Laws of Utah 2017, Chapter 384

58-17b-307, as last amended by Laws of Utah 2018, Chapter 318

58 **58-17b-625**, as last amended by Laws of Utah 2021, Chapter 340
59 **58-31b-102**, as last amended by Laws of Utah 2022, Chapter 277
60 **58-31b-302**, as last amended by Laws of Utah 2022, Chapter 277
61 **58-31b-502**, as last amended by Laws of Utah 2022, Chapter 290
62 **58-31b-803**, as last amended by Laws of Utah 2022, Chapter 274
63 **58-53-302**, as last amended by Laws of Utah 2009, Chapter 183
64 **58-54-302**, as last amended by Laws of Utah 2020, Chapter 339
65 **58-55-102**, as last amended by Laws of Utah 2022, Chapters 415, 446
66 **58-55-302**, as last amended by Laws of Utah 2022, Chapter 415
67 **58-55-303**, as last amended by Laws of Utah 2013, Chapter 57
68 **58-55-503**, as last amended by Laws of Utah 2022, Chapter 415
69 **58-63-102**, as last amended by Laws of Utah 2022, Chapter 415
70 **58-63-302**, as last amended by Laws of Utah 2022, Chapter 415
71 **58-64-302**, as last amended by Laws of Utah 2020, Chapters 154, 339

72 ENACTS:

73 **58-55-302.1**, Utah Code Annotated 1953
74 **58-63-302.1**, Utah Code Annotated 1953
75 **58-64-302.1**, Utah Code Annotated 1953

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

78 Section 1. Section **58-1-108** is amended to read:

79 **58-1-108. Adjudicative proceedings.**

80 (1) The division and all boards created under ~~[the authority of]~~ this title, including the
81 members of a board designated under Subsection **58-1-109(3)**, shall comply with the
82 procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G,
83 Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by
84 Subsection **63G-4-103(1)**.

85 (2) Before proceeding under Section **63G-4-502**, the division shall review the proposed

86 action with a committee of no less than three licensees appointed by the chairman of the
87 licensing board created under this title for the profession of the person against whom the action
88 is proposed.

89 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning
90 or final disposition letter which does not constitute disciplinary action against the addressee,
91 issued in response to a complaint of unprofessional or unlawful conduct under this title, does
92 not constitute an adjudicative proceeding.

93 Section 2. Section **58-1-109** is amended to read:

94 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
95 **orders -- Appeal of orders.**

96 (1) (a) Unless otherwise specified by statute or rule made in accordance with Title 63G,
97 Chapter 3, Utah Administrative Rulemaking Act, the presiding officer for adjudicative
98 proceedings before the division [~~shall be~~] is the director. [~~However, pursuant to~~]

99 (b) Under Title 63G, Chapter 4, Administrative Procedures Act, the director may
100 designate in writing an individual or body of individuals to act as presiding officer to conduct
101 or [to] assist the director in conducting any part or all of an adjudicative proceeding.

102 (2) Unless otherwise specified by the director, an administrative law judge shall be
103 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
104 with Subsection 63G-4-102(4), Sections 63G-4-204 through 63G-4-207, and 63G-4-209.

105 (3) (a) Unless otherwise specified by the director, the licensing board of the
106 [~~occupation or~~] profession that is the subject of the proceedings shall be designated as the
107 presiding officer to serve as fact finder at the evidentiary hearing in a formal adjudicative
108 proceeding.

109 (b) (i) If the licensing board is composed of seven or more members, the director may
110 designate any odd number of board members to represent the licensing board as the presiding
111 officer under Subsection (3)(a).

112 (ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board
113 members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to

114 act as the presiding officer.

115 (4) (a) At the close of an evidentiary hearing in an adjudicative proceeding, unless
116 otherwise specified by the director, the presiding officer who served as the fact finder at the
117 hearing shall issue a recommended order based ~~[upon]~~ on the record developed at the hearing
118 determining all issues pending before the division.

119 (b) If the director designates certain licensing board members under Subsection (3)(b)
120 to represent the licensing board described in Subsection (3)(a), the person who is aggrieved by
121 the designated board members' recommended order may petition the licensing board to review
122 the designated board members' recommended order.

123 (c) The licensing board shall issue a recommended order based on the review under
124 Subsection (4)(b) that shall become the recommended order of the presiding officer.

125 (5) (a) (i) The director shall issue a final order affirming the recommended order or
126 modifying or rejecting all or any part of the recommended order and entering new findings of
127 fact, conclusions of law, statement of reasons, and order based ~~[upon]~~ on the director's personal
128 attendance at the hearing or a review of the record developed at the hearing.

129 (ii) Before modifying or rejecting a recommended order, the director shall consult with
130 the presiding officer who issued the recommended order.

131 (b) (i) If the director issues a final order modifying or rejecting a recommended order,
132 the licensing board of the ~~[occupation or]~~ profession that is the subject of the proceeding may,
133 by a two-thirds majority vote of all board members, petition the executive director or designee
134 within the department to review the director's final order.

135 (ii) The executive director's decision shall become the final order of the division.

136 (c) This ~~[subsection]~~ Subsection (5) does not limit the right of the parties to appeal the
137 director's final order by filing a request for agency review under Subsection (8).

138 (6) If the director is unable for any reason to rule ~~[upon]~~ on a recommended order of a
139 presiding officer, the director may designate another person within the division to issue a final
140 order.

141 (7) If the director or the director's designee does not initiate additional fact finding or

142 issue a final order within 20 calendar days after the ~~[date of the]~~ day on which the
143 recommended order of the presiding officer is issued, the recommended order becomes the
144 final order of the director or the director's designee.

145 (8) The final order of the director may be appealed by filing a request for agency
146 review with the executive director or the executive director's designee within the department.

147 (9) The content of all orders shall comply with the requirements of Subsection
148 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

149 Section 3. Section **58-1-201** is amended to read:

150 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**
151 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**
152 **professional school that teaches continuing education prohibited.**

153 (1) (a) (i) The executive director shall appoint the members of the boards established
154 under this title.

155 (ii) In appointing ~~[these]~~ the board members the executive director shall give
156 consideration to recommendations by members of the respective ~~[occupations and professions~~
157 ~~and by their]~~ professions and the professions' organizations.

158 (b) Each board shall be composed of five members, four of whom ~~[shall be]~~ are
159 licensed or certified practitioners in good standing of the ~~[occupation or]~~ profession the board
160 represents, and one of whom ~~[shall be]~~ is a member of the general public, unless otherwise
161 provided under the specific licensing chapter.

162 (c) (i) The name of each ~~[person]~~ individual appointed to a board shall be submitted to
163 the governor for confirmation or rejection.

164 (ii) If an appointee is rejected by the governor, the executive director shall appoint
165 another ~~[person]~~ individual in the same manner as set forth in Subsection (1)(a).

166 (2) (a) (i) Except as required by Subsection (2)(b), as terms of current board members
167 expire, the executive director shall appoint each new board member or reappointed board
168 member to a four-year term.

169 (ii) Upon the expiration of the term of a board member, the board member shall

continue to serve until a successor is appointed, but for a period not to exceed six months from the expiration date of the board member's term.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A board member may not serve more than two consecutive terms, and a board member who ceases to serve on a board may not serve again on that board until after the expiration of a two-year period beginning from that cessation of service.

(d) (i) When a vacancy occurs in the board membership for any reason, the replacement shall be appointed for the unexpired term.

(ii) After filling that term, the replacement board member may be appointed for only one additional full term.

(e) The director, with the approval of the executive director, may remove a board member and replace the board member in accordance with this section for the following reasons:

(i) the board member fails or refuses to fulfill the responsibilities and duties of a board member, including attendance at board meetings;

(ii) the board member engages in unlawful or unprofessional conduct; or

(iii) if appointed to the board position as a licensed member of the board, the board member fails to maintain a license that is active and in good standing.

(3) (a) A majority of the board members constitutes a quorum.

(b) [A] Except as provided in Subsection [58-1-109\(3\)](#), a quorum is sufficient authority for the board to act.

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

(a) Section [63A-3-106](#);

(b) Section [63A-3-107](#); and

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

(5) Each board shall annually designate one of ~~[its]~~ the board's members to serve as chair for a one-year period.

(6) A board member may not be a member of the faculty of, or have a financial interest in, a vocational or professional college or school that provides continuing education to any licensee if that continuing education is required by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section **58-1-202** is amended to read:

58-1-202. Boards -- Duties, functions, and responsibilities.

(1) ~~[The]~~ Except as provided in Subsection (2), the duties, functions, and responsibilities of each board established under this title include the following:

(a) recommending to the director appropriate rules and statutory changes to improve the health, safety, and financial welfare of the public, including changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce;

(b) recommending to the director policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) screening applicants and recommending licensing, renewal, reinstatement, and relicensure actions to the director in writing;

(e) assisting the director in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the ~~[occupation or]~~ profession ~~[it]~~ the board represents; and

(f) in accordance with Section 58-1-109, acting as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the director.

(2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(3) (a) Each board or commission established under this title may recommend to the

appropriate legislative committee whether the board or commission supports a change to a licensing act.

(b) This Subsection (3) does not:

(i) require a board's approval to amend a practice act; ~~and~~ or

(ii) apply to technical or clarifying amendments to a practice act.

Section 5. Section **58-1-301** is amended to read:

58-1-301. License application -- Licensing procedure.

(1) (a) Each license applicant shall apply to the division in writing upon forms available from the division.

(b) Each completed application shall:

(i) contain documentation of the particular qualifications required of the applicant under this title or rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) include the applicant's:

(A) full legal name; and

(B) social security number, or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) be verified by the applicant; and

(iv) be accompanied by the appropriate fees.

(c) An applicant's social security number is a private record under Subsection **63G-2-302(1)(i)**.

(d) The division may designate an applicant's evidence of identity under Subsection (1)(b)(ii)(B) as a private record in accordance with Section **63G-2-302**.

(2) (a) The division shall issue a license to an applicant who submits a complete application if the division determines that the applicant meets the qualifications of licensure.

(b) The division shall provide a written notice of additional proceedings to an applicant who submits a complete application, but who has been, is, or will be placed under investigation

by the division for conduct directly bearing upon the applicant's qualifications for licensure, if the outcome of additional proceedings is required to determine the division's response to the application.

(c) The division shall provide a written notice of denial of licensure to an applicant who submits a complete application if the division determines that the applicant does not meet the qualifications of licensure.

(d) The division shall provide a written notice of incomplete application and conditional denial of licensure to an applicant who submits an incomplete application, which notice shall advise the applicant that the application is incomplete and that the application is denied, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all qualifications for licensure.

(3) The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an applicant meets all requirements for a specific license, the division shall issue the license to the applicant.

(5) (a) As used in this Subsection (5):

(i) (A) "Competency-based licensing requirement" means a practical assessment of knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation or profession regulated by this title, and which the director determines is at least as effective as a time-based licensing requirement at demonstrating proficiency and protecting the health and safety of the public.

(B) "Competency-based licensing requirement" may include any combination of training, experience, testing, or observation.

(ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks, months, or years of education, training, supervised training, or other experience that an applicant for licensure under this title is required to complete before receiving a license under this title.

(B) "Time-based licensing requirement" does not include an associate degree, a bachelor's degree, or a graduate degree from an accredited institution of higher education.

(b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title that has a time-based licensing requirement, the director, after consultation with the appropriate board, may by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement.

(c) If a time-based licensing requirement involves a program that must be approved or accredited by a specific entity or board, the director may only allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement under Subsection (5)(b) if the competency-based requirement is approved or accredited by the specific entity or board as a replacement or alternative to the time-based licensing requirement.

Section 6. Section **58-1-301.5** is amended to read:

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

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

(a) ~~[Section]~~ Sections [58-17b-306](#) and [58-17b-307](#);

(b) Sections [58-24b-302](#) and [58-24b-302.1](#);

(c) Section [58-31b-302](#);

(d) Sections [58-42a-302](#) and [58-42a-302.1](#), of Chapter 42a, Occupational Therapy Practice Act;

(e) Section [58-44a-302.1](#);

(f) Section [58-47b-302](#);

(g) Section [58-55-302](#), as Section [58-55-302](#) applies to alarm companies and alarm company agents, and Section [58-55-302.1](#);

(h) Sections [58-60-103.1](#), [58-60-205](#), [58-60-305](#), and [58-60-405](#), of Chapter 60, Mental Health Professional Practice Act;

(i) Sections [58-61-304](#) and [58-61-304.1](#);

(j) ~~[Section]~~ Sections [58-63-302](#) and [58-63-302.1](#);

(k) ~~[Section]~~ Sections [58-64-302](#) and [58-64-302.1](#);

(l) Sections [58-67-302](#) and [58-67-302.1](#); and

(m) Sections [58-68-302](#) and [58-68-302.1](#).

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

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

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

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

Section 7. Section **58-1-501** is amended to read:

58-1-501. Unlawful and unprofessional conduct.

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

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

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

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

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

(ii) for a licensee who has had a license under this title reinstated following disciplinary

338 action, practicing the same [~~occupation or~~] profession using a different name than the name
339 used before the disciplinary action, except as permitted by law and after notice to, and approval
340 by, the division;

341 (c) knowingly employing any other person to practice or engage in or attempt to
342 practice or engage in any [~~occupation or~~] profession licensed under this title if the employee is
343 not licensed to do so under this title;

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

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

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

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

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

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

363 (g) aiding or abetting any other person to violate any statute, rule, or order regulating
364 [~~an occupation or~~] a profession under this title.

365 (2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined

as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating any statute, rule, or order regulating ~~[an occupation or]~~ a profession under this title;

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

(c) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime ~~[of moral turpitude or any other crime]~~ that, when considered with the functions and duties of the ~~[occupation or]~~ profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the ~~[occupation or]~~ profession;

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

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

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

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

(h) practicing or attempting to practice ~~[an occupation or]~~ a profession requiring

licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

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

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

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

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

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

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

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

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

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

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

(4) The following are not evidence of engaging in unprofessional conduct under

Subsection (2)(c):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act ~~[pursuant to]~~ under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony ~~[pursuant to]~~ under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

Section 8. Section **58-1-506** is amended to read:

58-1-506. Supervision of cosmetic medical procedures.

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting ~~[under the supervision of a physician and the procedure is included in the delegation of services agreement as defined in Section 58-70a-102]~~ in accordance with Chapter 70a, Utah Physician Assistant Act;

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

(e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.

(f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised; and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair

removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall ~~[be supervised as provided in]~~ act in accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

- (F) infection control;
- (G) laser and light physics training;
- (H) laser technologies and applications;
- (I) safety and maintenance of lasers;
- (J) cosmetic medical procedures an individual is permitted to perform under this title;
- (K) recognition and appropriate management of complications from a procedure; and
- (L) cardiopulmonary resuscitation (CPR).

(3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2):

(a) a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting ~~[under the supervision of a physician, with the procedure included in the delegation of service agreement as defined in Section 58-70a-102]~~ in accordance with Chapter 70a, Utah Physician Assistant Act, who has an unrestricted license to practice as a physician assistant, shall:

(i) develop a treatment plan for the nonablative cosmetic medical procedure; and

(ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of a treatment protocol or series of treatments; and

(b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:

(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;

(ii) refer a patient with any such condition to a physician for treatment or further evaluation; and

(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who has evaluated the patient; and

(c) the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;

(B) authorize and provide supervision as provided in Chapter 70a, Utah Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant~~[, if the procedure is included in the delegation of services agreement];~~ or

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(c):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

(4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

(5) Failure to comply with the provisions of this section is unprofessional conduct.

(6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 9. Section **58-9-306** is amended to read:

58-9-306. License by endorsement.

The division may issue a license by endorsement under this chapter to a person who:

(1) provides documentation that the funeral service director's current licensure is active, in good standing, and free from any disciplinary action;

(2) submits an application on a form provided by the division;

(3) pays a fee determined by the department;

(4) ~~[is of good moral character in that the person]~~ has not been convicted of:

(a) a first or second degree felony; or

~~[(b) a misdemeanor involving moral turpitude; or]~~

~~[(c)]~~ (b) ~~[any other]~~ crime that when considered with the duties and responsibilities of the license for which the person is applying is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(5) has completed five years of lawful and active practice as a licensed funeral service director and embalmer within the 10 years immediately preceding the application for licensure by endorsement;

(6) has passed a national examination determined by the division; and

(7) has demonstrated competency of the laws and the rules of the state as determined by the division.

Section 10. Section **58-17b-102** is amended to read:

58-17b-102. Definitions.

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

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a

prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a

dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

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

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or

702 dispensing.

703 (26) (a) "Drug" means:

704 (i) a substance recognized in the official United States Pharmacopoeia, official
705 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
706 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
707 prevention of disease in humans or animals;

708 (ii) a substance that is required by any applicable federal or state law or rule to be
709 dispensed by prescription only or is restricted to administration by practitioners only;

710 (iii) a substance other than food intended to affect the structure or any function of the
711 body of humans or other animals; and

712 (iv) substances intended for use as a component of any substance specified in
713 Subsections (26)(a)(i), (ii), (iii), and (iv).

714 (b) "Drug" does not include dietary supplements.

715 (27) "Drug regimen review" includes the following activities:

716 (a) evaluation of the prescription drug order and patient record for:

717 (i) known allergies;

718 (ii) rational therapy-contraindications;

719 (iii) reasonable dose and route of administration; and

720 (iv) reasonable directions for use;

721 (b) evaluation of the prescription drug order and patient record for duplication of
722 therapy;

723 (c) evaluation of the prescription drug order and patient record for the following
724 interactions:

725 (i) drug-drug;

726 (ii) drug-food;

727 (iii) drug-disease; and

728 (iv) adverse drug reactions; and

729 (d) evaluation of the prescription drug order and patient record for proper utilization,

including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available

products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility

814 has not produced, manufactured, compounded, or dispensed.

815 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
816 facility carrying out the following business activities:

817 (i) intracompany sales;

818 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
819 purchase, or trade a prescription drug or device, if the activity is carried out between one or
820 more of the following entities under common ownership or common administrative control, as
821 defined by division rule:

822 (A) hospitals;

823 (B) pharmacies;

824 (C) chain pharmacy warehouses, as defined by division rule; or

825 (D) other health care entities, as defined by division rule;

826 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
827 purchase, or trade a prescription drug or device, for emergency medical reasons, including
828 supplying another pharmaceutical facility with a limited quantity of a drug, if:

829 (A) the facility is unable to obtain the drug through a normal distribution channel in
830 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
831 obtaining the drug; and

832 (B) the quantity of the drug does not exceed an amount reasonably required for
833 immediate dispensing to eliminate the risk of harm;

834 (iv) the distribution of a prescription drug or device as a sample by representatives of a
835 manufacturer; and

836 (v) the distribution of prescription drugs, if:

837 (A) the facility's total distribution-related sales of prescription drugs does not exceed
838 5% of the facility's total prescription drug sales; and

839 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

840 (48) "Pharmacist" means an individual licensed by this state to engage in the practice
841 of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

(b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

(c) an individual who manages the facility in which a licensed pharmacy is located;

(d) an individual who oversees the operations of a licensed pharmacy;

(e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

(f) another operations or site manager of a licensed pharmacy.

(55) "Pharmacy technician training program" means an approved technician training

program providing education for pharmacy technicians.

~~[(55)]~~ (56) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule;

or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

~~[(56)]~~ (57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

~~[(57)]~~ (58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device

is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act; and

(o) issuing a prescription in accordance with Section [58-17b-627](#).

~~[(58)]~~ (59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

~~[(59)]~~ (60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

~~[(60)]~~ (61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

~~[(61)]~~ (62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

~~[(62)]~~ (63) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

~~[(63)]~~ (64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

~~[(64)]~~ (65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

~~[(65)]~~ (66) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection ~~[(65)(a)]~~ (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

~~[(66)]~~ (67) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription

954 device;

955 (c) that uses the controlled substance, prescription drug, or prescription device in
956 accordance with standard research protocols and techniques, including, if required, those
957 approved by an institutional review committee; and

958 (d) that includes any documentation required for the conduct of the research and the
959 handling of the controlled substance, prescription drug, or prescription device.

960 ~~[(67)]~~ (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription
961 drugs and devices to the general public.

962 ~~[(68)]~~ (69) (a) "Self-administered hormonal contraceptive" means a self-administered
963 hormonal contraceptive that is approved by the United States Food and Drug Administration to
964 prevent pregnancy.

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

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

969 ~~[(69)]~~ (70) "Self-audit" means an internal evaluation of a pharmacy to determine
970 compliance with this chapter.

971 ~~[(70)]~~ (71) "Supervising pharmacist" means a pharmacist who is overseeing the
972 operation of the pharmacy during a given day or shift.

973 ~~[(71)]~~ (72) "Supportive personnel" means unlicensed individuals who:

974 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
975 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
976 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
977 those duties may be further defined by division rule adopted in collaboration with the board;
978 and

979 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
980 collaboration with the board.

981 ~~[(72)]~~ (73) "Unlawful conduct" means the same as that term is defined in Sections

58-1-501 and 58-17b-501.

~~[(73)]~~ (74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

~~[(74)]~~ (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 11. Section 58-17b-306 is amended to read:

58-17b-306. Qualifications for licensure as a pharmacy.

(1) Each applicant for licensure under this section, except for those applying for a class D license, shall:

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

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

(c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant have not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity engaged in by the licensee, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration;

(e) maintain operating standards established by division rule made in collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint background check in accordance with Section 58-17b-307; and

~~[(f)]~~ (g) acknowledge the division's authority to inspect the licensee's business premises pursuant to Section 58-17b-103.

(2) Each applicant applying for a class D license shall:

- 1010 (a) submit a written application in the form prescribed by the division;
- 1011 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 1012 (c) present to the division verification of licensure in the state where physically located
1013 and verification that such license is in good standing;
- 1014 (d) satisfy the division that the applicant and each of the applicant's pharmacy
1015 managers has not engaged in any act, practice, or omission, which when considered with the
1016 duties and responsibilities of a licensee under this section, indicates there is cause to believe
1017 that issuing a license to the applicant is inconsistent with the interest of the public's health,
1018 safety, or welfare;
- 1019 (e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint
1020 background check in accordance with Section [58-17b-307](#);
- 1021 ~~[(d)]~~ (f) provide a statement of the scope of pharmacy services that will be provided
1022 and a detailed description of the protocol as described by rule by which pharmacy care will be
1023 provided, including any collaborative practice arrangements with other health care
1024 practitioners;
- 1025 ~~[(e)]~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the
1026 applicant and physically located in Utah have the appropriate license issued by the division and
1027 in good standing;
- 1028 ~~[(f)]~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws
1029 and regulations of the jurisdiction in which the pharmacy is located; and
- 1030 ~~[(g)]~~ (i) if an applicant engages in compounding, submit the most recent inspection
1031 report:
- 1032 (i) conducted within two years before the application for licensure; and
- 1033 (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified
1034 Pharmacy Program; or
- 1035 (B) performed by the state licensing agency of the state in which the applicant is a
1036 resident and in accordance with the National Association of Boards of Pharmacy multistate
1037 inspection blueprint program.

(3) Each license issued under this section shall be issued for a single, specific address, and is not transferable or assignable.

Section 12. Section **58-17b-307** is amended to read:

58-17b-307. Qualification for licensure -- Criminal background checks.

(1) An individual applicant for licensure under this chapter shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) in accordance with this section and requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a fingerprint background check regarding the application conducted by the:

(i) Utah Bureau of Criminal Identification; and

(ii) Federal Bureau of Investigation.

(2) An applicant for licensure as a pharmacy under this chapter shall submit the information described in Subsection (1) for each of the applicant's pharmacy managers.

~~[(2)]~~ (3) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records, a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each ~~[applicant]~~ individual who requires a background check under this section.

~~[(3)]~~ (4) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

~~[(4)]~~ (5) For purposes of conducting the criminal background check required in Subsection (1), the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

~~[(5)]~~ (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician license issued under this section is conditional, pending completion of the criminal background ~~[check]~~ checks.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection ~~[(1)]~~ (1) discloses that the applicant or the applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

~~[(6)]~~ (7) (a) A person whose conditional license has been revoked under Subsection ~~[(5)]~~ (6) is entitled to a postrevocation hearing to challenge the revocation.

(b) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

~~[(7)]~~ (8) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 13. Section **58-17b-625** is amended to read:

58-17b-625. Administration of a long-acting injectable and naloxone.

(1) A pharmacist may, in accordance with this section, administer a drug described in Subsection (2).

(2) Notwithstanding the provisions of Subsection ~~[58-17b-102(57)(c)(ii)(B)]~~

1094 [58-17b-102](#)(58)(c)(ii)(B), the division shall make rules in collaboration with the board and,
1095 when appropriate, the Physicians Licensing Board created in Section [58-67-201](#), and in
1096 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
1097 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1098 (3) A pharmacist may not administer naloxone or a long-acting injectable
1099 intramuscularly unless the pharmacist:

1100 (a) completes the training described in Subsection (2);

1101 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
1102 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
1103 Administrative Rulemaking Act; and

1104 (c) is directed by the physician, as that term is defined in Section [58-67-102](#) or Section
1105 [58-68-102](#), who issues the prescription to administer the drug.

1106 Section 14. Section **58-31b-102** is amended to read:

1107 **58-31b-102. Definitions.**

1108 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

1109 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
1110 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
1111 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
1112 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
1113 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1114 (2) "Applicant" means an individual who applies for licensure or certification under
1115 this chapter by submitting a completed application for licensure or certification and the
1116 required fees to the department.

1117 (3) "Approved education program" means a nursing education program that is
1118 accredited by an accrediting body for nursing education that is approved by the United States
1119 Department of Education.

1120 (4) "Board" means the Board of Nursing created in Section [58-31b-201](#).

1121 (5) "Diagnosis" means the identification of and discrimination between physical and

1122 psychosocial signs and symptoms essential to the effective execution and management of
1123 health care.

1124 (6) "Examinee" means an individual who applies to take or does take any examination
1125 required under this chapter for licensure.

1126 (7) "Licensee" means an individual who is licensed or certified under this chapter.

1127 (8) "Long-term care facility" means any of the following facilities licensed by the
1128 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
1129 Inspection Act:

1130 (a) a nursing care facility;

1131 (b) a small health care facility;

1132 (c) an intermediate care facility for people with an intellectual disability;

1133 (d) an assisted living facility Type I or II; or

1134 (e) a designated swing bed unit in a general hospital.

1135 (9) "Medication aide certified" means a certified nurse aide who:

1136 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

1137 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
1138 that is approved by the division in collaboration with the board, in administering routine
1139 medications to patients or residents of long-term care facilities; and

1140 (c) is certified by the division as a medication aide certified.

1141 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
1142 under the supervision, as defined by the division by rule made in accordance with Title 63G,
1143 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
1144 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
1145 an individual who:

1146 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
1147 disability; and

1148 (ii) is in a regulated long-term care facility.

1149 (b) "Practice as a medication aide certified":

- 1150 (i) includes:
- 1151 (A) providing direct personal assistance or care; and
- 1152 (B) administering routine medications to patients in accordance with a formulary and
- 1153 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
- 1154 Utah Administrative Rulemaking Act; and
- 1155 (ii) does not include assisting a resident of an assisted living facility, a long term care
- 1156 facility, or an intermediate care facility for people with an intellectual disability to self
- 1157 administer a medication, as regulated by the Department of Health by rule made in accordance
- 1158 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1159 (11) "Practice of advanced practice registered nursing" means the practice of nursing
- 1160 within the generally recognized scope and standards of advanced practice registered nursing as
- 1161 defined by rule and consistent with professionally recognized preparation and education
- 1162 standards of an advanced practice registered nurse by a person licensed under this chapter as an
- 1163 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:
- 1164 (a) maintenance and promotion of health and prevention of disease;
- 1165 (b) diagnosis, treatment, correction, consultation, and referral;
- 1166 (c) prescription or administration of prescription drugs or devices including:
- 1167 (i) local anesthesia;
- 1168 (ii) Schedule III-V controlled substances; and
- 1169 (iii) ~~Subject to Section 58-31b-803,~~ Schedule II controlled substances; or
- 1170 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
- 1171 related services upon the request of a licensed health care professional by an advanced practice
- 1172 registered nurse specializing as a certified registered nurse anesthetist, including:
- 1173 (i) preanesthesia preparation and evaluation including:
- 1174 (A) performing a preanesthetic assessment of the patient;
- 1175 (B) ordering and evaluating appropriate lab and other studies to determine the health of
- 1176 the patient; and
- 1177 (C) selecting, ordering, or administering appropriate medications;

- 1178 (ii) anesthesia induction, maintenance, and emergence, including:
1179 (A) selecting and initiating the planned anesthetic technique;
1180 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
1181 (C) administering general, regional, and local anesthesia;
- 1182 (iii) postanesthesia follow-up care, including:
1183 (A) evaluating the patient's response to anesthesia and implementing corrective
1184 actions; and
1185 (B) selecting, ordering, or administering the medications and studies listed in this
1186 Subsection (11)(d);
- 1187 (iv) other related services within the scope of practice of a certified registered nurse
1188 anesthetist, including:
1189 (A) emergency airway management;
1190 (B) advanced cardiac life support; and
1191 (C) the establishment of peripheral, central, and arterial invasive lines; and
1192 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
1193 professional":
1194 (A) means a health care professional practicing within the scope of the health care
1195 professional's license, requests anesthesia services for a specific patient; and
1196 (B) does not require an advanced practice registered nurse specializing as a certified
1197 registered nurse anesthetist to obtain additional authority to select, administer, or provide
1198 preoperative, intraoperative, or postoperative anesthesia care and services.
- 1199 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
1200 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
1201 responses to care and treatment, and requires substantial specialized or general knowledge,
1202 judgment, and skill based upon principles of the biological, physical, behavioral, and social
1203 sciences. "Practice of nursing" includes:
1204 (a) initiating and maintaining comfort measures;
1205 (b) promoting and supporting human functions and responses;

1206 (c) establishing an environment conducive to well-being;
1207 (d) providing health counseling and teaching;
1208 (e) collaborating with health care professionals on aspects of the health care regimen;
1209 (f) performing delegated procedures only within the education, knowledge, judgment,
1210 and skill of the licensee;

1211 (g) delegating nursing tasks that may be performed by others, including an unlicensed
1212 assistive personnel; and

1213 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
1214 the individual performs the task.

1215 (13) "Practice of practical nursing" means the performance of nursing acts in the
1216 generally recognized scope of practice of licensed practical nurses as defined by division rule
1217 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
1218 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
1219 practical nurse and under the direction of a registered nurse, licensed physician, or other
1220 specified health care professional as defined by division rule made in accordance with Title
1221 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

1222 (a) contributing to the assessment of the health status of individuals and groups;
1223 (b) participating in the development and modification of the strategy of care;
1224 (c) implementing appropriate aspects of the strategy of care;
1225 (d) maintaining safe and effective nursing care rendered to a patient directly or
1226 indirectly; and
1227 (e) participating in the evaluation of responses to interventions.

1228 (14) "Practice of registered nursing" means performing acts of nursing as provided in
1229 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
1230 the generally recognized scope of practice of registered nurses as defined by division rule made
1231 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
1232 nursing acts include:

1233 (a) assessing the health status of individuals and groups;

- 1234 (b) identifying health care needs;
1235 (c) establishing goals to meet identified health care needs;
1236 (d) planning a strategy of care;
1237 (e) prescribing nursing interventions to implement the strategy of care;
1238 (f) implementing the strategy of care;
1239 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
1240 indirectly;
1241 (h) evaluating responses to interventions;
1242 (i) teaching the theory and practice of nursing; and
1243 (j) managing and supervising the practice of nursing.
1244 (15) "Registered nurse apprentice" means an individual licensed under Subsection
1245 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the
1246 indirect supervision of an individual licensed under:
1247 (a) Subsection 58-31b-301(2)(c), (e), or (f);
1248 (b) Chapter 67, Utah Medical Practice Act; or
1249 (c) Chapter 68, Utah Osteopathic Medical Practice Act.
1250 (16) "Routine medications":
1251 (a) means established medications administered to a medically stable individual as
1252 determined by a licensed health care practitioner or in consultation with a licensed medical
1253 practitioner; and
1254 (b) is limited to medications that are administered by the following routes:
1255 (i) oral;
1256 (ii) sublingual;
1257 (iii) buccal;
1258 (iv) eye;
1259 (v) ear;
1260 (vi) nasal;
1261 (vii) rectal;

- (viii) vaginal;
- (ix) skin ointments, topical including patches and transdermal;
- (x) premeasured medication delivered by aerosol/nebulizer; and
- (xi) medications delivered by metered hand-held inhalers.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 15. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

- (1) An applicant for certification as a medication aide shall:
- (a) submit an application to the division on a form prescribed by the division;
- (b) pay a fee to the division as determined under Section 63J-1-504;
- (c) have a high school diploma or its equivalent;
- (d) have a current certification as a nurse aide, in good standing, from the Department of Health and Human Services;
- (e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility;
- (f) obtain letters of recommendation from a long-term care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;
- (g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

1290 (h) have completed an approved education program or an equivalent as determined by
1291 the division in collaboration with the board;

1292 (i) have passed the examinations as required by division rule made in collaboration
1293 with the board; and

1294 (j) meet with the board, if requested, to determine the applicant's qualifications for
1295 certification.

1296 (2) An applicant for licensure as a licensed practical nurse shall:

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

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

1299 (c) have a high school diploma or its equivalent;

1300 (d) be in a condition of physical and mental health that will permit the applicant to
1301 practice safely as a licensed practical nurse;

1302 (e) have completed an approved practical nursing education program or an equivalent
1303 as determined by the board;

1304 (f) have passed the examinations as required by division rule made in collaboration
1305 with the board; and

1306 (g) meet with the board, if requested, to determine the applicant's qualifications for
1307 licensure.

1308 (3) An applicant for a registered nurse apprentice license shall:

1309 (a) submit to the division an application form prescribed by the division;

1310 (b) pay to the division a fee determined under Section 63J-1-504;

1311 (c) have a high school diploma or its equivalent;

1312 (d) be in a condition of physical and mental health that will allow the applicant to
1313 practice safely as a registered nurse apprentice;

1314 (e) as determined by an approved registered nursing education program, be:

1315 (i) in good standing with the program; and

1316 (ii) in the last semester, quarter, or competency experience;

1317 (f) have written permission from the program in which the applicant is enrolled; and

1318 (g) meet with the board, if requested, to determine the applicant's qualifications for
1319 licensure.

1320 (4) An applicant for licensure as a registered nurse shall:

1321 (a) submit to the division an application form prescribed by the division;

1322 (b) pay to the division a fee determined under Section 63J-1-504;

1323 (c) have a high school diploma or its equivalent;

1324 (d) be in a condition of physical and mental health that will allow the applicant to
1325 practice safely as a registered nurse;

1326 (e) have completed an approved registered nursing education program;

1327 (f) have passed the examinations as required by division rule made in collaboration
1328 with the board; and

1329 (g) meet with the board, if requested, to determine the applicant's qualifications for
1330 licensure.

1331 (5) Applicants for licensure as an advanced practice registered nurse shall:

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

1333 (b) pay to the division a fee determined under Section 63J-1-504;

1334 (c) be in a condition of physical and mental health which will allow the applicant to
1335 practice safely as an advanced practice registered nurse;

1336 (d) hold a current registered nurse license in good standing issued by the state or be
1337 qualified at the time for licensure as a registered nurse;

1338 (e) (i) have earned a graduate degree in:

1339 (A) an advanced practice registered nurse nursing education program; or

1340 (B) a related area of specialized knowledge as determined appropriate by the division
1341 in collaboration with the board; or

1342 (ii) have completed a nurse anesthesia program in accordance with Subsection

1343 (5)(f)(ii);

1344 (f) have completed:

1345 (i) course work in patient assessment, diagnosis and treatment, and

pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(6) For each applicant for licensure or certification under this chapter except an applicant under Subsection 58-31b-301(2)(b):

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;

(b) the division shall:

(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprint card and the fees described in this

Subsection (6)(b) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and

(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(i) check the fingerprints submitted under Subsection (6)(b) against the applicable state and regional criminal records databases;

(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(7) For purposes of conducting the criminal background checks required in Subsection (6), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(8) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked upon notice to the licensee by the division.

(b) (i) An individual whose conditional license or certification has been revoked under Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

(ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(9) If an individual has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, ~~[the individual is disqualified for licensure under this~~

~~chapter and:~~(a) if the individual is licensed under this chapter, the division:~~(i)] the division~~
shall act upon the license as required under Section ~~58-1-401~~~~[-and]~~.

~~[(ii) may not renew or subsequently issue a license to the individual under this chapter;~~
~~and]~~

~~[(b) if the individual is not licensed under this chapter, the division may not issue a~~
~~license to the individual under this chapter.]~~

(10) If an individual has been charged with a felony other than a violent felony, as defined in Subsection ~~76-3-203.5~~(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall determine whether the felony disqualifies the individual for licensure under this chapter and act upon the license, as required, in accordance with Section ~~58-1-401~~.

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

Section 16. Section ~~58-31b-502~~ is amended to read:

~~58-31b-502. Unprofessional conduct.~~

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

- 1430 (i) period when a generally recognized professional relationship exists between the
1431 person licensed or certified under this chapter and the patient; or
- 1432 (ii) extended period when a patient has reasonable cause to believe a professional
1433 relationship exists between the person licensed or certified under the provisions of this chapter
1434 and the patient;
- 1435 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
1436 information about a patient or exploiting the licensee's or the person with a certification's
1437 professional relationship between the licensee or holder of a certification under this chapter and
1438 the patient; or
- 1439 (ii) exploiting the patient by use of the licensee's or person with a certification's
1440 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 1441 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 1442 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 1443 (g) unauthorized taking or personal use of a patient's personal property;
- 1444 (h) unlawful or inappropriate delegation of nursing care;
- 1445 (i) failure to exercise appropriate supervision of persons providing patient care services
1446 under supervision of the licensed nurse;
- 1447 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
1448 person to practice as a nurse;
- 1449 (k) failure to file or record any medical report as required by law, impeding or
1450 obstructing the filing or recording of such a report, or inducing another to fail to file or record
1451 such a report;
- 1452 (l) breach of a statutory, common law, regulatory, or ethical requirement of
1453 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 1454 (m) failure to pay a penalty imposed by the division;
- 1455 ~~[(n) prescribing a Schedule II controlled substance without complying with the~~
1456 ~~requirements in Section 58-31b-803, if applicable;]~~
- 1457 ~~[(o)]~~ (n) violating Section 58-31b-801;

[~~(p)~~] (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

[~~(q)~~] (p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(n)~~] (n) or Subsection 58-1-501(1); or

[~~(r)~~] (q) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 17. Section 58-31b-803 is amended to read:

58-31b-803. Advanced practice registered nurse prescriptive authority.

(1) Except as provided in Subsection (2), a licensed advanced practice registered nurse may prescribe or administer a Schedule II controlled substance.

(2) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(11)(d).

[~~(2) Except as provided in Subsection (3), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance.~~]

[~~(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice~~

1486 registered nurse:]
1487 ~~[(a) receives a board certification from a nationally recognized organization;]~~
1488 ~~[(b) completes at least 30 hours of instruction, or the equivalent number of credit~~
1489 ~~hours, pertaining to advanced pharmacology during a graduate education program;]~~
1490 ~~[(c) when obtaining licensure with the division, demonstrates completion of at least~~
1491 ~~seven hours of continuing education pertaining to prescribing opioids; and]~~
1492 ~~[(d) participates in a prescribing mentorship under which the advanced practice~~
1493 ~~registered nurse:]~~
1494 ~~[(i) is mentored by:]~~
1495 ~~[(A) a physician licensed in accordance with this title; or]~~
1496 ~~[(B) an advance practice registered nurse who has been licensed at least three years;~~
1497 ~~and]~~
1498 ~~[(ii) periodically provides the mentor described in Subsection (3)(d)(i) timesheets that,~~
1499 ~~in total, demonstrate 1,000 hours of clinical experience.]~~
1500 ~~[(4) Subsection (3) applies to an advanced practice registered nurse who:]~~
1501 ~~[(a) is engaged in independent solo practice; and]~~
1502 ~~[(b) (i) has been licensed as an advanced practice registered nurse for less than one~~
1503 ~~year; or]~~
1504 ~~[(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice~~
1505 ~~registered nurse:]~~
1506 Section 18. Section **58-53-302** is amended to read:
1507 **58-53-302. Qualifications for licensure.**
1508 (1) Each applicant for licensure as a landscape architect shall:
1509 (a) submit an application in a form prescribed by the division;
1510 (b) pay a fee as determined by the department under Section [63J-1-504](#);
1511 ~~[(c) provide satisfactory evidence of good moral character;]~~
1512 ~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a
1513 landscape architecture program meeting criteria established by rule by the division in

1514 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1515 Rulemaking Act; or

1516 (ii) have completed not less than eight years of supervised practical experience in
1517 landscape architecture which meets the requirements established by rule by the division in
1518 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1519 Rulemaking Act; and

1520 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in
1521 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1522 Rulemaking Act.

1523 (2) Satisfactory completion of each year of a landscape architectural program described
1524 in Subsection ~~[(1)(d)(i)]~~ (1)(c)(i) is equivalent to one year of experience for purposes of
1525 Subsection ~~[(1)(d)(ii)]~~ (1)(c)(ii).

1526 Section 19. Section **58-54-302** is amended to read:

1527 **58-54-302. Requirements for licensure.**

1528 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
1529 radiology practical technician shall:

1530 (a) submit an application in a form prescribed by the division in collaboration with the
1531 board; and

1532 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#).

1533 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1534 requirements of Subsection (1):

1535 (a) be a graduate of an accredited educational program in radiologic technology or
1536 certified by the American Registry of Radiologic Technologists or any equivalent educational
1537 program approved by the division in collaboration with the board; and

1538 (b) have passed an examination approved by the division in collaboration with the
1539 board.

1540 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1541 the requirements of Subsection (1), have passed a basic examination and one or more specialty

examinations that are competency based, using a task analysis of the scope of practice of radiology practical technicians in the state. The basic examination and the specialty examination shall be approved by the division in collaboration with the board and the licensing board of the profession within which the radiology practical technician will be practicing.

~~[(4) The division shall provide for administration of the radiology practical technician examination not less than monthly at offices designated by the division and located:]~~

~~[(a) in Salt Lake City; and]~~

~~[(b) within each local health department jurisdictional area.]~~

~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);~~ (4)(b), each applicant for licensure as a radiologist assistant shall:

(i) meet the requirements of Subsections (1) and (2);

(ii) have a Bachelor of Science degree; and

(iii) be certified as:

(A) a radiologist assistant by the American Registry of Radiologic Technologists; or

(B) a radiology practitioner assistant by the Certification Board of Radiology

Practitioner Assistants.

(b) An individual who meets the requirements of Subsections ~~[(5)(a)(i)]~~ (4)(a)(i) and (iii), but not Subsection ~~[(5)(a)(ii)]~~ (4)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31, 2013, at which time, the individual must have completed the Bachelor of Science degree in order to retain the license of radiologist assistant.

Section 20. Section **58-55-102** is amended to read:

58-55-102. Definitions.

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

(1) (a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

1570 (A) that person is also engaged in the installation, maintenance, alteration, repair,
1571 replacement, servicing, or monitoring of alarm systems;

1572 (B) the manufacture or sale occurs at a location other than a place of business
1573 established by the person engaged in the manufacture or sale; or

1574 (C) the manufacture or sale involves site visits at the place or intended place of
1575 installation of an alarm system; or

1576 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
1577 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
1578 of the alarm system owned by that owner.

1579 (2) "Alarm company agent":

1580 (a) except as provided in Subsection (2)(b), means any individual employed within this
1581 state by an alarm business; and

1582 (b) does not include an individual who:

1583 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
1584 servicing, or monitoring of an alarm system; and

1585 (ii) does not, during the normal course of the individual's employment with an alarm
1586 business, use or have access to sensitive alarm system information.

1587 (3) "Alarm company officer" means:

1588 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;

1589 (b) an individual appointed as an officer of an alarm company that is a corporation in
1590 accordance with Section 16-10a-830;

1591 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

1592 (d) a partner, as defined in Section 48-1d-102, of an alarm company.

1593 (4) "Alarm company owner" means:

1594 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
1595 through an entity controlled by the individual, 5% or more of the outstanding shares of an
1596 alarm company that:

1597 (i) is a corporation; and

1598 (ii) is not publicly listed or traded; or

1599 (b) an individual who owns directly, or indirectly through an entity controlled by the
1600 individual, 5% or more of the equity of an alarm company that is not a corporation.

1601 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
1602 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1603 (6) "Alarm company trustee" means an individual with control of or power of
1604 administration over property held in trust.

1605 ~~[(3)]~~ (7) (a) "Alarm system" means equipment and devices assembled for the purpose
1606 of:

1607 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
1608 premises; or

1609 (ii) signaling a robbery or attempted robbery on protected premises.

1610 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
1611 part of and interfaces with an alarm system for the purposes of detecting and deterring
1612 unauthorized intrusion or entry into or onto certain premises.

1613 ~~[(4)]~~ (8) "Apprentice electrician" means a person licensed under this chapter as an
1614 apprentice electrician who is learning the electrical trade under the immediate supervision of a
1615 master electrician, residential master electrician, a journeyman electrician, or a residential
1616 journeyman electrician.

1617 ~~[(5)]~~ (9) "Apprentice plumber" means a person licensed under this chapter as an
1618 apprentice plumber who is learning the plumbing trade under the immediate supervision of a
1619 master plumber, residential master plumber, journeyman plumber, or a residential journeyman
1620 plumber.

1621 ~~[(6)]~~ (10) "Approved continuing education" means instruction provided through
1622 courses under a program established under Subsection 58-55-302.5(2).

1623 ~~[(7)]~~ (11) (a) "Approved prelicensure course provider" means a provider that is the
1624 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
1625 Contractors, or the Utah Home Builders Association, and that meets the requirements

established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under Section 58-55-103.

~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

~~[(12)]~~ (16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the

1654 instructor, who has no economic interest in the project.

1655 ~~[(13)]~~ (17) (a) "Contractor" means any person who for compensation other than wages
1656 as an employee undertakes any work in the construction, plumbing, or electrical trade for
1657 which licensure is required under this chapter and includes:

1658 (i) a person who builds any structure on the person's own property for the purpose of
1659 sale or who builds any structure intended for public use on the person's own property;

1660 (ii) any person who represents that the person is a contractor, or will perform a service
1661 described in this Subsection ~~[(13);]~~ (17) by advertising on a website or social media, or any
1662 other means;

1663 (iii) any person engaged as a maintenance person, other than an employee, who
1664 regularly engages in activities set forth under the definition of "construction trade";

1665 (iv) any person engaged in, or offering to engage in, any construction trade for which
1666 licensure is required under this chapter; or

1667 (v) a construction manager, construction consultant, construction assistant, or any other
1668 person who, for a fee:

1669 (A) performs or offers to perform construction consulting;

1670 (B) performs or offers to perform management of construction subcontractors;

1671 (C) provides or offers to provide a list of subcontractors or suppliers; or

1672 (D) provides or offers to provide management or counseling services on a construction
1673 project.

1674 (b) "Contractor" does not include:

1675 (i) an alarm company or alarm company agent; or

1676 (ii) a material supplier who provides consulting to customers regarding the design and
1677 installation of the material supplier's products.

1678 ~~[(14)]~~ (18) (a) "Electrical trade" means the performance of any electrical work involved
1679 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
1680 buildings, or appendages or appurtenances.

1681 (b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;
(ii) preparing clearance for raceways for wiring;
(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

~~[(+5)]~~ (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#), except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

~~[(+6)]~~ (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

~~[(+7)]~~ (21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

~~[(+8)]~~ (22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

~~[(+9)]~~ (23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

~~[(+20)]~~ (24) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the

division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

~~[(21)]~~ (25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

~~[(22)]~~ (26) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

~~[(23)]~~ (27) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G,

1738 Chapter 3, Utah Administrative Rulemaking Act.

1739 ~~[(24)]~~ (28) (a) "General engineering contractor" means a person licensed under this
1740 chapter as a general engineering contractor qualified by education, training, experience, and
1741 knowledge to perform or superintend construction of fixed works or components of fixed
1742 works requiring specialized engineering knowledge and skill in any of the following:

- 1743 (i) irrigation;
- 1744 (ii) drainage;
- 1745 (iii) water power;
- 1746 (iv) water supply;
- 1747 (v) flood control;
- 1748 (vi) an inland waterway;
- 1749 (vii) a harbor;
- 1750 (viii) a railroad;
- 1751 (ix) a highway;
- 1752 (x) a tunnel;
- 1753 (xi) an airport;
- 1754 (xii) an airport runway;
- 1755 (xiii) a sewer;
- 1756 (xiv) a bridge;
- 1757 (xv) a refinery;
- 1758 (xvi) a pipeline;
- 1759 (xvii) a chemical plant;
- 1760 (xviii) an industrial plant;
- 1761 (xix) a pier;
- 1762 (xx) a foundation;
- 1763 (xxi) a power plant; or
- 1764 (xxii) a utility plant or installation.
- 1765 (b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or

(ii) performance of:

(A) plumbing work;

(B) electrical work; or

(C) mechanical work.

~~[(25)]~~ (29) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(26)]~~ (30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

~~[(27)]~~ (31) "Individual" means a natural person.

~~[(28)]~~ (32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

~~[(29)]~~ (33) "Journeyman plumber" means a person licensed under this chapter as a

1794 journeyman plumber having the qualifications, training, experience, and technical knowledge
1795 to engage in the plumbing trade.

1796 ~~[(30)]~~ (34) "Master electrician" means a person licensed under this chapter as a master
1797 electrician having the qualifications, training, experience, and knowledge to properly plan,
1798 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
1799 for light, heat, power, and other purposes.

1800 ~~[(31)]~~ (35) "Master plumber" means a person licensed under this chapter as a master
1801 plumber having the qualifications, training, experience, and knowledge to properly plan and
1802 layout projects and supervise persons in the plumbing trade.

1803 ~~[(32)]~~ (36) "Person" means a natural person, sole proprietorship, joint venture,
1804 corporation, limited liability company, association, or organization of any type.

1805 ~~[(33)]~~ (37) (a) "Plumbing trade" means the performance of any mechanical work
1806 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
1807 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and
1808 fittings for the:

- 1809 (i) delivery of the water supply;
1810 (ii) discharge of liquid and water carried waste;
1811 (iii) building drainage system within the walls of the building; and
1812 (iv) delivery of gases for lighting, heating, and industrial purposes.

1813 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
1814 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
1815 safe and adequate supply of gases, together with their devices, appurtenances, and connections
1816 where installed within the outside walls of the building.

1817 ~~[(34)]~~ (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
1818 licensed electrician apprentices that are allowed to be under the immediate supervision of a
1819 licensed supervisor as established by the provisions of this chapter and by rules made by the
1820 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1821 Utah Administrative Rulemaking Act.

1822 ~~[(35)]~~ (39) "Residential and small commercial contractor" means a person licensed
1823 under this chapter as a residential and small commercial contractor qualified by education,
1824 training, experience, and knowledge to perform or superintend the construction of
1825 single-family residences, multifamily residences up to four units, and commercial construction
1826 of not more than three stories above ground and not more than 20,000 square feet, or any of the
1827 components of that construction except plumbing, electrical work, mechanical work, and
1828 manufactured housing installation, for which the residential and small commercial contractor
1829 shall employ the services of a contractor licensed in the particular specialty, except that a
1830 residential and small commercial contractor engaged in the construction of single-family and
1831 multifamily residences up to four units may perform the mechanical work and hire a licensed
1832 plumber or electrician as an employee.

1833 ~~[(36)]~~ (40) "Residential building," as it relates to the license classification of residential
1834 journeyman plumber and residential master plumber, means a single or multiple family
1835 dwelling of up to four units.

1836 ~~[(37)]~~ (41) (a) "Residential electrical contractor" means a person licensed under this
1837 chapter as a residential electrical contractor qualified by education, training, experience, and
1838 knowledge to perform the fabrication, construction, and installation of services, disconnecting
1839 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
1840 appliances, and fixtures in a residential unit.

1841 (b) The scope of work of a residential electrical contractor may be further defined by
1842 rules made by the commission, with the concurrence of the director, in accordance with Title
1843 63G, Chapter 3, Utah Administrative Rulemaking Act.

1844 ~~[(38)]~~ (42) "Residential journeyman electrician" means a person licensed under this
1845 chapter as a residential journeyman electrician having the qualifications, training, experience,
1846 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
1847 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1848 ~~[(39)]~~ (43) "Residential journeyman plumber" means a person licensed under this
1849 chapter as a residential journeyman plumber having the qualifications, training, experience, and

1850 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1851 ~~[(40)]~~ (44) "Residential master electrician" means a person licensed under this chapter
1852 as a residential master electrician having the qualifications, training, experience, and
1853 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
1854 electrical apparatus and equipment for light, heat, power, and other purposes on residential
1855 projects.

1856 ~~[(41)]~~ (45) "Residential master plumber" means a person licensed under this chapter as
1857 a residential master plumber having the qualifications, training, experience, and knowledge to
1858 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
1859 plumbing of residential buildings.

1860 ~~[(42)]~~ (46) (a) "Residential plumbing contractor" means a person licensed under this
1861 chapter as a residential plumbing contractor qualified by education, training, experience, and
1862 knowledge to perform the fabrication or installation of material and fixtures to create and
1863 maintain sanitary conditions in residential buildings by providing permanent means for a
1864 supply of safe and pure water, a means for the timely and complete removal from the premises
1865 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
1866 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
1867 for lighting, heating, and residential purposes.

1868 (b) The scope of work of a residential plumbing contractor may be further defined by
1869 rules made by the commission, with the concurrence of the director, in accordance with Title
1870 63G, Chapter 3, Utah Administrative Rulemaking Act.

1871 ~~[(43)]~~ (47) "Residential project," as it relates to an electrician or electrical contractor,
1872 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
1873 rules and regulations governing this work, including the National Electrical Code, and in which
1874 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1875 (48) "Responsible management personnel" means:

1876 (a) a qualifying agent;

1877 (b) an operations manager; or

- 1878 (c) a site manager.
- 1879 ~~[(44)]~~ (49) "Sensitive alarm system information" means:
- 1880 (a) a pass code or other code used in the operation of an alarm system;
- 1881 (b) information on the location of alarm system components at the premises of a
- 1882 customer of the alarm business providing the alarm system;
- 1883 (c) information that would allow the circumvention, bypass, deactivation, or other
- 1884 compromise of an alarm system of a customer of the alarm business providing the alarm
- 1885 system; and
- 1886 (d) any other similar information that the division by rule determines to be information
- 1887 that an individual employed by an alarm business should use or have access to only if the
- 1888 individual is licensed as provided in this chapter.
- 1889 ~~[(45)]~~ (50) (a) "Specialty contractor" means a person licensed under this chapter under
- 1890 a specialty contractor classification established by rule, who is qualified by education, training,
- 1891 experience, and knowledge to perform those construction trades and crafts requiring
- 1892 specialized skill, the regulation of which are determined by the division to be in the best
- 1893 interest of the public health, safety, and welfare.
- 1894 (b) A specialty contractor may perform work in crafts or trades other than those in
- 1895 which the specialty contractor is licensed if they are incidental to the performance of the
- 1896 specialty contractor's licensed craft or trade.
- 1897 ~~[(46)]~~ (51) "Unincorporated entity" means an entity that is not:
- 1898 (a) an individual;
- 1899 (b) a corporation; or
- 1900 (c) publicly traded.
- 1901 ~~[(47)]~~ (52) "Unlawful conduct" means the same as that term is defined in Sections
- 1902 58-1-501 and 58-55-501.
- 1903 ~~[(48)]~~ (53) "Unprofessional conduct" means the same as that term is defined in
- 1904 Sections 58-1-501 and 58-55-502 and as may be further defined by rule.
- 1905 ~~[(49)]~~ (54) "Wages" means amounts due to an employee for labor or services whether

1906 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
1907 calculating the amount.

1908 Section 21. Section **58-55-302** is amended to read:

1909 **58-55-302. Qualifications for licensure.**

1910 (1) Each applicant for a license under this chapter shall:

1911 (a) submit an application prescribed by the division;

1912 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1913 (c) meet the examination requirements established by this section and by rule by the
1914 commission with the concurrence of the director, which requirements include:

1915 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
1916 contractor, no division-administered examination is required;

1917 (ii) for licensure as a general building contractor, general engineering contractor,
1918 residential and small commercial contractor, general plumbing contractor, residential plumbing
1919 contractor, general electrical contractor, or residential electrical contractor, the only required
1920 division-administered examination is a division-administered examination that covers
1921 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
1922 have been previously completed as part of applying for any other license under this chapter,
1923 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
1924 course described in Subsection (1)(e)(iv); and

1925 (iii) if required in Section [58-55-304](#), an individual qualifier must pass the required
1926 division-administered examination if the applicant is a business entity;

1927 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1928 (e) if an applicant for a contractor's license:

1929 (i) produce satisfactory evidence of financial responsibility, except for a construction
1930 trades instructor for whom evidence of financial responsibility is not required;

1931 (ii) produce satisfactory evidence of:

1932 (A) except as provided in Subsection (2)(a), and except that no employment experience
1933 is required for licensure as a specialty contractor, two years full-time paid employment

1934 experience in the construction industry, which employment experience, unless more
1935 specifically described in this section, may be related to any contracting classification and does
1936 not have to include supervisory experience; and

1937 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
1938 necessary for the protection of the public health, safety, and welfare;

1939 (iii) except as otherwise provided by rule by the commission with the concurrence of
1940 the director, complete a 25-hour course established by rule by the commission with the
1941 concurrence of the director, which is taught by an approved prelicensure course provider, and
1942 which course may include:

1943 (A) construction business practices;

1944 (B) bookkeeping fundamentals;

1945 (C) mechanics lien fundamentals;

1946 (D) other aspects of business and construction principles considered important by the
1947 commission with the concurrence of the director; and

1948 (E) for no additional fee, a provider-administered examination at the end of the
1949 25-hour course;

1950 (iv) complete a five-hour business and law course established by rule by the
1951 commission with the concurrence of the director, which is taught by an approved prelicensure
1952 course provider, if an applicant for licensure as a general building contractor, general
1953 engineering contractor, residential and small commercial contractor, general plumbing
1954 contractor, residential plumbing contractor, general electrical contractor, or residential
1955 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
1956 completed before July 1, 2019, the applicant does not need to take the business and law course;

1957 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
1958 license or a licensed master residential electrician if an applicant for a residential electrical
1959 contractor's license;

1960 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
1961 a licensed master residential plumber if an applicant for a residential plumbing contractor's

license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

1990 (D) State Tax Commission; and

1991 (E) Internal Revenue Service.

1992 (3) In addition to the general requirements for each applicant in Subsection (1),
1993 applicants shall comply with the following requirements to be licensed in the following
1994 classifications:

1995 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1996 (A) has been a licensed journeyman plumber for at least two years and had two years of
1997 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1998 (B) has received at least an associate of applied science degree or similar degree
1999 following the completion of a course of study approved by the division and had one year of
2000 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

2001 (C) meets the qualifications for expedited licensure as established by rules made by the
2002 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2003 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2004 and skills to be a licensed master plumber.

2005 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
2006 least four years of practical experience as a licensed apprentice under the supervision of a
2007 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
2008 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
2009 master plumber license under this chapter, and satisfies the requirements of this Subsection
2010 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

2011 (iii) An individual holding a valid plumbing contractor's license or residential
2012 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
2013 2008:

2014 (A) considered to hold a current master plumber license under this chapter if licensed
2015 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
2016 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
2017 58-55-303; and

2018 (B) considered to hold a current residential master plumber license under this chapter if
2019 licensed as a residential plumbing contractor and a residential journeyman plumber, and
2020 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
2021 that license under Section 58-55-303.

2022 (b) A master residential plumber applicant shall produce satisfactory evidence that the
2023 applicant:

2024 (i) has been a licensed residential journeyman plumber for at least two years and had
2025 two years of supervisory experience as a licensed residential journeyman plumber in
2026 accordance with division rule; or

2027 (ii) meets the qualifications for expedited licensure as established by rules made by the
2028 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2029 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2030 and skills to be a licensed master residential plumber.

2031 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

2032 (i) successful completion of the equivalent of at least four years of full-time training
2033 and instruction as a licensed apprentice plumber under supervision of a licensed master
2034 plumber or journeyman plumber and in accordance with a planned program of training
2035 approved by the division;

2036 (ii) at least eight years of full-time experience approved by the division in collaboration
2037 with the Plumbers Licensing Board; or

2038 (iii) meeting the qualifications for expedited licensure as established by rules made by
2039 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2040 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2041 and skills to be a licensed journeyman plumber.

2042 (d) A residential journeyman plumber shall produce satisfactory evidence of:

2043 (i) completion of the equivalent of at least three years of full-time training and
2044 instruction as a licensed apprentice plumber under the supervision of a licensed residential
2045 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in

2046 accordance with a planned program of training approved by the division;

2047 (ii) completion of at least six years of full-time experience in a maintenance or repair
2048 trade involving substantial plumbing work; or

2049 (iii) meeting the qualifications for expedited licensure as established by rules made by
2050 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2051 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2052 and skills to be a licensed residential journeyman plumber.

2053 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
2054 in accordance with the following:

2055 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
2056 under the immediate supervision of a licensed master plumber, licensed residential master
2057 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

2058 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
2059 apprentice plumber may work without supervision for a period not to exceed eight hours in any
2060 24-hour period; and

2061 (iii) rules made by the commission, with the concurrence of the director, in accordance
2062 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
2063 apprentices allowed under the immediate supervision of a licensed supervisor, including the
2064 ratio of apprentices in their fourth year of training or later that are allowed to be under the
2065 immediate supervision of a licensed supervisor.

2066 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

2067 (i) is a graduate electrical engineer of an accredited college or university approved by
2068 the division and has one year of practical electrical experience as a licensed apprentice
2069 electrician;

2070 (ii) is a graduate of an electrical trade school, having received an associate of applied
2071 sciences degree following successful completion of a course of study approved by the division,
2072 and has two years of practical experience as a licensed journeyman electrician;

2073 (iii) has four years of practical experience as a journeyman electrician; or

2074 (iv) meets the qualifications for expedited licensure as established by rules made by the
2075 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2076 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2077 and skills to be a licensed master electrician.

2078 (g) A master residential electrician applicant shall produce satisfactory evidence that
2079 the applicant:

2080 (i) has at least two years of practical experience as a residential journeyman electrician;
2081 or

2082 (ii) meets the qualifications for expedited licensure as established by rules made by the
2083 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2084 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2085 and skills to be a master residential electrician.

2086 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
2087 applicant:

2088 (i) has successfully completed at least four years of full-time training and instruction as
2089 a licensed apprentice electrician under the supervision of a master electrician or journeyman
2090 electrician and in accordance with a planned training program approved by the division;

2091 (ii) has at least eight years of full-time experience approved by the division in
2092 collaboration with the Electricians Licensing Board; or

2093 (iii) meets the qualifications for expedited licensure as established by rules made by the
2094 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2095 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2096 and skills to be a licensed journeyman electrician.

2097 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
2098 that the applicant:

2099 (i) has successfully completed two years of training in an electrical training program
2100 approved by the division;

2101 (ii) has four years of practical experience in wiring, installing, and repairing electrical

2102 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
2103 journeyman, residential master, or residential journeyman electrician; or

2104 (iii) meets the qualifications for expedited licensure as established by rules made by the
2105 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2106 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2107 and skills to be a licensed residential journeyman electrician.

2108 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
2109 be in accordance with the following:

2110 (i) A licensed apprentice electrician shall be under the immediate supervision of a
2111 licensed master, journeyman, residential master, or residential journeyman electrician;

2112 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
2113 apprentice electrician may work without supervision for a period not to exceed eight hours in
2114 any 24-hour period;

2115 (iii) rules made by the commission, with the concurrence of the director, in accordance
2116 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
2117 apprentices allowed under the immediate supervision of a licensed supervisor, including the
2118 ratio of apprentices in their fourth year of training or later that are allowed to be under the
2119 immediate supervision of a licensed supervisor; and

2120 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
2121 residential project, or more if established by rules made by the commission, in concurrence
2122 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2123 Act.

2124 (k) An alarm company applicant shall:

2125 (i) have a qualifying agent who ~~[is an officer, director, partner, proprietor, or manager~~
2126 ~~of the applicant who]~~:

2127 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an
2128 alarm company trustee, or other responsible management personnel;

2129 ~~[(A)]~~ (B) demonstrates 6,000 hours of experience in the alarm company business;

2130 ~~[(B)]~~ (C) demonstrates 2,000 hours of experience as a manager or administrator in the
2131 alarm company business or in a construction business; and

2132 ~~[(C)]~~ (D) passes an examination component established by rule by the commission
2133 with the concurrence of the director;

2134 (ii) provide the name, address, date of birth, social security number, fingerprint card,
2135 and consent to a background check in accordance with Section [58-55-302.1](#) and requirements
2136 established by division rule made in accordance with Title 63G, Chapter 3, Utah
2137 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
2138 company proprietor, alarm company trustee, and responsible management personnel with direct
2139 responsibility for managing operations of the applicant within the state;

2140 ~~[(ii) if a corporation, provide:]~~

2141 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2142 ~~of all corporate officers, directors, and those responsible management personnel employed~~
2143 ~~within the state or having direct responsibility for managing operations of the applicant within~~
2144 ~~the state; and]~~

2145 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2146 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~
2147 ~~shall not be required if the stock is publicly listed and traded;]~~

2148 ~~[(iii) if a limited liability company, provide:]~~

2149 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2150 ~~of all company officers, and those responsible management personnel employed within the~~
2151 ~~state or having direct responsibility for managing operations of the applicant within the state;~~
2152 ~~and]~~

2153 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2154 ~~of all individuals owning 5% or more of the equity of the company;]~~

2155 ~~[(iv) if a partnership, provide the names, addresses, dates of birth, social security~~
2156 ~~numbers, and fingerprint cards of all general partners, and those responsible management~~
2157 ~~personnel employed within the state or having direct responsibility for managing operations of~~

2158 ~~the applicant within the state;]~~

2159 ~~[(v) if a proprietorship, provide the names, addresses, dates of birth, social security~~
2160 ~~numbers, and fingerprint cards of the proprietor, and those responsible management personnel~~
2161 ~~employed within the state or having direct responsibility for managing operations of the~~
2162 ~~applicant within the state;]~~

2163 ~~[(vi) if a trust, provide the names, addresses, dates of birth, social security numbers,~~
2164 ~~and fingerprint cards of the trustee, and those responsible management personnel employed~~
2165 ~~within the state or having direct responsibility for managing operations of the applicant within~~
2166 ~~the state;]~~

2167 ~~[(vii)]~~ (iii) document that none of the ~~[applicant's officers, directors, shareholders~~
2168 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible~~
2169 ~~management personnel]~~ persons described in Subsection (3)(k)(ii):

2170 (A) have been declared by any court of competent jurisdiction incompetent by reason
2171 of mental defect or disease and not been restored; or

2172 ~~[(viii)]~~ (B) ~~[document that none of the applicant's officers, directors, shareholders~~
2173 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management~~
2174 ~~personnel]~~ are currently suffering from habitual drunkenness or from drug addiction or
2175 dependence;

2176 ~~[(ix)]~~ (iv) file and maintain with the division evidence of:

2177 (A) comprehensive general liability insurance in form and in amounts to be established
2178 by rule by the commission with the concurrence of the director;

2179 (B) workers' compensation insurance that covers employees of the applicant in
2180 accordance with applicable Utah law; and

2181 (C) registration as is required by applicable law with the:

2182 (I) Division of Corporations and Commercial Code;

2183 (II) Unemployment Insurance Division in the Department of Workforce Services, for
2184 purposes of Title 35A, Chapter 4, Employment Security Act;

2185 (III) State Tax Commission; and

2186 (IV) Internal Revenue Service; and
2187 [~~(x)~~] (v) meet with the division and board.
2188 (l) Each applicant for licensure as an alarm company agent shall:
2189 (i) submit an application in a form prescribed by the division accompanied by
2190 fingerprint cards;
2191 (ii) pay a fee determined by the department under Section 63J-1-504;
2192 (iii) submit to and pass a criminal background check in accordance with Section
2193 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
2194 Chapter 3, Utah Administrative Rulemaking Act;
2195 [~~(iii)~~] (iv) not have been declared by any court of competent jurisdiction incompetent
2196 by reason of mental defect or disease and not been restored;
2197 [~~(iv)~~] (v) not be currently suffering from habitual drunkenness or from drug addiction
2198 or dependence; and
2199 [~~(v)~~] (vi) meet with the division and board if requested by the division or the board.
2200 (m) (i) Each applicant for licensure as an elevator mechanic shall:
2201 (A) provide documentation of experience and education credits of not less than three
2202 years work experience in the elevator industry, in construction, maintenance, or service and
2203 repair; and
2204 (B) satisfactorily complete a written examination administered by the division
2205 established by rule under Section 58-1-203; or
2206 (C) provide certificates of completion of an apprenticeship program for elevator
2207 mechanics, having standards substantially equal to those of this chapter and registered with the
2208 United States Department of Labor Bureau Apprenticeship and Training or a state
2209 apprenticeship council.
2210 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
2211 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
2212 repairing, or maintaining an elevator, the contractor may:
2213 (I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

~~[(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:]~~

~~[(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section:]~~

~~[(6) The Department of Public Safety shall send to the division:]~~

~~[(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and]~~

2242 ~~[(b) the results of the Federal Bureau of Investigation review concerning an applicant~~
2243 ~~in a timely manner after receipt of information from the Federal Bureau of Investigation.]~~

2244 ~~[(7) (a) The division shall charge each applicant for licensure as an alarm company or~~
2245 ~~alarm company agent a fee, in accordance with Section ~~63J-1-504~~, equal to the cost of~~
2246 ~~performing the records reviews under this section.]~~

2247 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
2248 ~~reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the~~
2249 ~~costs of records reviews under this section.]~~

2250 ~~[(8) Information obtained by the division from the reviews of criminal history records~~
2251 ~~of the Department of Public Safety and the Federal Bureau of Investigation shall be used or~~
2252 ~~disseminated by the division only for the purpose of determining if an applicant for licensure as~~
2253 ~~an alarm company or alarm company agent is qualified for licensure.]~~

2254 ~~[(9)]~~ (5) (a) An application for licensure under this chapter shall be denied if:

2255 (i) the applicant has had a previous license, which was issued under this chapter,
2256 suspended or revoked within two years before the date of the applicant's application;

2257 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2258 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
2259 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
2260 status, performing similar functions, or directly or indirectly controlling the applicant has
2261 served in any similar capacity with any person or entity which has had a previous license,
2262 which was issued under this chapter, suspended or revoked within two years before the date of
2263 the applicant's application;

2264 (iii) (A) the applicant is an individual or sole proprietorship; and

2265 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2266 Subsection ~~[(9)(a)(ii)(B)]~~ (5)(a)(ii)(B) in any entity which has had a previous license, which
2267 was issued under this chapter, suspended or revoked within two years before the date of the
2268 applicant's application; or

2269 (iv) (A) the applicant includes an individual who was an owner, director, or officer of

2270 an unincorporated entity at the time the entity's license under this chapter was revoked; and

2271 (B) the application for licensure is filed within 60 months after the revocation of the
2272 unincorporated entity's license.

2273 (b) An application for licensure under this chapter shall be reviewed by the appropriate
2274 licensing board prior to approval if:

2275 (i) the applicant has had a previous license, which was issued under this chapter,
2276 suspended or revoked more than two years before the date of the applicant's application;

2277 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2278 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
2279 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
2280 status, performing similar functions, or directly or indirectly controlling the applicant has
2281 served in any similar capacity with any person or entity which has had a previous license,
2282 which was issued under this chapter, suspended or revoked more than two years before the date
2283 of the applicant's application; or

2284 (iii) (A) the applicant is an individual or sole proprietorship; and

2285 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2286 Subsection ~~[(9)(b)(ii)(B)]~~ (5)(a)(ii)(B) in any entity which has had a previous license, which
2287 was issued under this chapter, suspended or revoked more than two years before the date of the
2288 applicant's application.

2289 ~~[(10)]~~ (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership
2290 status report with the division every 30 days after the day on which the license is issued if the
2291 licensee has more than five owners who are individuals who:

2292 (A) own an interest in the contractor that is an unincorporated entity;

2293 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
2294 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
2295 unincorporated entity; and

2296 (C) engage, or will engage, in a construction trade in the state as owners of the
2297 contractor described in Subsection ~~[(10)(a)(i)(A)]~~ (6)(a)(i)(A).

2298 (ii) If the licensee has five or fewer owners described in Subsection ~~[(10)(a)(i)]~~
2299 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal
2300 of licensure.

2301 (b) An ownership status report required under this Subsection ~~[(10)]~~ (6) shall:

2302 (i) specify each addition or deletion of an owner:

2303 (A) for the first ownership status report, after the day on which the unincorporated
2304 entity is licensed under this chapter; and

2305 (B) for a subsequent ownership status report, after the day on which the previous
2306 ownership status report is filed;

2307 (ii) be in a format prescribed by the division that includes for each owner, regardless of
2308 the owner's percentage ownership in the unincorporated entity, the information described in
2309 Subsection (1)(e)(vi);

2310 (iii) list the name of:

2311 (A) each officer or manager of the unincorporated entity; and

2312 (B) each other individual involved in the operation, supervision, or management of the
2313 unincorporated entity; and

2314 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
2315 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~
2316 (6)(b)(i).

2317 (c) The division may, at any time, audit an ownership status report under this
2318 Subsection ~~[(10)]~~ (6):

2319 (i) to determine if financial responsibility has been demonstrated or maintained as
2320 required under Section 58-55-306; and

2321 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
2322 Subsection 58-55-502(8) or (9).

2323 ~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under
2324 this chapter by providing an individual who owns an interest in the unincorporated entity to
2325 engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the information that would be required under Subsection ~~[(10)]~~ (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i) or an ownership status report described in Subsection ~~[(11)(a)(ii)]~~, (7)(a)(i) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

~~[(12)]~~ (8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection ~~[(10)]~~ (6) or ~~[(11)]~~ (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

~~[(13)]~~ (9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section 22. Section **58-55-302.1** is enacted to read:

58-55-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

2354 (2) The division shall:

2355 (a) in addition to other fees authorized by this chapter, collect from each applicant
2356 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2357 Identification is authorized to collect for the services provided under Section 53-10-108 and the
2358 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2359 obtaining federal criminal history record information;

2360 (b) submit from each applicant the fingerprint card and the fees described in
2361 Subsection (2)(a) to the Bureau of Criminal Identification; and

2362 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2363 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2364 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2365 Section 53-10-108:

2366 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2367 and regional criminal records databases;

2368 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2369 criminal history background check; and

2370 (c) provide the results from the state, regional, and nationwide criminal history
2371 background checks to the division.

2372 (4) For purposes of conducting a criminal background check required under this
2373 section, the division shall have direct access to criminal background information maintained
2374 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2375 (5) The division may not disseminate outside of the division any criminal history
2376 record information that the division obtains from the Bureau of Criminal Identification or the
2377 Federal Bureau of Investigation under the criminal background check requirements of this
2378 section.

2379 (6) (a) A new license issued under Section 58-55-302 is conditional pending
2380 completion of the criminal background check.

2381 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the

criminal background check required in Section 58-55-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 23. Section **58-55-303** is amended to read:

58-55-303. Term of license -- Expiration -- Renewal.

(1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycle it administers.

(c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a license is automatically suspended 60 days after the licensee:

(A) becomes, after the time of licensing, an unincorporated entity that is subject to the ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i); or

(B) transfers its license to an unincorporated entity that is subject to the ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

(ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the expiration of the 60-day period in Subsection (1)(c)(i):

(A) the licensee submits an application for renewal of the license; and

(B) the division renews the licensee's license pursuant to the licensee's application for renewal.

(iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),

2410 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
2411 make a final determination concerning the suspension.

2412 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

2413 (a) continuing financial responsibility as required under Section 58-55-306;

2414 (b) for a contractor licensee, completion of six hours of approved continuing education,
2415 as required in Section 58-55-302.5; and

2416 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
2417 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
2418 residential master electrician or plumber, completion of the number of hours of continuing
2419 education specified under Section 58-55-302.7.

2420 (3) Each license automatically expires on the expiration date shown on the license
2421 unless the licensee renews the license in accordance with Section 58-1-308.

2422 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to
2423 applicants seeking to renew or reinstate a license.

2424 (5) In addition to any other requirements imposed by law, if a license has been
2425 suspended or revoked for any reason, the applicant:

2426 (a) shall pay in full all fines imposed by the division;

2427 (b) resolve any outstanding citations or disciplinary actions with the division;

2428 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

2429 (d) complete a new financial responsibility review as required under Section
2430 58-55-306, using only titled assets; and

2431 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
2432 Residence Lien Restriction and Lien Recovery Fund Act.

2433 Section 24. Section 58-55-503 is amended to read:

2434 **58-55-503. Penalty for unlawful conduct -- Citations.**

2435 (1) As used in this section:

2436 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does
2437 not include a sole proprietorship, joint venture, corporation, limited liability company,

2438 association, or organization of any type.

2439 (b) "Qualifying violation" means a violation under:

2440 (i) Subsection 58-55-308(2);

2441 (ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)

2442 through (28);

2443 (iii) Subsection 58-55-502(4)(a) or (11); or

2444 (iv) Subsection 58-55-504(2).

2445 (2) (a) [(i)] A person who violates Subsection [58-55-308(2), Subsection 58-55-501(1),

2446 (2), (3), (4), (5), (6),] 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), [(21), (22),

2447 (23), (24), (25), (26), (27), or] or (21) through (28), Subsection 58-55-308(2), or Subsection

2448 58-55-504(2), or who fails to comply with a citation issued under this section after [it] the

2449 citation is final, is guilty of a class A misdemeanor.

2450 [(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an

2451 individual and does not include a sole proprietorship, joint venture, corporation, limited

2452 liability company, association, or organization of any type.]

2453 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be

2454 awarded and may not accept a contract for the performance of the work.

2455 [(2)] (3) A person who violates [the provisions of] Subsection 58-55-501(13) is guilty

2456 of:

2457 (a) an infraction [unless the]; or

2458 (b) if the violator did so with the intent to deprive the person to whom money is to be

2459 paid of the money received, [in which case the violator is guilty] of theft[;] as classified in

2460 Section 76-6-412.

2461 [(3)] (4) Grounds for immediate suspension of a licensee's license by the division and

2462 the commission include:

2463 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section

2464 58-55-501, or Subsection 58-55-504(2); and

2465 (b) the failure by a licensee to make application to, report to, or notify the division with

respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

~~[(4)]~~ (5) (a) (i) If upon inspection or investigation, the division concludes that a person has ~~[violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection 58-55-502(4)(a) or (11), Subsection 58-55-504(2),]~~ committed a qualifying violation or violated any rule or order issued with respect to ~~[these subsections]~~ a qualifying violation, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(A) promptly issue a citation to the person according to this chapter and any pertinent rules~~[-];~~;

(B) attempt to negotiate a stipulated settlement~~[-];~~ or

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

(ii) A person who ~~[is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ committed a qualifying violation, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine ~~[pursuant to this Subsection (4)]~~ and may, in addition to or in lieu of, be ordered to cease and desist from ~~[violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ engaging in the qualifying violation.

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

2494 (b) ~~[(i)]~~ A citation shall:

2495 (i) be in writing and describe with particularity the nature of the violation, including a

2496 reference to the provision of the chapter, rule, or order alleged to have been violated~~[-]~~;

2497 (ii) ~~[A citation shall]~~ clearly state that the recipient must notify the division in writing

2498 within 20 calendar days ~~[of service of the citation]~~ after the day on which the citation is served

2499 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,

2500 Administrative Procedures Act~~[-]~~; and

2501 (iii) ~~[A citation shall]~~ clearly explain the consequences of failure to timely contest the

2502 citation or to make payment of any fines assessed by the citation within the time specified in

2503 the citation.

2504 (c) A citation issued under this section, or a copy of a citation, may be served upon a

2505 person upon whom a summons may be served:

2506 (i) in accordance with the Utah Rules of Civil Procedure;

2507 (ii) personally or upon the person's agent by a division investigator or by a person

2508 specially designated by the director; or

2509 (iii) by mail.

2510 (d) (i) If within 20 calendar days after the day on which a citation is served, the person

2511 to whom the citation was issued fails to request a hearing to contest the citation, the citation

2512 becomes the final order of the division and is not subject to further agency review.

2513 (ii) The period to contest a citation may be extended by the division for cause.

2514 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation

2515 the license of a licensee who fails to comply with a citation after the citation becomes final.

2516 (f) The failure of an applicant for licensure to comply with a citation after the citation

2517 becomes final is a ground for denial of license.

2518 (g) A citation may not be issued under this section after the expiration of one year

2519 ~~[following]~~ after the date on which the violation that is the subject of the citation is reported to

2520 the division.

2521 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5);]~~ (6), the

director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of up to \$1,000;

(B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of up to \$2,000; and

(C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of up to \$2,000 for each day of continued offense.

(ii) Except as provided in Subsection ~~[(5);]~~ (6), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of up to \$2,000;

(B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of up to \$4,000; and

(C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of up to \$4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ qualifying violation; or

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

(II) a final order has not been issued by the division in the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~

2550 ~~58-55-501~~(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (19), (23), (24), (25), (26), (27), (28),

2551 ~~or Subsection 58-55-504(2)~~ qualifying violation; and

2552 (IV) after determining that the person committed a second or subsequent ~~[offense]~~

2553 qualifying violation under Subsection ~~[(4)(i)(i)(B)(III)]~~ (5)(i)(i)(B)(III), the division issues a

2554 final order on the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I).

2555 (ii) In issuing a final order for a second or subsequent offense under Subsection

2556 ~~[(4)(i)(i)]~~ (5)(i)(i), the division shall comply with the requirements of this section.

2557 (j) In addition to any other licensure sanction or fine imposed under this section, the

2558 division shall revoke the license of a licensee that violates Subsection ~~58-55-501~~(23) or (24)

2559 two or more times within a 12-month period, unless, with respect to a violation of Subsection

2560 ~~58-55-501~~(23), the licensee can demonstrate that the licensee successfully verified the federal

2561 legal working status of the individual who was the subject of the violation using a status

2562 verification system, as defined in Section ~~13-47-102~~.

2563 (k) For purposes of this Subsection (4), a violation of Subsection ~~58-55-501~~(23) or (24)

2564 for each individual is considered a separate violation.

2565 ~~[(5)]~~ (6) If a person violates Section ~~58-55-501~~, the division may not treat the violation

2566 as a subsequent violation of a previous violation if the violation occurs five years or more after

2567 the day on which the person committed the previous violation.

2568 ~~[(6)]~~ (7) If, after an investigation, the division determines that a person has committed

2569 multiple of the same type of violation of Section ~~58-55-501~~, the division may treat each

2570 violation as a separate violation of Section ~~58-55-501~~ and apply a penalty under this section to

2571 each violation.

2572 ~~[(7)]~~ (8) (a) A penalty imposed by the director under Subsection ~~[(4)(h)]~~ (5) shall be

2573 deposited into the Commerce Service Account created by Section ~~13-1-2~~.

2574 (b) A penalty that is not paid may be collected by the director by either referring the

2575 matter to a collection agency or bringing an action in the district court of the county in which

2576 the person against whom the penalty is imposed resides or in the county where the office of the

2577 director is located.

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

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 25. Section **58-63-102** is amended to read:

58-63-102. Definitions.

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

(1) "Agreement for services" means a written and signed agreement between a security service provider and a client that:

(a) contains clear language that addresses and assigns financial responsibility;

(b) describes the length, duties, and scope of the security services that will be provided; and

(c) describes the compensation that will be paid by the client for the security services, including the compensation for each security officer.

(2) "Armed courier service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed security officer employed by that service.

(3) "Armed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is:

(i) guarding personal or real property; or

(ii) providing protection or security to the life and well being of humans or animals;

and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(4) "Armored car company" means a person engaged in business under contract to others who transports or offers to transport tangible personal property, currency, valuables, jewelry, SNAP benefits as defined in Section [35A-1-102](#), or any other high value items, that

2606 require secured delivery from one place to another under the control of an armored car security
2607 officer employed by the company using a specially equipped motor vehicle offering a high
2608 degree of security.

2609 (5) "Armored car security officer" means an individual:

2610 (a) employed by an armored car company;

2611 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
2612 SNAP benefits as defined in Section [35A-1-102](#), or other high value items that require secured
2613 delivery from one place to another; and

2614 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2615 performance of the individual's duties.

2616 (6) "Board" means the Security Services Licensing Board created in Section
2617 [58-63-201](#).

2618 (7) "Client" means a person, company, or entity that contracts for and receives security
2619 services from a contract security company or an armored car company.

2620 (8) "Contract security company" means a company that ~~[is registered with the Division~~
2621 ~~of Corporations and Commercial Code and]~~ is engaged in business to provide security services
2622 to another person, business, or entity on a contractual basis by assignment of an armed or
2623 unarmed private security officer.

2624 ~~[(9) "Corporate officer" means an individual who is on file with the Division of~~
2625 ~~Corporations and Commercial Code as:]~~

2626 ~~[(a) a corporate officer of a contract security company or an armored car company that~~
2627 ~~is a corporation; or]~~

2628 ~~[(b) a sole proprietor of a contract security company or an armored car company that is~~
2629 ~~not a corporation.]~~

2630 ~~[(10)]~~ (9) "Company officer" means:

2631 (a) a governing person, as defined in Section [48-3a-102](#), of an armored car company or
2632 contract security company;

2633 (b) an individual appointed as an officer of an armored car company or contract

2634 security company that is a corporation in accordance with Section 16-10a-830;

2635 (c) a general partner, as defined in Section 48-2e-102, of an armored car company or
2636 contract security company; or

2637 (d) a partner, as defined in Section 48-1d-102, of an armored car company or contract
2638 security company.

2639 (10) "Company owner" means:

2640 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
2641 through an entity controlled by the individual, 5% or more of the outstanding shares of an
2642 armored car company or contract security company that:

2643 (i) is a corporation; and

2644 (ii) is not publicly listed or traded; or

2645 (b) an individual who owns directly, or indirectly through an entity controlled by the
2646 individual, 5% or more of the equity of an armored car company or contract security company
2647 that is not a corporation.

2648 (11) "Company proprietor" means the sole proprietor of an armored car company or
2649 contract security company that is registered as a sole proprietorship with the Division of
2650 Corporations and Commercial Code.

2651 (12) "Company trustee" means an individual with control of or power of administration
2652 over property held in trust.

2653 (13) "Financial responsibility," when referring to a contract security company, means
2654 that a contract security company may only provide security services to a client if the contract
2655 security company:

2656 (a) enters into an agreement for services with the client;

2657 (b) maintains a current general liability insurance policy with:

2658 (i) at least an annual \$1,000,000 per occurrence limit;

2659 (ii) at least an annual \$2,000,000 aggregate limit; and

2660 (iii) the following riders:

2661 (A) general liability;

2662 (B) assault and battery;
2663 (C) personal injury;
2664 (D) false arrest;
2665 (E) libel and slander;
2666 (F) invasion of privacy;
2667 (G) broad form property damage;
2668 (H) damage to property in the care, custody, or control of the security service provider;
2669 and

2670 (I) errors and omissions;
2671 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
2672 occurrence limit and that covers each security officer employed by the contract security
2673 company; and

2674 (d) maintains a federal employer identification number and an unemployment
2675 insurance employer account as required under state and federal law.

2676 ~~[(11)]~~ (14) "Identification card" means a personal pocket or wallet size card issued by
2677 the division to each armored car and armed or unarmed private security officer licensed under
2678 this chapter.

2679 ~~[(12)]~~ (15) "Law enforcement agency" means the same as that term is defined in
2680 Section [53-1-102](#).

2681 ~~[(13)] "Owner" means an individual who is listed with the Division of Corporations and~~
2682 ~~Commercial Code as a majority stockholder of a company, a general partner of a partnership,~~
2683 ~~or the proprietor of a sole proprietorship.]~~

2684 ~~[(14)]~~ (16) "Peace officer" means a person who:

2685 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer
2686 Classifications; and

2687 (b) derives total or special law enforcement powers from, and is an employee of, the
2688 federal government, the state, or a political subdivision, agency, department, branch, or service
2689 of either, of a municipality, or a unit of local government.

2690 ~~[(15)]~~ (17) "Regular basis" means at least 20 hours per month.

2691 ~~[(16)]~~ (18) "Responsible management personnel" means ~~[an individual who is~~
2692 ~~responsible for managing an applicant's operations.];~~

2693 (a) a qualifying agent;

2694 (b) an operations manager; or

2695 (c) a site manager.

2696 ~~[(17)]~~ (19) (a) "Security officer" means an individual who is licensed as an armed or
2697 unarmed private security officer under this chapter and who:

2698 (i) is employed by a contract security company securing, guarding, or otherwise
2699 protecting tangible personal property, real property, or the life and well being of human or
2700 animal life against:

2701 (A) trespass or other unlawful intrusion or entry;

2702 (B) larceny;

2703 (C) vandalism or other abuse;

2704 (D) arson or other criminal activity; or

2705 (E) personal injury caused by another person or as a result of an act or omission by
2706 another person;

2707 (ii) is controlling, regulating, or directing the flow of movements of an individual or
2708 vehicle; or

2709 (iii) providing street patrol service.

2710 (b) "Security officer" does not include an individual whose duties include taking
2711 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
2712 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
2713 convention center, fairgrounds, public assembly facility, or mass gathering location if:

2714 (i) the individual carries out these duties without the use of specialized equipment;

2715 (ii) the authority of the individual is limited to denying entry or passage of another
2716 individual into or within the facility; and

2717 (iii) the individual is not authorized to use physical force in the performance of the

2718 individual's duties under this Subsection [~~(17)(b).~~] (19)(b).

2719 ~~[(18)]~~ (20) "Security service provider" means a contract security company or an
2720 armored car company licensed under this chapter.

2721 ~~[(19)]~~ (21) "Security system" means equipment, a device, or an instrument installed
2722 for:

2723 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
2724 the premises protected by the system; or

2725 (b) signaling the commission of criminal activity at the election of an individual having
2726 control of the features of the security system.

2727 ~~[(20)]~~ (22) "Specialized resource, motor vehicle, or equipment" means an item of
2728 tangible personal property specifically designed for use in law enforcement or in providing
2729 security or guard services, or that is specially equipped with a device or feature designed for
2730 use in providing law enforcement, security, or guard services, but does not include:

2731 (a) standardized clothing, whether or not bearing a company name or logo, if the
2732 clothing does not bear the words "security" or "guard"; or

2733 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
2734 may be used without modification in providing security or guard services.

2735 ~~[(21)]~~ (23) "Street patrol service" means a contract security company that provides
2736 patrols by means of foot, vehicle, or other method of transportation using public streets,
2737 thoroughfares, or property in the performance of the company's duties and responsibilities.

2738 ~~[(22)]~~ (24) "Unarmed private security officer" means an individual:

2739 (a) employed by a contract security company;

2740 (b) whose primary duty is guarding personal or real property or providing protection or
2741 security to the life and well being of humans or animals;

2742 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
2743 performance of the individual's duties; and

2744 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
2745 emblem, insignia, or other device that identifies the individual as a security officer.

2746 ~~[(23)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
2747 58-1-501 and 58-63-501.

2748 ~~[(24)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
2749 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

2750 Section 26. Section 58-63-302 is amended to read:

2751 **58-63-302. Qualifications for licensure.**

2752 (1) Each applicant for licensure as an armored car company or a contract security
2753 company shall:

2754 (a) submit an application in a form prescribed by the division;

2755 (b) pay a fee determined by the department under Section 63J-1-504;

2756 (c) have a qualifying agent who:

2757 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates
2758 that the applicant and the qualifying agent meet the requirements of this section;

2759 (ii) is a resident of the state ~~[and]~~;

2760 ~~(iii)~~ is responsible management personnel or ~~[an]~~ a company owner of the applicant;

2761 ~~[(iii)]~~ (iv) exercises material day-to-day authority in the conduct of the applicant's
2762 business by making substantive technical and administrative decisions and whose primary
2763 employment is with the applicant;

2764 ~~[(iv)]~~ (v) is not concurrently acting as a qualifying agent or employee of another
2765 armored car company or contract security company and is not engaged in any other
2766 employment on a regular basis;

2767 ~~[(v)]~~ (vi) is not involved in any activity that would conflict with the qualifying agent's
2768 duties and responsibilities under this chapter to ensure that the qualifying agent's and the
2769 applicant's performance under this chapter does not jeopardize the health or safety of the
2770 general public;

2771 ~~[(vi)]~~ (vii) is not an employee of a government agency;

2772 ~~[(vii)]~~ (viii) passes an examination component established by rule by the division in
2773 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative

2774 Rulemaking Act; and

2775 ~~[(viii)]~~ (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,
2776 supervisor, or administrator of an armored car company or a contract security company; or

2777 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
2778 collaboration with the board with a federal, United States military, state, county, or municipal
2779 law enforcement agency;

2780 (d) provide the name, address, date of birth, social security number, fingerprint card,
2781 and consent to a criminal background check in accordance with Section [58-63-302.1](#) and
2782 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah
2783 Administrative Rulemaking Act, for each company officer, company owner, company
2784 proprietor, company trustee, and responsible management personnel with direct responsibility
2785 for managing operations of the applicant within the state;

2786 ~~[(d) if a corporation, provide:]~~

2787 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~
2788 ~~officers, directors, and responsible management personnel; and]~~

2789 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~
2790 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~
2791 ~~the division if the stock is publicly listed and traded;]~~

2792 ~~[(e) if a limited liability company, provide:]~~

2793 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~
2794 ~~officers, and responsible management personnel; and]~~

2795 ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~
2796 ~~owning 5% or more of the equity of the company;]~~

2797 ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~
2798 ~~numbers of all general partners, and responsible management personnel;]~~

2799 ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~
2800 ~~numbers of the proprietor, and responsible management personnel;]~~

2801 ~~[(h)]~~ (e) have ~~[good moral character in that officers, directors, shareholders described~~

2802 ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~
2803 company officers, company owners, company proprietors, company trustees, and responsible
2804 management personnel who have not been convicted of:

2805 (i) a felony; or
2806 ~~[(ii) a misdemeanor involving moral turpitude; or]~~
2807 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of a contract
2808 security company or an armored car company by the division and the board indicates that the
2809 best interests of the public are not served by granting the applicant a license;

2810 ~~[(i)]~~ (f) document that none of the ~~[applicant's officers, directors, shareholders~~
2811 ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~
2812 ~~personnel]~~ persons described in Subsection (1)(e):

2813 (i) have been declared by a court of competent jurisdiction incompetent by reason of
2814 mental defect or disease and not been restored; ~~[and]~~ or

2815 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
2816 ~~[(j)]~~ (g) file and maintain with the division evidence of:

2817 (i) comprehensive general liability insurance in a form and in amounts established by
2818 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter
2819 3, Utah Administrative Rulemaking Act;

2820 (ii) workers' compensation insurance that covers employees of the applicant in
2821 accordance with applicable Utah law;

2822 (iii) registration with the Division of Corporations and Commercial Code; and
2823 (iv) registration as required by applicable law with the:

2824 (A) Unemployment Insurance Division in the Department of Workforce Services, for
2825 purposes of Title 35A, Chapter 4, Employment Security Act;

2826 (B) State Tax Commission; and
2827 (C) Internal Revenue Service; and

2828 ~~[(k)]~~ (h) meet with the division and board if requested by the division or board.

2829 (2) Each applicant for licensure as an armed private security officer ~~[shall]~~:

- 2830 (a) shall submit an application in a form prescribed by the division;
- 2831 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2832 (c) ~~[have good moral character in that the applicant has not]~~ may not have been
- 2833 convicted of:
- 2834 (i) a felony; or
- 2835 ~~[(ii) a misdemeanor involving moral turpitude; or]~~
- 2836 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an armed
- 2837 private security officer by the division and the board indicates that the best interests of the
- 2838 public are not served by granting the applicant a license;
- 2839 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
- 2840 Sec. 922(g);
- 2841 (e) may not have been declared incompetent by a court of competent jurisdiction by
- 2842 reason of mental defect or disease and not been restored;
- 2843 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
- 2844 dependence;
- 2845 (g) shall successfully complete basic education and training requirements established
- 2846 by rule by the division in collaboration with the board and in accordance with Title 63G,
- 2847 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
- 2848 hours of classroom or online curriculum;
- 2849 (h) shall successfully complete firearms training requirements established by rule by
- 2850 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
- 2851 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;
- 2852 (i) shall pass the examination requirement established by rule by the division in
- 2853 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
- 2854 Administrative Rulemaking Act;
- 2855 (j) shall submit to and pass a background check in accordance with Section
- 2856 [58-63-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2857 Chapter 3, Utah Administrative Rulemaking Act; and

2858 ~~[(j)]~~ (k) shall meet with the division and board if requested by the division or the board.

2859 (3) Each applicant for licensure as an unarmed private security officer ~~[shall]~~:

2860 (a) shall submit an application in a form prescribed by the division;

2861 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2862 (c) ~~[have good moral character in that the applicant has not]~~ may not have been

2863 convicted of:

2864 (i) a felony; or

2865 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

2866 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an

2867 unarmed private security officer by the division and the board indicates that the best interests of

2868 the public are not served by granting the applicant a license;

2869 (d) may not have been declared incompetent by a court of competent jurisdiction by

2870 reason of mental defect or disease and not been restored;

2871 (e) may not be currently suffering from habitual drunkenness or from drug addiction or

2872 dependence;

2873 (f) shall successfully complete basic education and training requirements established

2874 by rule by the division in collaboration with the board and in accordance with Title 63G,

2875 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight

2876 hours of classroom or online curriculum;

2877 (g) shall pass the examination requirement established by rule by the division in

2878 collaboration with the board~~;~~ and in accordance with Title 63G, Chapter 3, Utah

2879 Administrative Rulemaking Act;

2880 (h) shall submit to and pass a background check in accordance with Section

2881 [58-63-302.1](#) and requirements established by division rule made in accordance with Title 63G,

2882 Chapter 3, Utah Administrative Rulemaking Act; and

2883 ~~[(h)]~~ (i) shall meet with the division and board if requested by the division or board.

2884 (4) Each applicant for licensure as an armored car security officer ~~[shall]~~:

2885 (a) shall submit an application in a form prescribed by the division;

2886 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
2887 (c) [~~have good moral character in that the applicant has not~~] may not have been
2888 convicted of:
2889 (i) a felony; or
2890 [~~(ii) a misdemeanor involving moral turpitude; or~~]
2891 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
2892 armored car security officer by the division and the board indicates that the best interests of the
2893 public are not served by granting the applicant a license;
2894 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
2895 Sec. 922(g);
2896 (e) may not have been declared incompetent by a court of competent jurisdiction by
2897 reason of mental defect or disease and not been restored;
2898 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
2899 dependence;
2900 (g) shall successfully complete basic education and training requirements established
2901 by rule by the division in collaboration with the board and in accordance with Title 63G,
2902 Chapter 3, Utah Administrative Rulemaking Act;
2903 (h) shall successfully complete firearms training requirements established by rule by
2904 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
2905 Administrative Rulemaking Act;
2906 (i) shall pass the examination requirements established by rule by the division in
2907 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
2908 Administrative Rulemaking Act;
2909 (j) shall submit to and pass a background check in accordance with Section
2910 [58-63-302.1](#) and requirements established by division rule made in accordance with Title 63G,
2911 Chapter 3, Utah Administrative Rulemaking Act; and
2912 [~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.
2913 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

~~[(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:]~~

~~[(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and]~~

~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.]~~

~~[(7) The Department of Public Safety shall send the division:]~~

~~[(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and]~~

~~[(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.]~~

~~[(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.]~~

~~[(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.]~~

~~[(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]~~

Section 27. Section **58-63-302.1** is enacted to read:

58-63-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

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

(6) (a) A new license issued under Section 58-63-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-63-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 28. Section **58-64-302** is amended to read:

58-64-302. Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner:

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

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

(c) may not have been convicted of a felony~~], a misdemeanor involving moral turpitude,~~ or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

2998 (f) shall have completed one of the following:

2999 (i) have earned a bachelor's degree from a four year university or college meeting
3000 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
3001 Utah Administrative Rulemaking Act;

3002 (ii) have completed not less than 8,000 hours of investigation experience approved by
3003 the division; or

3004 (iii) have completed a combination of university or college education and investigation
3005 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
3006 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
3007 Subsection (1)(f)(i) or (1)(f)(ii);

3008 (g) shall have successfully completed a training program in deception deception
3009 meeting criteria established by rule made by the division~~[; and]~~ in accordance with Title 63G,
3010 Chapter 3, Utah Administrative Rulemaking Act;

3011 (h) shall submit to and pass a background check in accordance with Section
3012 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,
3013 Chapter 3, Utah Administrative Rulemaking Act; and

3014 ~~[(h)]~~ (i) shall have performed satisfactorily as a licensed deception detection intern for
3015 a period of not less than one year and shall have satisfactorily conducted not less than 100
3016 deception detection examinations under the supervision of a licensed deception detection
3017 examiner.

3018 (2) Each applicant for licensure as a deception detection intern:

3019 (a) shall submit an application in a form prescribed by the division;

3020 (b) shall pay a fee determined by the department under Section 63J-1-504;

3021 (c) may not have been convicted of a felony~~[; a misdemeanor involving moral~~
3022 ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a
3023 deception detection intern is considered by the division to indicate that the best interests of the
3024 public will not be served by granting the applicant a license;

3025 (d) may not have been declared by any court of competent jurisdiction incompetent by

reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made by the division~~[-and]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(h)]~~ (i) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

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

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

(c) may not have been convicted of a felony~~[-a misdemeanor involving moral turpitude]~~, or any other crime that when considered with the duties and responsibilities of a

deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; ~~[and]~~

(g) shall submit to and pass a background check in accordance with Section [58-64-302.1](#) and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

~~[(g)]~~ (h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:]~~

~~[(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and]~~

~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section:]~~

~~[(5) The Department of Public Safety shall send to the division:]~~

~~[(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and]~~

~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after]~~

receipt of information from the F.B.I.]

~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.]~~

~~[(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.]~~

~~[(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.]~~

Section 29. Section **58-64-302.1** is enacted to read:

58-64-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

3110 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
3111 Section 53-10-108:

3112 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
3113 and regional criminal records databases;

3114 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
3115 criminal history background check; and

3116 (c) provide the results from the state, regional, and nationwide criminal history
3117 background checks to the division.

3118 (4) For purposes of conducting a criminal background check required under this
3119 section, the division shall have direct access to criminal background information maintained
3120 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

3121 (5) The division may not disseminate outside of the division any criminal history
3122 record information that the division obtains from the Bureau of Criminal Identification or the
3123 Federal Bureau of Investigation under the criminal background check requirements of this
3124 section.

3125 (6) (a) A new license issued under Section 58-64-302 is conditional pending
3126 completion of the criminal background check.

3127 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
3128 criminal background check required in Section 58-64-302 demonstrates the applicant or the
3129 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
3130 responsible management personnel has failed to accurately disclose a criminal history, the
3131 license is immediately and automatically revoked upon notice to the licensee by the division.

3132 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
3133 entitled to a postrevocation hearing to challenge the revocation.

3134 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
3135 Chapter 4, Administrative Procedures Act.