

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **31A-22-614.5**, as last amended by Laws of Utah 2017, Chapter 168
- 33 **31A-22-625**, as last amended by Laws of Utah 2014, Chapters 290, 300
- 34 **31A-22-633**, as last amended by Laws of Utah 2013, Chapter 167
- 35 **31A-22-636**, as last amended by Laws of Utah 2022, Chapter 198
- 36 **31A-22-645**, as enacted by Laws of Utah 2017, Chapter 168
- 37 **31A-22-649**, as enacted by Laws of Utah 2018, Chapter 119
- 38 **31A-22-649.5**, as last amended by Laws of Utah 2021, Chapters 19, 404 and last
- 39 amended by Coordination Clause, Laws of Utah 2021, Chapter 404
- 40 **31A-22-651**, as enacted by Laws of Utah 2019, Chapter 256
- 41 **31A-22-1016**, as enacted by Laws of Utah 2019, Chapter 341
- 42 **31A-22-1602**, as last amended by Laws of Utah 2009, Chapter 349
- 43 **31A-23a-402**, as last amended by Laws of Utah 2019, Chapter 193
- 44 **31A-23b-102**, as last amended by Laws of Utah 2018, Chapter 319
- 45 **31A-23b-211**, as last amended by Laws of Utah 2014, Chapter 425
- 46 **31A-26-301.6**, as last amended by Laws of Utah 2020, Chapter 32
- 47 **31A-45-402**, as enacted by Laws of Utah 2017, Chapter 292
- 48 **31A-45-501**, as last amended by Laws of Utah 2021, Chapter 252
- 49 **32B-1-102**, as last amended by Laws of Utah 2022, Chapter 447
- 50 **32B-1-703**, as renumbered and amended by Laws of Utah 2019, Chapter 403
- 51 **32B-2-208**, as enacted by Laws of Utah 2010, Chapter 276
- 52 **32B-10-702**, as enacted by Laws of Utah 2010, Chapter 276
- 53 **34-55-102**, as enacted by Laws of Utah 2019, Chapter 126
- 54 **34A-2-102**, as last amended by Laws of Utah 2019, Chapter 121
- 55 **34A-2-111**, as last amended by Laws of Utah 2015, Chapter 258
- 56 **34A-2-417**, as last amended by Laws of Utah 2018, Chapter 443
- 57 **34A-2-418**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

- 58 **34A-2-422**, as last amended by Laws of Utah 2018, Chapter 443
- 59 **34A-3-201**, as renumbered and amended by Laws of Utah 2020, Fifth Special Session,
- 60 Chapter 5
- 61 **34A-11-102**, as enacted by Laws of Utah 2002, Chapter 120
- 62 **35A-1-102**, as last amended by Laws of Utah 2018, Chapters 415, 427
- 63 **35A-3-103**, as last amended by Laws of Utah 2022, Chapter 255
- 64 **35A-3-207**, as last amended by Laws of Utah 2015, Chapter 221
- 65 **35A-3-212**, as enacted by Laws of Utah 2022, Chapter 21
- 66 **35A-3-308**, as last amended by Laws of Utah 2015, Chapter 221
- 67 **35A-3-401**, as last amended by Laws of Utah 2015, Chapters 72, 189 and 221
- 68 **35A-3-603**, as last amended by Laws of Utah 2020, Chapter 29
- 69 **35A-9-202**, as enacted by Laws of Utah 2022, Chapter 36
- 70 **35A-15-102**, as last amended by Laws of Utah 2022, Chapters 316, 348
- 71 **39-1-64**, as enacted by Laws of Utah 2004, Chapter 82
- 72 **41-1a-230.5**, as last amended by Laws of Utah 2021, Chapter 378
- 73 **41-1a-230.7**, as enacted by Laws of Utah 2021, Chapter 395
- 74 **41-1a-422**, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335,
- 75 451, and 456
- 76 **41-6a-404**, as last amended by Laws of Utah 2021, Chapters 211, 216
- 77 **41-6a-501**, as last amended by Laws of Utah 2022, Chapter 116
- 78 **41-6a-502.5**, as last amended by Laws of Utah 2022, Chapters 134, 415
- 79 **41-6a-505**, as last amended by Laws of Utah 2022, Chapters 116, 134 and 137
- 80 **41-6a-517**, as last amended by Laws of Utah 2022, Chapter 116
- 81 **41-6a-523**, as last amended by Laws of Utah 2019, Chapter 349
- 82 **41-6a-1717**, as enacted by Laws of Utah 2013, Chapter 251
- 83 **41-22-8**, as last amended by Laws of Utah 2022, Chapter 68
- 84 **49-11-1401**, as last amended by Laws of Utah 2021, Chapter 193
- 85 **49-12-202**, as last amended by Laws of Utah 2021, Chapter 193

86 **49-13-202**, as last amended by Laws of Utah 2021, Chapter 193
87 **49-20-201**, as last amended by Laws of Utah 2022, Chapter 347
88 **49-20-401**, as last amended by Laws of Utah 2022, Chapter 302
89 **49-20-414**, as last amended by Laws of Utah 2019, Chapter 249
90 **49-20-421**, as last amended by Laws of Utah 2021, Chapter 255
91 **51-2a-102**, as last amended by Laws of Utah 2017, Chapter 441
92 **51-7-2**, as last amended by Laws of Utah 2022, Chapters 186, 298
93 **51-9-201**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
94 **51-9-203**, as last amended by Laws of Utah 2020, Chapters 302, 347
95 **52-4-205**, as last amended by Laws of Utah 2022, Chapters 237, 290, 332, 335, 422,
96 and 478
97 **53-1-106**, as last amended by Laws of Utah 2021, Chapters 344, 360
98 **53-2a-218**, as enacted by Laws of Utah 2021, Chapter 437
99 **53-2c-102**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 1
100 **53-3-102**, as last amended by Laws of Utah 2022, Chapter 162
101 **53-3-105**, as last amended by Laws of Utah 2022, Chapters 146, 259
102 **53-3-106**, as last amended by Laws of Utah 2022, Chapters 92, 255
103 **53-3-205**, as last amended by Laws of Utah 2022, Chapter 46
104 **53-3-207**, as last amended by Laws of Utah 2022, Chapter 158
105 **53-3-214.7**, as last amended by Laws of Utah 2021, Chapter 378
106 **53-3-214.8**, as last amended by Laws of Utah 2003, Chapter 30
107 **53-3-804**, as last amended by Laws of Utah 2021, Chapter 191
108 **53-3-805**, as last amended by Laws of Utah 2022, Chapter 158
109 **53-5-707**, as last amended by Laws of Utah 2021, Chapters 12, 277
110 **53-10-102**, as last amended by Laws of Utah 2022, Chapters 192, 447
111 **53-10-104**, as last amended by Laws of Utah 2018, Chapter 169
112 **53-10-108**, as last amended by Laws of Utah 2022, Chapters 192, 255
113 **53-10-202**, as last amended by Laws of Utah 2021, Chapter 103

- 114 **53-10-208.1**, as last amended by Laws of Utah 2021, Chapter 159
- 115 **53-10-403**, as last amended by Laws of Utah 2022, Chapters 116, 430
- 116 **53-10-405**, as last amended by Laws of Utah 2019, Chapter 349
- 117 **53-10-802**, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 118 **53-10-804**, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 119 **53-13-105**, as last amended by Laws of Utah 2022, Chapter 10
- 120 **53-13-110**, as last amended by Laws of Utah 2022, Chapter 335
- 121 **53-21-101**, as enacted by Laws of Utah 2022, Chapter 114
- 122 **53B-1-111**, as enacted by Laws of Utah 2016, Chapter 45
- 123 **53B-17-301**, as last amended by Laws of Utah 2015, Chapter 72
- 124 **53B-17-903**, as enacted by Laws of Utah 2022, Chapter 452
- 125 **53B-17-1203**, as last amended by Laws of Utah 2020, Chapter 365
- 126 **53B-26-202**, as last amended by Laws of Utah 2022, Chapter 224
- 127 **53B-28-202**, as last amended by Laws of Utah 2022, Chapter 335
- 128 **53B-28-303**, as last amended by Laws of Utah 2022, Chapter 335
- 129 **53E-1-201**, as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291,
- 130 354, and 461
- 131 **53E-3-503**, as last amended by Laws of Utah 2020, Chapters 330, 408
- 132 **53E-8-405**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 133 **53E-8-408**, as last amended by Laws of Utah 2019, Chapter 186
- 134 **53E-9-301**, as last amended by Laws of Utah 2020, Chapter 408
- 135 **53E-9-307**, as last amended by Laws of Utah 2020, Chapter 408
- 136 **53E-9-308**, as last amended by Laws of Utah 2022, Chapter 335
- 137 **53F-2-415**, as last amended by Laws of Utah 2022, Chapter 409
- 138 **53F-2-522**, as enacted by Laws of Utah 2020, Chapter 202
- 139 **53F-4-401**, as last amended by Laws of Utah 2022, Chapter 316
- 140 **53F-5-207**, as last amended by Laws of Utah 2022, Chapter 36
- 141 **53G-6-302**, as last amended by Laws of Utah 2022, Chapter 335

- 142 **53G-6-601**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 143 **53G-8-802**, as last amended by Laws of Utah 2022, Chapter 399
- 144 **53G-9-211**, as enacted by Laws of Utah 2021, Chapter 309
- 145 **53G-9-301**, as last amended by Laws of Utah 2022, Chapter 255
- 146 **53G-9-303**, as last amended by Laws of Utah 2021, Chapter 258
- 147 **53G-9-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 148 **53G-9-402**, as last amended by Laws of Utah 2019, Chapter 293
- 149 **53G-9-404**, as repealed and reenacted by Laws of Utah 2019, Chapter 87
- 150 **53G-9-502**, as last amended by Laws of Utah 2019, Chapter 293
- 151 **53G-9-702**, as last amended by Laws of Utah 2021, Chapter 105
- 152 **58-1-112**, as enacted by Laws of Utah 2022, Chapter 224
- 153 **58-1-307**, as last amended by Laws of Utah 2020, Chapter 339
- 154 **58-1-312**, as enacted by Laws of Utah 2020, Chapter 93
- 155 **58-1-405**, as enacted by Laws of Utah 2008, Chapter 242
- 156 **58-1-501.5**, as last amended by Laws of Utah 2008, Chapter 250
- 157 **58-1-501.7**, as last amended by Laws of Utah 2020, Chapter 354
- 158 **58-1-509**, as enacted by Laws of Utah 2019, Chapter 346
- 159 **58-4a-102**, as enacted by Laws of Utah 2020, Chapter 107
- 160 **58-5a-102**, as last amended by Laws of Utah 2022, Chapter 290
- 161 **58-5a-103**, as last amended by Laws of Utah 2018, Chapter 247
- 162 **58-9-610**, as last amended by Laws of Utah 2009, Chapters 68, 223
- 163 **58-9-616**, as enacted by Laws of Utah 2018, Chapter 326
- 164 **58-11a-501**, as last amended by Laws of Utah 2016, Chapters 238, 274
- 165 **58-13-2**, as last amended by Laws of Utah 2022, Chapter 241
- 166 **58-13-2.6**, as last amended by Laws of Utah 2008, Chapter 76
- 167 **58-13-3**, as last amended by Laws of Utah 2022, Chapter 241
- 168 **58-13-5**, as last amended by Laws of Utah 2013, Chapter 278
- 169 **58-15-303**, as renumbered and amended by Laws of Utah 2022, Chapter 415

- 170 **58-17b-102**, as last amended by Laws of Utah 2021, Chapters 127, 340
- 171 **58-17b-302**, as last amended by Laws of Utah 2022, Chapter 353
- 172 **58-17b-309**, as last amended by Laws of Utah 2022, Chapter 353
- 173 **58-17b-309.7**, as last amended by Laws of Utah 2021, Chapter 340
- 174 **58-17b-501**, as last amended by Laws of Utah 2018, Chapter 295
- 175 **58-17b-502**, as last amended by Laws of Utah 2022, Chapter 465
- 176 **58-17b-503**, as last amended by Laws of Utah 2022, Chapter 465
- 177 **58-17b-507**, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and
- 178 last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
- 179 **58-17b-602**, as last amended by Laws of Utah 2017, Chapter 384
- 180 **58-17b-606**, as last amended by Laws of Utah 2010, Chapter 101
- 181 **58-17b-620**, as last amended by Laws of Utah 2022, Chapters 255, 465

Utah Code Sections Affected by Coordination Clause:

- 182 **58-17b-302**, as last amended by Laws of Utah 2022, Chapter 353

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

Section 1. Section **31A-22-614.5** is amended to read:

31A-22-614.5. Uniform claims processing -- Electronic exchange of health information.

(1) (a) Except as provided in Subsection (1)(c), an insurer offering health insurance shall use a uniform claim form and uniform billing and claim codes.

(b) Beginning January 1, 2011, all health benefit plans, and dental and vision plans, shall provide for the electronic exchange of uniform:

- (i) eligibility and coverage information; and
- (ii) coordination of benefits information.

(c) For purposes of Subsection (1)(a), "health insurance" does not include a policy or certificate that provides benefits solely for:

- (i) income replacement; or

198 (ii) long-term care.
199 (2) (a) The uniform electronic standards and information required in Subsection (1)
200 shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3,
201 Utah Administrative Rulemaking Act.

202 (b) When adopting rules under this section the commissioner:

203 (i) shall:

204 (A) consult with national and state organizations involved with the standardized
205 exchange of health data, and the electronic exchange of health data, to develop the standards
206 for the use and electronic exchange of uniform:

207 (I) claim forms;

208 (II) billing and claim codes;

209 (III) insurance eligibility and coverage information; and

210 (IV) coordination of benefits information; and

211 (B) meet federal mandatory minimum standards following the adoption of national
212 requirements for transaction and data elements in the federal Health Insurance Portability and
213 Accountability Act;

214 (ii) may not require an insurer or administrator to use a specific software product or
215 vendor; and

216 (iii) may require an insurer who participates in the all payer database created under
217 Section [~~26-33a-106.1~~] [26B-8-504](#) to allow data regarding demographic and insurance
218 coverage information to be electronically shared with the state's designated secure health
219 information master person index to be used:

220 (A) in compliance with data security standards established by:

221 (I) the federal Health Insurance Portability and Accountability Act; and

222 (II) the electronic commerce agreements established in a business associate agreement;

223 and

224 (B) for the purpose of coordination of health benefit plans.

225 (3) (a) The commissioner shall coordinate the administrative rules adopted under the

226 provisions of this section with the administrative rules adopted by the Department of Health
227 and Human Services for the implementation of the standards for the electronic exchange of
228 clinical health information under Section [~~26-1-37~~] 26B-8-411. The department shall establish
229 procedures for developing the rules adopted under this section, which ensure that the
230 Department of Health and Human Services is given the opportunity to comment on proposed
231 rules.

232 (b) (i) The commissioner may provide information to health care providers regarding
233 resources available to a health care provider to verify whether a health care provider's practice
234 management software system meets the uniform electronic standards for data exchange
235 required by this section.

236 (ii) The commissioner may provide the information described in Subsection (3)(b)(i)
237 by partnering with:

238 (A) a not-for-profit, broad based coalition of state health care insurers and health care
239 providers who are involved in the electronic exchange of the data required by this section; or

240 (B) some other person that the commissioner determines is appropriate to provide the
241 information described in Subsection (3)(b)(i).

242 (c) The commissioner shall regulate any fees charged by insurers to the providers for:

243 (i) uniform claim forms;

244 (ii) electronic billing; or

245 (iii) the electronic exchange of clinical health information permitted by Section
246 [~~26-1-37~~] 26B-8-411.

247 (4) This section does not require a person to provide information concerning an
248 employer self-insured employee welfare benefit plan as defined in 29 U.S.C. Sec. 1002(1).

249 Section 2. Section **31A-22-625** is amended to read:

250 **31A-22-625. Catastrophic coverage of mental health conditions.**

251 (1) As used in this section:

252 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan
253 that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or

254 outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden
255 on an insured for the evaluation and treatment of a mental health condition than for the
256 evaluation and treatment of a physical health condition.

257 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing
258 factors, such as deductibles, copayments, or coinsurance, before reaching a maximum
259 out-of-pocket limit.

260 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket
261 limit for physical health conditions and another maximum out-of-pocket limit for mental health
262 conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit
263 for mental health conditions may not exceed the out-of-pocket limit for physical health
264 conditions.

265 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that
266 pays for at least 50% of covered services for the diagnosis and treatment of mental health
267 conditions.

268 (ii) "50/50 mental health coverage" may include a restriction on:

269 (A) episodic limits;

270 (B) inpatient or outpatient service limits; or

271 (C) maximum out-of-pocket limits.

272 (c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

273 (d) (i) "Mental health condition" means a condition or disorder involving mental illness
274 that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as
275 periodically revised.

276 (ii) "Mental health condition" does not include the following when diagnosed as the
277 primary or substantial reason or need for treatment:

278 (A) a marital or family problem;

279 (B) a social, occupational, religious, or other social maladjustment;

280 (C) a conduct disorder;

281 (D) a chronic adjustment disorder;

282 (E) a psychosexual disorder;

283 (F) a chronic organic brain syndrome;

284 (G) a personality disorder;

285 (H) a specific developmental disorder or learning disability; or

286 (I) an intellectual disability.

287 (e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

288 (2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer

289 that it insures or seeks to insure a choice between:

290 (i) (A) catastrophic mental health coverage; or

291 (B) federally qualified mental health coverage as described in Subsection (3); and

292 (ii) 50/50 mental health coverage.

293 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

294 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels

295 that exceed the minimum requirements of this section; or

296 (ii) coverage that excludes benefits for mental health conditions.

297 (c) A small employer may, at its option, regardless of the employer's previous coverage

298 for mental health conditions, choose either:

299 (i) coverage offered under Subsection (2)(a)(i);

300 (ii) 50/50 mental health coverage; or

301 (iii) coverage offered under Subsection (2)(b).

302 (d) An insurer is exempt from the 30% index rating restriction in Section

303 [31A-30-106.1](#) and, for the first year only that the employer chooses coverage that meets or

304 exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section

305 [31A-30-106.1](#), for a small employer with 20 or less enrolled employees who chooses coverage

306 that meets or exceeds catastrophic mental health coverage.

307 (3) (a) An insurer shall offer a large employer mental health and substance use disorder

308 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.

309 300gg-26, and federal regulations adopted pursuant to that act.

310 (b) An insurer shall provide in an individual or small employer health benefit plan,
311 mental health and substance use disorder benefits in compliance with Sections 2705 and 2711
312 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted
313 pursuant to that act.

314 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer
315 through a managed care organization or system in a manner consistent with Chapter 8, Health
316 Maintenance Organizations and Limited Health Plans, regardless of whether the insurance
317 policy uses a managed care organization or system for the treatment of physical health
318 conditions.

319 (b) (i) Notwithstanding any other provision of this title, an insurer may:

320 (A) establish a closed panel of providers for catastrophic mental health coverage; and

321 (B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider
322 unless:

323 (I) the insured is referred to a nonpanel provider with the prior authorization of the
324 insurer; and

325 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment
326 guidelines.

327 (ii) If an insured receives services from a nonpanel provider in the manner permitted by
328 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the
329 average amount paid by the insurer for comparable services of panel providers under a
330 noncapitated arrangement who are members of the same class of health care providers.

331 (iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a
332 referral to a nonpanel provider.

333 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a
334 mental health condition shall be rendered:

335 (i) by a mental health therapist as defined in Section [58-60-102](#); or

336 (ii) in a health care facility:

337 (A) licensed or otherwise authorized to provide mental health services pursuant to:

338 (I) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,
339 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

340 (II) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2,
341 Part 1, Human Services Programs and Facilities; and

342 (B) that provides a program for the treatment of a mental health condition pursuant to a
343 written plan.

344 (5) The commissioner may prohibit an insurance policy that provides mental health
345 coverage in a manner that is inconsistent with this section.

346 (6) The commissioner may adopt rules, in accordance with Title 63G, Chapter 3, Utah
347 Administrative Rulemaking Act, as necessary to ensure compliance with this section.

348 Section 3. Section **31A-22-633** is amended to read:

349 **31A-22-633. Exemptions from standards.**

350 Notwithstanding the provisions of [~~Title 31A, Insurance Code~~] this title, any accident
351 and health insurer or health maintenance organization may offer a choice of coverage that is
352 less or different than is otherwise required by applicable state law if:

353 (1) the Department of Health and Human Services offers a choice of coverage as part
354 of a Medicaid waiver under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter
355 3, Health Care - Administration and Assistance, which includes:

356 (a) less or different coverage than the basic coverage;
357 (b) less or different coverage than is otherwise required in an insurance policy or health
358 maintenance organization contract under applicable state law; or

359 (c) less or different coverage than required by Subsection **31A-22-605(4)(b)**; and

360 (2) the choice of coverage offered by the carrier:

361 (a) is the same or similar coverage as the coverage offered by the Department of Health
362 and Human Services under Subsection (1);

363 (b) is offered to the same or similar population as the coverage offered by the
364 Department of Health and Human Services under Subsection (1); and

365 (c) contains an explanation for each insured of coverage exclusions and limitations.

366 Section 4. Section 31A-22-636 is amended to read:

367 **31A-22-636. Standardized health insurance information cards.**

368 (1) As used in this section, "insurer" means:

369 (a) an insurer governed by this part as described in Section 31A-22-600;

370 (b) a health maintenance organization governed by Chapter 8, Health Maintenance
371 Organizations and Limited Health Plans;

372 (c) a third party administrator; and

373 (d) notwithstanding Subsection 31A-1-103(3)(f) and Section 31A-22-600, a health,
374 medical, or conversion policy offered under Title 49, Chapter 20, Public Employees' Benefit
375 and Insurance Program Act.

376 (2) In accordance with Subsection (3), an insurer shall use and issue a health benefit
377 plan information card for the insurer's enrollees upon the purchase or renewal of, or enrollment
378 in, a health benefit plan.

379 (3) The health benefit plan information card shall include:

380 (a) the covered person's name;

381 (b) the name of the carrier and the carrier network name;

382 (c) the contact information for the carrier or health benefit plan administrator;

383 (d) general information regarding copayments and deductibles; and

384 (e) an indication of whether the health benefit plan is regulated by the state.

385 (4) (a) The commissioner shall work with the Department of Health and Human
386 Services, the Health Data Authority, health care providers groups, and with state and national
387 organizations that develop uniform standards for the electronic exchange of health insurance
388 claims or uniform standards for the electronic exchange of clinical health records.

389 (b) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah
390 Administrative Rulemaking Act, to adopt standardized electronic interchange technology.

391 (c) After rules are adopted under Subsection (4)(a), health care providers and their
392 licensing boards under Title 58, Occupations and Professions, and health facilities licensed
393 under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,

394 Chapter 2, Part 2, Health Care Facility Licensing and Inspection, shall work together to
395 implement the adoption of card swipe technology.

396 Section 5. Section **31A-22-645** is amended to read:

397 **31A-22-645. Alcohol and drug dependency treatment.**

398 (1) An insurer offering a health benefit plan providing coverage for alcohol or drug
399 dependency treatment may require an inpatient facility to be licensed by:

400 (a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2,~~
401 ~~Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs
402 and Facilities; or

403 (ii) the Department of Health and Human Services; or

404 (b) for an inpatient facility located outside the state, a state agency similar to one
405 described in Subsection (1)(a).

406 (2) For inpatient coverage provided pursuant to Subsection (1), an insurer may require
407 an inpatient facility to be accredited by the following:

408 (a) the Joint Commission; and

409 (b) one other nationally recognized accrediting agency.

410 Section 6. Section **31A-22-649** is amended to read:

411 **31A-22-649. Coverage of telepsychiatric consultations.**

412 (1) As used in this section:

413 (a) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~]
414 [26B-4-704](#).

415 (b) "Telepsychiatric consultation" means a consultation between a physician and a
416 board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in
417 the state, that utilizes:

418 (i) the health records of the patient, provided from the patient or the referring
419 physician;

420 (ii) a written, evidence-based patient questionnaire; and

421 (iii) telehealth services that meet industry security and privacy standards, including

422 compliance with the:

423 (A) Health Insurance Portability and Accountability Act; and

424 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.
425 111-5, 123 Stat. 226, 467, as amended.

426 (2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental
427 health services shall:

428 (a) provide coverage for a telepsychiatric consultation during or after an initial visit
429 between the patient and a referring in-network physician;

430 (b) provide coverage for a telepsychiatric consultation from an out-of-network board
431 certified psychiatrist if a telepsychiatric consultation is not made available to a physician within
432 seven business days after the initial request is made by the physician to an in-network provider
433 of telepsychiatric consultations; and

434 (c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent
435 in-network or out-of-network rate set by the health benefit plan after taking into account
436 cost-sharing that may be required under the health benefit plan.

437 (3) A single telepsychiatric consultation includes all contacts, services, discussion, and
438 information review required to complete an individual request from a referring physician for a
439 patient.

440 (4) An insurer may satisfy the requirement to cover a telepsychiatric consultation
441 described in Subsection (2)(a) for a patient by:

442 (a) providing coverage for behavioral health treatment, as defined in Section
443 [31A-22-642](#), in person or using telehealth services; and

444 (b) ensuring that the patient receives an appointment for the behavioral health
445 treatment in person or using telehealth services on a date that is within seven business days
446 after the initial request is made by the in-network referring physician.

447 (5) A referring physician who uses a telepsychiatric consultation for a patient shall, at
448 the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the
449 patient that:

450 (a) the referring physician plans to request a telepsychiatric consultation; and
451 (b) additional charges to the patient may apply.
452 (6) (a) An insurer may receive a temporary waiver from the department from the
453 requirements in this section if the insurer demonstrates to the department that the insurer is
454 unable to provide the benefits described in this section due to logistical reasons.

455 (b) An insurer that receives a waiver from the department under Subsection (6)(a) is
456 subject to the requirements of this section beginning July 1, 2019.

457 (7) This section does not limit an insurer from engaging in activities that ensure
458 payment integrity or facilitate review and investigation of improper practices by health care
459 providers.

460 Section 7. Section **31A-22-649.5** is amended to read:

461 **31A-22-649.5. Insurance parity for telemedicine services -- Method of technology**
462 **used.**

463 (1) As used in this section:

464 (a) "Mental health condition" means a mental disorder or a substance-related disorder
465 that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as
466 periodically revised.

467 (b) "Telemedicine services" means the same as that term is defined in Section
468 ~~[26-60-102]~~ [26B-4-704](#).

469 (2) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan
470 offered in the individual market, the small group market, or the large group market shall:

471 (a) provide coverage for:

472 (i) telemedicine services that are covered by Medicare; and

473 (ii) treatment of a mental health condition through telemedicine services if:

474 (A) the health benefit plan provides coverage for the treatment of the mental health
475 condition through in-person services; and

476 (B) the health benefit plan determines treatment of the mental health condition through
477 telemedicine services meets the appropriate standard of care; and

478 (b) reimburse a network provider that provides the telemedicine services described in
479 Subsection (2)(a) at a negotiated commercially reasonable rate.

480 (3) (a) Notwithstanding Section 31A-45-303, a health benefit plan providing coverage
481 under Subsection (2)(a) may not impose originating site restrictions, geographic restrictions, or
482 distance-based restrictions.

483 (b) A network provider that provides the telemedicine services described in Subsection
484 (2)(a) may utilize any synchronous audiovisual technology for the telemedicine services that is
485 compliant with the federal Health Insurance Portability and Accountability Act of 1996.

486 Section 8. Section 31A-22-651 is amended to read:

487 **31A-22-651. Insurance coverage for assisted outpatient treatment.**

488 (1) As used in this section, "assisted outpatient treatment" means the same as that term
489 is defined in Section [~~62A-15-602~~] 26B-5-301.

490 (2) A health insurance provider may not deny an insured the benefits of the insured's
491 policy solely because the health care that the insured receives is provided under a court order
492 for assisted outpatient treatment, as provided in Section [~~62A-15-630.5~~] 26B-5-351.

493 Section 9. Section 31A-22-1016 is amended to read:

494 **31A-22-1016. Workers' compensation coverage for medical cannabis operations.**

495 A licensed and admitted workers' compensation insurer may issue coverage to:

- 496 (1) a cannabis production establishment as defined in Section 4-41a-102; or
497 (2) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] 26B-4-201.

498 Section 10. Section 31A-22-1602 is amended to read:

499 **31A-22-1602. Genetic testing restrictions.**

500 Except as provided under Section 31A-22-620, with respect to a matter related to
501 genetic testing and private genetic information, an insurer shall comply with the applicable
502 provisions of [~~Title 26, Chapter 45~~] Title 13, Chapter 60, Part 2, Genetic Testing and Procedure
503 Privacy Act, including Section [~~26-45-104~~] 13-60-205.

504 Section 11. Section 31A-23a-402 is amended to read:

505 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**

506 **discrimination -- Coercion or intimidation -- Restriction on choice.**

507 (1) (a) (i) Any of the following may not make or cause to be made any communication
508 that contains false or misleading information, relating to an insurance product or contract, any
509 insurer, or any licensee under this title, including information that is false or misleading
510 because it is incomplete:

511 (A) a person who is or should be licensed under this title;

512 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

513 (C) a person whose primary interest is as a competitor of a person licensed under this
514 title; and

515 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

516 (ii) As used in this Subsection (1), "false or misleading information" includes:

517 (A) assuring the nonobligatory payment of future dividends or refunds of unused
518 premiums in any specific or approximate amounts, but reporting fully and accurately past
519 experience is not false or misleading information; and

520 (B) with intent to deceive a person examining it:

521 (I) filing a report;

522 (II) making a false entry in a record; or

523 (III) wilfully refraining from making a proper entry in a record.

524 (iii) A licensee under this title may not:

525 (A) use any business name, slogan, emblem, or related device that is misleading or
526 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee
527 already in business; or

528 (B) use any name, advertisement, or other insurance promotional material that would
529 cause a reasonable person to mistakenly believe that a state or federal government agency and
530 the Children's Health Insurance Program created in [~~Title 26, Chapter 40, Utah Children's~~

531 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program:

532 (I) is responsible for the insurance sales activities of the person;

533 (II) stands behind the credit of the person;

534 (III) guarantees any returns on insurance products of or sold by the person; or
535 (IV) is a source of payment of any insurance obligation of or sold by the person.

536 (iv) A person who is not an insurer may not assume or use any name that deceptively
537 implies or suggests that person is an insurer.

538 (v) A person other than persons licensed as health maintenance organizations under
539 Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term
540 "Health Maintenance Organization" or "HMO" in referring to itself.

541 (b) A licensee's violation creates a rebuttable presumption that the violation was also
542 committed by the insurer if:

543 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
544 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
545 insurer:

546 (A) that the licensee represents; or
547 (B) for whom the licensee processes claims; and

548 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
549 insurer.

550 (2) (a) A title insurer, individual title insurance producer, or agency title insurance
551 producer or any officer or employee of the title insurer, individual title insurance producer, or
552 agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give,
553 directly or indirectly, as an inducement to obtaining any title insurance business:

554 (i) any rebate, reduction, or abatement of any rate or charge made incident to the
555 issuance of the title insurance;

556 (ii) any special favor or advantage not generally available to others;

557 (iii) any money or other consideration, except if approved under Section [31A-2-405](#); or

558 (iv) material inducement.

559 (b) "Charge made incident to the issuance of the title insurance" includes escrow
560 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
561 after consultation with the commissioner and subject to Section [31A-2-404](#).

562 (c) An insured or any other person connected, directly or indirectly, with the
563 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to
564 in Subsection (2)(a), including:

565 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices
566 and Licensing Act;

567 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
568 Act;

569 (iii) a builder;

570 (iv) an attorney; or

571 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

572 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
573 different premiums or by offering different terms of coverage, except on the basis of
574 classifications related to the nature and the degree of the risk covered or the expenses involved.

575 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
576 insured under a group, blanket, or franchise policy, and the terms of those policies are not
577 unfairly discriminatory merely because they are more favorable than in similar individual
578 policies.

579 (4) (a) This Subsection (4) applies to:

580 (i) a person who is or should be licensed under this title;

581 (ii) an employee of that licensee or person who should be licensed;

582 (iii) a person whose primary interest is as a competitor of a person licensed under this
583 title; and

584 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

585 (b) A person described in Subsection (4)(a) may not commit or enter into any
586 agreement to participate in any act of boycott, coercion, or intimidation that:

587 (i) tends to produce:

588 (A) an unreasonable restraint of the business of insurance; or

589 (B) a monopoly in that business; or

590 (ii) results in an applicant purchasing or replacing an insurance contract.

591 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
592 insurer or licensee under this chapter, another person who is required to pay for insurance as a
593 condition for the conclusion of a contract or other transaction or for the exercise of any right
594 under a contract.

595 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
596 coverage selected on reasonable grounds.

597 (b) The form of corporate organization of an insurer authorized to do business in this
598 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
599 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
600 declining an application for insurance.

601 (6) A person may not make any charge other than insurance premiums and premium
602 financing charges for the protection of property or of a security interest in property, as a
603 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
604 the lending of money on the security of an interest in the property.

605 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
606 agency to the principal on demand.

607 (b) A licensee whose license is suspended, limited, or revoked under Section
608 [31A-2-308](#), [31A-23a-111](#), or [31A-23a-112](#) may not refuse or fail to return the license to the
609 commissioner on demand.

610 (8) (a) A person may not engage in an unfair method of competition or any other unfair
611 or deceptive act or practice in the business of insurance, as defined by the commissioner by
612 rule, after a finding that the method of competition, the act, or the practice:

613 (i) is misleading;

614 (ii) is deceptive;

615 (iii) is unfairly discriminatory;

616 (iv) provides an unfair inducement; or

617 (v) unreasonably restrains competition.

618 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
619 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an
620 unfair method of competition or unfair or deceptive act or practice after a finding that the
621 method of competition, the act, or the practice:

- 622 (i) is misleading;
- 623 (ii) is deceptive;
- 624 (iii) is unfairly discriminatory;
- 625 (iv) provides an unfair inducement; or
- 626 (v) unreasonably restrains competition.

627 Section 12. Section 31A-23b-102 is amended to read:

628 **31A-23b-102. Definitions.**

629 As used in this chapter:

630 (1) "Enroll" and "enrollment" mean to:

- 631 (a) (i) obtain personally identifiable information about an individual; and
- 632 (ii) inform an individual about accident and health insurance plans or public programs
633 offered on an exchange;
- 634 (b) solicit insurance; or
- 635 (c) submit to the exchange:
 - 636 (i) personally identifiable information about an individual; and
 - 637 (ii) an individual's selection of a particular accident and health insurance plan or public
638 program offered on the exchange.

639 (2) "Navigator":

640 (a) means a person who facilitates enrollment in an exchange by offering to assist, or
641 who advertises any services to assist, with:

- 642 (i) the selection of and enrollment in a qualified health plan or a public program
643 offered on an exchange; or
- 644 (ii) applying for premium subsidies through an exchange; and
- 645 (b) includes a person who is an in-person assister or a certified application counselor as

646 described in federal regulations or guidance issued under PPACA.

647 (3) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

648 (4) "Public programs" means the state Medicaid program in [~~Title 26, Chapter 18;~~
649 ~~Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance,
650 and [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9,
651 Utah Children's Health Insurance Program.

652 (5) "Resident" is as defined by rule made by the commissioner in accordance with Title
653 63G, Chapter 3, Utah Administrative Rulemaking Act.

654 (6) "Solicit" means the same as that term is defined in Section 31A-23a-102.

655 Section 13. Section 31A-23b-211 is amended to read:

656 **31A-23b-211. Exceptions to navigator licensing.**

657 (1) For purposes of this section:

658 (a) "Negotiate" is as defined in Section 31A-23a-102.

659 (b) "Sell" is as defined in Section 31A-23a-102.

660 (c) "Solicit" is as defined in Section 31A-23a-102.

661 (2) The commissioner may not require a license as a navigator of:

662 (a) a person who is employed by or contracts with:

663 (i) a health care facility that is licensed under [~~Title 26, Chapter 21, Health Care~~
664 ~~Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility
665 Licensing and Inspection, to assist an individual with enrollment in a public program or an
666 application for premium subsidy; or

667 (ii) the state, a political subdivision of the state, an entity of a political subdivision of
668 the state, or a public school district to assist an individual with enrollment in a public program
669 or an application for premium subsidy;

670 (b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social
671 Security Act which assists an individual with enrollment in a public program or an application
672 for premium subsidy;

673 (c) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,

674 Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of
675 authority to sell, solicit, or negotiate accident and health insurance plans;

676 (d) an officer, director, or employee of a navigator:

677 (i) who does not receive compensation or commission from an insurer issuing an
678 insurance contract, an agency administering a public program, an individual who enrolled in a
679 public program or insurance product, or an exchange; and

680 (ii) whose activities:

681 (A) are executive, administrative, managerial, clerical, or a combination thereof;

682 (B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the
683 enrollment in a public program offered through the exchange;

684 (C) are in the capacity of a special agent or agency supervisor assisting an insurance
685 producer or navigator;

686 (D) are limited to providing technical advice and assistance to a licensed insurance
687 producer or navigator; or

688 (E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment
689 in a public program;

690 (e) a person who does not sell, solicit, or negotiate insurance and is not directly or
691 indirectly compensated by an insurer issuing an insurance contract, an agency administering a
692 public program, an individual who enrolled in a public program or insurance product, or an
693 exchange, including:

694 (i) an employer, association, officer, director, employee, or trustee of an employee trust
695 plan who is engaged in the administration or operation of a program:

696 (A) of employee benefits for the employer's or association's own employees or the
697 employees of a subsidiary or affiliate of an employer or association; and

698 (B) that involves the use of insurance issued by an insurer or enrollment in a public
699 health plan on an exchange;

700 (ii) an employee of an insurer or organization employed by an insurer who is engaging
701 in the inspection, rating, or classification of risk, or the supervision of training of insurance

702 producers; or

703 (iii) an employee who counsels or advises the employee's employer with regard to the
704 insurance interests of the employer, or a subsidiary or business affiliate of the employer; and

705 (f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the
706 Indian Health Care Improvement Act, which assists a person with enrollment in a public
707 program or an application for a premium subsidy.

708 (3) The exemption from licensure under Subsections (2)(a), (b), and (f) does not apply
709 if a person described in Subsections (2)(a), (b), and (f) enrolls a person in a private insurance
710 plan.

711 (4) The commissioner may by rule exempt a class of persons from the license
712 requirement of Subsection 31A-23b-201(1) if:

713 (a) the functions performed by the class of persons do not require:

714 (i) special competence;

715 (ii) special trustworthiness; or

716 (iii) regulatory surveillance made possible by licensing; or

717 (b) other existing safeguards make regulation unnecessary.

718 Section 14. Section 31A-26-301.6 is amended to read:

719 **31A-26-301.6. Health care claims practices.**

720 (1) As used in this section:

721 (a) "Health care provider" means a person licensed to provide health care under:

722 (i) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,
723 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

724 (ii) Title 58, Occupations and Professions.

725 (b) "Insurer" means an admitted or authorized insurer, as defined in Section

726 31A-1-301, and includes:

727 (i) a health maintenance organization; and

728 (ii) a third party administrator that is subject to this title, provided that nothing in this
729 section may be construed as requiring a third party administrator to use its own funds to pay

730 claims that have not been funded by the entity for which the third party administrator is paying
731 claims.

732 (c) "Provider" means a health care provider to whom an insurer is obligated to pay
733 directly in connection with a claim by virtue of:

- 734 (i) an agreement between the insurer and the provider;
- 735 (ii) a health insurance policy or contract of the insurer; or
- 736 (iii) state or federal law.

737 (2) An insurer shall timely pay every valid insurance claim submitted by a provider in
738 accordance with this section.

739 (3) (a) Except as provided in Subsection (4), within 30 days of the day on which the
740 insurer receives a written claim, an insurer shall:

- 741 (i) pay the claim; or
- 742 (ii) deny the claim and provide a written explanation for the denial.

743 (b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)
744 may be extended by 15 days if the insurer:

745 (A) determines that the extension is necessary due to matters beyond the control of the
746 insurer; and

747 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the
748 provider and insured in writing of:

- 749 (I) the circumstances requiring the extension of time; and
- 750 (II) the date by which the insurer expects to pay the claim or deny the claim with a
751 written explanation for the denial.

752 (ii) If an extension is necessary due to a failure of the provider or insured to submit the
753 information necessary to decide the claim:

754 (A) the notice of extension required by this Subsection (3)(b) shall specifically describe
755 the required information; and

756 (B) the insurer shall give the provider or insured at least 45 days from the day on which
757 the provider or insured receives the notice before the insurer denies the claim for failure to

758 provide the information requested in Subsection (3)(b)(ii)(A).

759 (4) (a) In the case of a claim for income replacement benefits, within 45 days of the day
760 on which the insurer receives a written claim, an insurer shall:

761 (i) pay the claim; or

762 (ii) deny the claim and provide a written explanation of the denial.

763 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)
764 may be extended for 30 days if the insurer:

765 (i) determines that the extension is necessary due to matters beyond the control of the
766 insurer; and

767 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies
768 the insured of:

769 (A) the circumstances requiring the extension of time; and

770 (B) the date by which the insurer expects to pay the claim or deny the claim with a
771 written explanation for the denial.

772 (c) Subject to Subsections (4)(d) and (e), the time period for complying with
773 Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the
774 30-day extension period provided in Subsection (4)(b) ends if before the day on which the
775 30-day extension period ends, the insurer:

776 (i) determines that due to matters beyond the control of the insurer a decision cannot be
777 rendered within the 30-day extension period; and

778 (ii) notifies the insured of:

779 (A) the circumstances requiring the extension; and

780 (B) the date as of which the insurer expects to pay the claim or deny the claim with a
781 written explanation for the denial.

782 (d) A notice of extension under this Subsection (4) shall specifically explain:

783 (i) the standards on which entitlement to a benefit is based; and

784 (ii) the unresolved issues that prevent a decision on the claim.

785 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of

786 the insured to submit the information necessary to decide the claim:

787 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically
788 describe the necessary information; and

789 (ii) the insurer shall give the insured at least 45 days from the day on which the insured
790 receives the notice before the insurer denies the claim for failure to provide the information
791 requested in Subsection (4)(b) or (c).

792 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or
793 (4)(c), due to an insured or provider failing to submit information necessary to decide a claim,
794 the period for making the benefit determination shall be tolled from the date on which the
795 notification of the extension is sent to the insured or provider until the date on which the
796 insured or provider responds to the request for additional information.

797 (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated
798 to pay on the claim, and provide a written explanation of the insurer's decision regarding any
799 part of the claim that is denied within 20 days of receiving the information requested under
800 Subsection (3)(b), (4)(b), or (4)(c).

801 (7) (a) Whenever an insurer makes a payment to a provider on any part of a claim
802 under this section, the insurer shall also send to the insured an explanation of benefits paid.

803 (b) Whenever an insurer denies any part of a claim under this section, the insurer shall
804 also send to the insured:

805 (i) a written explanation of the part of the claim that was denied; and

806 (ii) notice of the adverse benefit determination review process established under
807 Section [31A-22-629](#).

808 (c) This Subsection (7) does not apply to a person receiving benefits under the state
809 Medicaid program as defined in Section [~~26-18-2~~] [26B-3-101](#), unless required by the
810 Department of Health and Human Services or federal law.

811 (8) (a) A late fee shall be imposed on:

812 (i) an insurer that fails to timely pay a claim in accordance with this section; and

813 (ii) a provider that fails to timely provide information on a claim in accordance with

814 this section.

815 (b) The late fee described in Subsection (8)(a) shall be determined by multiplying
816 together:

817 (i) the total amount of the claim the insurer is obliged to pay;

818 (ii) the total number of days the response or the payment is late; and

819 (iii) 0.033% daily interest rate.

820 (c) Any late fee paid or collected under this Subsection (8) shall be separately
821 identified on the documentation used by the insurer to pay the claim.

822 (d) For purposes of this Subsection (8), "late fee" does not include an amount that is
823 less than \$1.

824 (9) Each insurer shall establish a review process to resolve claims-related disputes
825 between the insurer and providers.

826 (10) An insurer or person representing an insurer may not engage in any unfair claim
827 settlement practice with respect to a provider. Unfair claim settlement practices include:

828 (a) knowingly misrepresenting a material fact or the contents of an insurance policy in
829 connection with a claim;

830 (b) failing to acknowledge and substantively respond within 15 days to any written
831 communication from a provider relating to a pending claim;

832 (c) denying or threatening to deny the payment of a claim for any reason that is not
833 clearly described in the insured's policy;

834 (d) failing to maintain a payment process sufficient to comply with this section;

835 (e) failing to maintain claims documentation sufficient to demonstrate compliance with
836 this section;

837 (f) failing, upon request, to give to the provider written information regarding the
838 specific rate and terms under which the provider will be paid for health care services;

839 (g) failing to timely pay a valid claim in accordance with this section as a means of
840 influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to
841 an unrelated claim, an undisputed part of a pending claim, or some other aspect of the

842 contractual relationship;

843 (h) failing to pay the sum when required and as required under Subsection (8) when a
844 violation has occurred;

845 (i) threatening to retaliate or actual retaliation against a provider for the provider
846 applying this section;

847 (j) any material violation of this section; and

848 (k) any other unfair claim settlement practice established in rule or law.

849 (11) (a) The provisions of this section shall apply to each contract between an insurer
850 and a provider for the duration of the contract.

851 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad
852 faith insurance claim.

853 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer
854 and a provider from including provisions in their contract that are more stringent than the
855 provisions of this section.

856 (12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the
857 commissioner may conduct examinations to determine an insurer's level of compliance with
858 this section and impose sanctions for each violation.

859 (b) The commissioner may adopt rules only as necessary to implement this section.

860 (c) The commissioner may establish rules to facilitate the exchange of electronic
861 confirmations when claims-related information has been received.

862 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules
863 regarding the review process required by Subsection (9).

864 (13) Nothing in this section may be construed as limiting the collection rights of a
865 provider under Section [31A-26-301.5](#).

866 (14) Nothing in this section may be construed as limiting the ability of an insurer to:

867 (a) recover any amount improperly paid to a provider or an insured:

868 (i) in accordance with Section [31A-31-103](#) or any other provision of state or federal
869 law;

870 (ii) within 24 months of the amount improperly paid for a coordination of benefits
871 error;

872 (iii) within 12 months of the amount improperly paid for any other reason not
873 identified in Subsection (14)(a)(i) or (ii); or

874 (iv) within 36 months of the amount improperly paid when the improper payment was
875 due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any
876 other state or federal health care program;

877 (b) take any action against a provider that is permitted under the terms of the provider
878 contract and not prohibited by this section;

879 (c) report the provider to a state or federal agency with regulatory authority over the
880 provider for unprofessional, unlawful, or fraudulent conduct; or

881 (d) enter into a mutual agreement with a provider to resolve alleged violations of this
882 section through mediation or binding arbitration.

883 (15) A health care provider may only seek recovery from the insurer for an amount
884 improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

885 (16) (a) An insurer may offer the remittance of payment through a credit card or other
886 similar arrangement.

887 (b) (i) A health care provider may elect not to receive remittance through a credit card
888 or other similar arrangement.

889 (ii) An insurer:

890 (A) shall permit a health care provider's election described in Subsection (16)(b)(i) to
891 apply to the health care provider's entire practice; and

892 (B) may not require a health care provider's election described in Subsection (16)(b)(i)
893 to be made on a patient-by-patient basis.

894 (c) An insurer may not require a health care provider or insured to accept remittance
895 through a credit card or other similar arrangement.

896 Section 15. Section **31A-45-402** is amended to read:

897 **31A-45-402. Alcohol and drug dependency treatment.**

898 (1) A managed care organization offering a health benefit plan providing coverage for
899 alcohol or drug dependency treatment may require an inpatient facility to be licensed by:

900 (a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2,~~
901 ~~Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs
902 and Facilities; or

903 (ii) the Department of Health and Human Services; or

904 (b) for an inpatient facility located outside the state, a state agency similar to one
905 described in Subsection (1)(a).

906 (2) For inpatient coverage provided pursuant to Subsection (1), a managed care
907 organization may require an inpatient facility to be accredited by the following:

908 (a) the Joint Commission; and

909 (b) one other nationally recognized accrediting agency.

910 Section 16. Section **31A-45-501** is amended to read:

911 **31A-45-501. Access to health care providers.**

912 (1) As used in this section:

913 (a) "Class of health care provider" means a health care provider or a health care facility
914 regulated by the state within the same professional, trade, occupational, or certification
915 category established under Title 58, Occupations and Professions, or within the same facility
916 licensure category established under [~~Title 26, Chapter 21, Health Care Facility Licensing and~~
917 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

918 (b) "Covered health care services" or "covered services" means health care services for
919 which an enrollee is entitled to receive under the terms of a managed care organization
920 contract.

921 (c) "Credentialed staff member" means a health care provider with active staff
922 privileges at an independent hospital or federally qualified health center.

923 (d) "Federally qualified health center" means as defined in the Social Security Act, 42
924 U.S.C. Sec. 1395x.

925 (e) "Independent hospital" means a general acute hospital or a critical access hospital

926 that:

927 (i) is either:

928 (A) located 20 miles or more from any other general acute hospital or critical access
929 hospital; or

930 (B) licensed as of January 1, 2004;

931 (ii) is licensed pursuant to [~~Title 26, Chapter 21, Health Care Facility Licensing and
932 Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

933 (iii) is controlled by a board of directors of which 51% or more reside in the county
934 where the hospital is located; and

935 (iv) (A) the hospital's board of directors is ultimately responsible for the policy and
936 financial decisions of the hospital; or

937 (B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part,
938 by an entity that owns or controls a health maintenance organization if the hospital is a
939 contracting facility of the organization.

940 (f) "Noncontracting provider" means an independent hospital, federally qualified health
941 center, or credentialed staff member that has not contracted with a managed care organization
942 to provide health care services to enrollees of the managed care organization.

943 (2) Except for a managed care organization that is under the common ownership or
944 control of an entity with a hospital located within 10 paved road miles of an independent
945 hospital, a managed care organization shall pay for covered health care services rendered to an
946 enrollee by an independent hospital, a credentialed staff member at an independent hospital, or
947 a credentialed staff member at his local practice location if:

948 (a) the enrollee:

949 (i) lives or resides within 30 paved road miles of the independent hospital; or

950 (ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the
951 independent hospital than a contracting hospital;

952 (b) the independent hospital is located prior to December 31, 2000 in a county with a
953 population density of less than 100 people per square mile, or the independent hospital is

954 located in a county with a population density of less than 30 people per square mile; and

955 (c) the enrollee has complied with the prior authorization and utilization review
956 requirements otherwise required by the managed care organization contract.

957 (3) A managed care organization shall pay for covered health care services rendered to
958 an enrollee at a federally qualified health center if:

959 (a) the enrollee:

960 (i) lives or resides within 30 paved road miles of the federally qualified health center;

961 or

962 (ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the
963 federally qualified health center than a contracting provider;

964 (b) the federally qualified health center is located in a county with a population density
965 of less than 30 people per square mile; and

966 (c) the enrollee has complied with the prior authorization and utilization review
967 requirements otherwise required by the managed care organization contract.

968 (4) (a) A managed care organization shall reimburse a noncontracting provider or the
969 enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as the
970 managed care organization pays to contracting providers under a noncapitated arrangement for
971 comparable services.

972 (b) A managed care organization shall reimburse a federally qualified health center or
973 the enrollee for covered services rendered pursuant to Subsection (3) a like amount as paid by
974 the managed care organization under a noncapitated arrangement for comparable services to a
975 contracting provider in the same class of health care providers as the provider who rendered the
976 service.

977 (5) (a) A noncontracting independent hospital may not balance bill a patient when the
978 managed care organization reimburses a noncontracting independent hospital or an enrollee in
979 accordance with Subsection (4)(a).

980 (b) A noncontracting federally qualified health center may not balance bill a patient
981 when the federally qualified health center or the enrollee receives reimbursement in accordance

982 with Subsection (4)(b).

983 (6) A noncontracting provider may only refer an enrollee to another noncontracting
984 provider so as to obligate the enrollee's managed care organization to pay for the resulting
985 services if:

986 (a) the noncontracting provider making the referral or the enrollee has received prior
987 authorization from the organization for the referral; or

988 (b) the practice location of the noncontracting provider to whom the referral is made:

989 (i) is located in a county with a population density of less than 25 people per square
990 mile; and

991 (ii) is within 30 paved road miles of:

992 (A) the place where the enrollee lives or resides; or

993 (B) the independent hospital or federally qualified health center at which the enrollee
994 may receive covered services pursuant to Subsection (2) or (3).

995 (7) Notwithstanding this section, a managed care organization may contract directly
996 with an independent hospital, federally qualified health center, or credentialed staff member.

997 (8) (a) A managed care organization that violates any provision of this section is
998 subject to sanctions as determined by the commissioner in accordance with Section [31A-2-308](#).

999 (b) Violations of this section include:

1000 (i) failing to provide the notice required by Subsection (8)(d) by placing the notice in
1001 any managed care organization's provider list that is supplied to enrollees, including any
1002 website maintained by the managed care organization;

1003 (ii) failing to provide notice of an enrollee's rights under this section when:

1004 (A) an enrollee makes personal contact with the managed care organization by
1005 telephone, electronic transaction, or in person; and

1006 (B) the enrollee inquires about the enrollee's rights to access an independent hospital or
1007 federally qualified health center; and

1008 (iii) refusing to reprocess or reconsider a claim, initially denied by the managed care
1009 organization, when the provisions of this section apply to the claim.

1010 (c) The commissioner shall, pursuant to Chapter 2, Part 2, Duties and Powers of
1011 Commissioner:

1012 (i) adopt rules as necessary to implement this section;

1013 (ii) identify in rule:

1014 (A) the counties with a population density of less than 100 people per square mile;

1015 (B) independent hospitals as defined in Subsection (1)(e); and

1016 (C) federally qualified health centers as defined in Subsection (1)(d).

1017 (d) (i) A managed care organization shall:

1018 (A) use the information developed by the commissioner under Subsection (8)(c) to
1019 identify the rural counties, independent hospitals, and federally qualified health centers that are
1020 located in the managed care organization's service area; and

1021 (B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required
1022 in Subsection (8)(d)(ii).

1023 (ii) The managed care organization shall provide the following notice, in bold type, to
1024 enrollees as specified under Subsection (8)(b)(i), and shall keep the notice current:

1025 "You may be entitled to coverage for health care services from the following
1026 noncontracted providers if you live or reside within 30 paved road miles of the listed providers,
1027 or if you live or reside in closer proximity to the listed providers than to your contracted
1028 providers:

1029 This list may change periodically, please check on our website or call for verification.
1030 Please be advised that if you choose a noncontracted provider you will be responsible for any
1031 charges not covered by your health insurance plan.

1032 If you have questions concerning your rights to see a provider on this list you may
1033 contact your managed care organization at _____. If the managed care organization does
1034 not resolve your problem, you may contact the Office of Consumer Health Assistance in the
1035 Insurance Department, toll free."

1036 (e) A person whose interests are affected by an alleged violation of this section may
1037 contact the Office of Consumer Health Assistance and request assistance, or file a complaint as

1038 provided in Section [31A-2-216](#).

1039 Section 17. Section **32B-1-102** is amended to read:

1040 **32B-1-102. Definitions.**

1041 As used in this title:

1042 (1) "Airport lounge" means a business location:

1043 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1044 (b) that is located at an international airport.

1045 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

1046 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1047 (3) "Alcoholic beverage" means the following:

1048 (a) beer; or

1049 (b) liquor.

1050 (4) (a) "Alcoholic product" means a product that:

1051 (i) contains at least .5% of alcohol by volume; and

1052 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

1053 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

1054 in an amount equal to or greater than .5% of alcohol by volume.

1055 (b) "Alcoholic product" includes an alcoholic beverage.

1056 (c) "Alcoholic product" does not include any of the following common items that

1057 otherwise come within the definition of an alcoholic product:

1058 (i) except as provided in Subsection (4)(d), an extract;

1059 (ii) vinegar;

1060 (iii) preserved nonintoxicating cider;

1061 (iv) essence;

1062 (v) tincture;

1063 (vi) food preparation; or

1064 (vii) an over-the-counter medicine.

1065 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation

- 1066 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1067 (5) "Alcohol training and education seminar" means a seminar that is:
- 1068 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1069 (b) described in Section [~~62A-15-401~~] [26B-5-205](#).
- 1070 (6) "Arena" means an enclosed building:
- 1071 (a) that is managed by:
- 1072 (i) the same person who owns the enclosed building;
- 1073 (ii) a person who has a majority interest in each person who owns or manages a space
- 1074 in the enclosed building; or
- 1075 (iii) a person who has authority to direct or exercise control over the management or
- 1076 policy of each person who owns or manages a space in the enclosed building;
- 1077 (b) that operates as a venue; and
- 1078 (c) that has an occupancy capacity of at least 12,500.
- 1079 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
- 1080 License Act, and Chapter 8c, Arena License Act.
- 1081 (8) "Banquet" means an event:
- 1082 (a) that is a private event or a privately sponsored event;
- 1083 (b) that is held at one or more designated locations approved by the commission in or
- 1084 on the premises of:
- 1085 (i) a hotel;
- 1086 (ii) a resort facility;
- 1087 (iii) a sports center;
- 1088 (iv) a convention center;
- 1089 (v) a performing arts facility; or
- 1090 (vi) an arena;
- 1091 (c) for which there is a contract:
- 1092 (i) between a person operating a facility listed in Subsection (8)(b) and another person
- 1093 that has common ownership of less than 20% with the person operating the facility; and

1094 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
1095 provide an alcoholic product at the event; and

1096 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.

1097 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter
1098 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

1099 (b) "Bar establishment license" includes:

1100 (i) a dining club license;

1101 (ii) an equity license;

1102 (iii) a fraternal license; or

1103 (iv) a bar license.

1104 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License
1105 Act, and Chapter 6, Part 4, Bar Establishment License.

1106 (11) (a) "Beer" means a product that:

1107 (i) contains:

1108 (A) at least .5% of alcohol by volume; and

1109 (B) no more than 5% of alcohol by volume or 4% by weight;

1110 (ii) is obtained by fermentation, infusion, or decoction of:

1111 (A) malt; or

1112 (B) a malt substitute; and

1113 (iii) is clearly marketed, labeled, and identified as:

1114 (A) beer;

1115 (B) ale;

1116 (C) porter;

1117 (D) stout;

1118 (E) lager;

1119 (F) a malt;

1120 (G) a malted beverage; or

1121 (H) seltzer.

- 1122 (b) "Beer" may contain:
- 1123 (i) hops extract; or
- 1124 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient.
- 1125 (c) "Beer" does not include:
- 1126 (i) a flavored malt beverage;
- 1127 (ii) a product that contains alcohol derived from:
- 1128 (A) spirituous liquor; or
- 1129 (B) wine; or
- 1130 (iii) a product that contains an additive masking or altering a physiological effect of
- 1131 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1132 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 1133 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1134 (13) "Beer retailer" means a business that:
- 1135 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 1136 for consumption on or off the business premises; and
- 1137 (b) is licensed as:
- 1138 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 1139 Retailer Local Authority; or
- 1140 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 1141 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1142 (14) "Beer wholesaling license" means a license:
- 1143 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 1144 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 1145 retail licensees or off-premise beer retailers.
- 1146 (15) "Billboard" means a public display used to advertise, including:
- 1147 (a) a light device;
- 1148 (b) a painting;
- 1149 (c) a drawing;

- 1150 (d) a poster;
- 1151 (e) a sign;
- 1152 (f) a signboard; or
- 1153 (g) a scoreboard.
- 1154 (16) "Brewer" means a person engaged in manufacturing:
- 1155 (a) beer;
- 1156 (b) heavy beer; or
- 1157 (c) a flavored malt beverage.
- 1158 (17) "Brewery manufacturing license" means a license issued in accordance with
- 1159 Chapter 11, Part 5, Brewery Manufacturing License.
- 1160 (18) "Certificate of approval" means a certificate of approval obtained from the
- 1161 department under Section [32B-11-201](#).
- 1162 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 1163 a bus company to a group of persons pursuant to a common purpose:
- 1164 (a) under a single contract;
- 1165 (b) at a fixed charge in accordance with the bus company's tariff; and
- 1166 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 1167 motor vehicle, and a driver to travel together to one or more specified destinations.
- 1168 (20) "Church" means a building:
- 1169 (a) set apart for worship;
- 1170 (b) in which religious services are held;
- 1171 (c) with which clergy is associated; and
- 1172 (d) that is tax exempt under the laws of this state.
- 1173 (21) "Commission" means the Alcoholic Beverage Services Commission created in
- 1174 Section [32B-2-201](#).
- 1175 (22) "Commissioner" means a member of the commission.
- 1176 (23) "Community location" means:
- 1177 (a) a public or private school;

- 1178 (b) a church;
- 1179 (c) a public library;
- 1180 (d) a public playground; or
- 1181 (e) a public park.
- 1182 (24) "Community location governing authority" means:
- 1183 (a) the governing body of the community location; or
- 1184 (b) if the commission does not know who is the governing body of a community
- 1185 location, a person who appears to the commission to have been given on behalf of the
- 1186 community location the authority to prohibit an activity at the community location.
- 1187 (25) "Container" means a receptacle that contains an alcoholic product, including:
- 1188 (a) a bottle;
- 1189 (b) a vessel; or
- 1190 (c) a similar item.
- 1191 (26) "Controlled group of manufacturers" means as the commission defines by rule
- 1192 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1193 (27) "Convention center" means a facility that is:
- 1194 (a) in total at least 30,000 square feet; and
- 1195 (b) otherwise defined as a "convention center" by the commission by rule.
- 1196 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 1197 where seating is provided to a patron for service of food.
- 1198 (b) "Counter" does not include a dispensing structure.
- 1199 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1200 (30) "Department" means the Department of Alcoholic Beverage Services created in
- 1201 Section [32B-2-203](#).
- 1202 (31) "Department compliance officer" means an individual who is:
- 1203 (a) an auditor or inspector; and
- 1204 (b) employed by the department.
- 1205 (32) "Department sample" means liquor that is placed in the possession of the

1206 department for testing, analysis, and sampling.

1207 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
1208 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1209 commission as a dining club license.

1210 (34) "Director," unless the context requires otherwise, means the director of the
1211 department.

1212 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
1213 title:

1214 (a) against a person subject to administrative action; and

1215 (b) that is brought on the basis of a violation of this title.

1216 (36) (a) Subject to Subsection (36)(b), "dispense" means:

1217 (i) drawing an alcoholic product; and

1218 (ii) using the alcoholic product at the location from which it was drawn to mix or
1219 prepare an alcoholic product to be furnished to a patron of the retail licensee.

1220 (b) The definition of "dispense" in this Subsection (36) applies only to:

1221 (i) a full-service restaurant license;

1222 (ii) a limited-service restaurant license;

1223 (iii) a reception center license;

1224 (iv) a beer-only restaurant license;

1225 (v) a bar license;

1226 (vi) an on-premise beer retailer;

1227 (vii) an airport lounge license;

1228 (viii) an on-premise banquet license; and

1229 (ix) a hospitality amenity license.

1230 (37) "Dispensing structure" means a surface or structure on a licensed premises:

1231 (a) where an alcoholic product is dispensed; or

1232 (b) from which an alcoholic product is served.

1233 (38) "Distillery manufacturing license" means a license issued in accordance with

1234 Chapter 11, Part 4, Distillery Manufacturing License.

1235 (39) "Distressed merchandise" means an alcoholic product in the possession of the
1236 department that is saleable, but for some reason is unappealing to the public.

1237 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail
1238 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1239 commission as an equity license.

1240 (41) "Event permit" means:

1241 (a) a single event permit; or

1242 (b) a temporary beer event permit.

1243 (42) "Exempt license" means a license exempt under Section 32B-1-201 from being
1244 considered in determining the total number of retail licenses that the commission may issue at
1245 any time.

1246 (43) (a) "Flavored malt beverage" means a beverage:

1247 (i) that contains at least .5% alcohol by volume;

1248 (ii) for which the producer is required to file a formula for approval with the federal
1249 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1250 is treated by processing, filtration, or another method of manufacture that is not generally
1251 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt
1252 liquor; and

1253 (iii) for which the producer is required to file a formula for approval with the federal
1254 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1255 includes an ingredient containing alcohol.

1256 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1257 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1258 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1259 commission as a fraternal license.

1260 (45) "Full-service restaurant license" means a license issued in accordance with
1261 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1262 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual
1263 an alcoholic product, by sale or otherwise.

1264 (b) "Furnish" includes to:

1265 (i) serve;

1266 (ii) deliver; or

1267 (iii) otherwise make available.

1268 (47) "Guest" means an individual who meets the requirements of Subsection
1269 [32B-6-407\(9\)](#).

1270 (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1271 (49) "Health care practitioner" means:

1272 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1273 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

1274 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1275 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
1276 Act;

1277 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
1278 Nurse Practice Act;

1279 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
1280 Practice Act;

1281 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
1282 Therapy Practice Act;

1283 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

1284 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
1285 Professional Practice Act;

1286 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

1287 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
1288 Practice Act;

1289 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

1290 Hygienist Practice Act; and

1291 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1292 Assistant Act.

1293 (50) (a) "Heavy beer" means a product that:

1294 (i) contains more than 5% alcohol by volume; and

1295 (ii) is obtained by fermentation, infusion, or decoction of:

1296 (A) malt; or

1297 (B) a malt substitute.

1298 (b) "Heavy beer" is considered liquor for the purposes of this title.

1299 (51) "Hospitality amenity license" means a license issued in accordance with Chapter
1300 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

1301 (52) (a) "Hotel" means a commercial lodging establishment that:

1302 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

1303 (ii) is capable of hosting conventions, conferences, and food and beverage functions
1304 under a banquet contract; and

1305 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete
1306 meals;

1307 (B) has at least 1,000 square feet of function space consisting of meeting or dining
1308 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

1309 (C) if the establishment is located in a small or unincorporated locality, has an
1310 appropriate amount of function space consisting of meeting or dining rooms that can be
1311 reserved for private use under a banquet contract, as determined by the commission.

1312 (b) "Hotel" includes a commercial lodging establishment that:

1313 (i) meets the requirements under Subsection (52)(a); and

1314 (ii) has one or more privately owned dwelling units.

1315 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail
1316 License Act, and Chapter 8b, Hotel License Act.

1317 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,

1318 Part 8, Identification Card Act.

1319 (55) "Industry representative" means an individual who is compensated by salary,
1320 commission, or other means for representing and selling an alcoholic product of a
1321 manufacturer, supplier, or importer of liquor.

1322 (56) "Industry representative sample" means liquor that is placed in the possession of
1323 the department for testing, analysis, and sampling by a local industry representative on the
1324 premises of the department to educate the local industry representative of the quality and
1325 characteristics of the product.

1326 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1327 of an alcoholic product is prohibited by:

- 1328 (a) law; or
- 1329 (b) court order.

1330 (58) "International airport" means an airport:

- 1331 (a) with a United States Customs and Border Protection office on the premises of the
1332 airport; and
- 1333 (b) at which international flights may enter and depart.

1334 (59) "Intoxicated" means that a person:

1335 (a) is significantly impaired as to the person's mental or physical functions as a result of
1336 the use of:

- 1337 (i) an alcoholic product;
- 1338 (ii) a controlled substance;
- 1339 (iii) a substance having the property of releasing toxic vapors; or
- 1340 (iv) a combination of Subsections (59)(a)(i) through (iii); and

1341 (b) exhibits plain and easily observed outward manifestations of behavior or physical
1342 signs produced by the overconsumption of an alcoholic product.

1343 (60) "Investigator" means an individual who is:

- 1344 (a) a department compliance officer; or
- 1345 (b) a nondepartment enforcement officer.

- 1346 (61) "License" means:
- 1347 (a) a retail license;
- 1348 (b) a sublicense;
- 1349 (c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer
- 1350 State License;
- 1351 (d) a license issued in accordance with Chapter 11, Manufacturing and Related
- 1352 Licenses Act;
- 1353 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 1354 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 1355 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 1356 (62) "Licensee" means a person who holds a license.
- 1357 (63) "Limited-service restaurant license" means a license issued in accordance with
- 1358 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1359 (64) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 1360 than a bus or taxicab:
- 1361 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 1362 barrier;
- 1363 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 1364 accordance with the business entity's tariff; and
- 1365 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 1366 to travel to one or more specified destinations.
- 1367 (65) (a) (i) "Liquor" means a liquid that:
- 1368 (A) is:
- 1369 (I) alcohol;
- 1370 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 1371 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 1372 (IV) other drink or drinkable liquid; and
- 1373 (B) (I) contains at least .5% alcohol by volume; and

- 1374 (II) is suitable to use for beverage purposes.
- 1375 (ii) "Liquor" includes:
- 1376 (A) heavy beer;
- 1377 (B) wine; and
- 1378 (C) a flavored malt beverage.
- 1379 (b) "Liquor" does not include beer.
- 1380 (66) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 1381 (67) "Liquor transport license" means a license issued in accordance with Chapter 17,
- 1382 Liquor Transport License Act.
- 1383 (68) "Liquor warehousing license" means a license that is issued:
- 1384 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 1385 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 1386 storage, sale, or distribution of liquor regardless of amount.
- 1387 (69) "Local authority" means:
- 1388 (a) for premises that are located in an unincorporated area of a county, the governing
- 1389 body of a county;
- 1390 (b) for premises that are located in an incorporated city, town, or metro township, the
- 1391 governing body of the city, town, or metro township; or
- 1392 (c) for premises that are located in a project area as defined in Section [63H-1-102](#) and
- 1393 in a project area plan adopted by the Military Installation Development Authority under Title
- 1394 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
- 1395 Development Authority.
- 1396 (70) "Lounge or bar area" is as defined by rule made by the commission.
- 1397 (71) "Malt substitute" means:
- 1398 (a) rice;
- 1399 (b) grain;
- 1400 (c) bran;
- 1401 (d) glucose;

- 1402 (e) sugar; or
- 1403 (f) molasses.
- 1404 (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 1405 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1406 (73) "Member" means an individual who, after paying regular dues, has full privileges
- 1407 in an equity licensee or fraternal licensee.
- 1408 (74) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 1409 or homeport facility for a ship:
- 1410 (i) (A) under the control of the United States Department of Defense; or
- 1411 (B) of the National Guard;
- 1412 (ii) that is located within the state; and
- 1413 (iii) including a leased facility.
- 1414 (b) "Military installation" does not include a facility used primarily for:
- 1415 (i) civil works;
- 1416 (ii) a rivers and harbors project; or
- 1417 (iii) a flood control project.
- 1418 (75) "Minibar" means an area of a hotel guest room where one or more alcoholic
- 1419 products are kept and offered for self-service sale or consumption.
- 1420 (76) "Minor" means an individual under 21 years old.
- 1421 (77) "Nondepartment enforcement agency" means an agency that:
- 1422 (a) (i) is a state agency other than the department; or
- 1423 (ii) is an agency of a county, city, town, or metro township; and
- 1424 (b) has a responsibility to enforce one or more provisions of this title.
- 1425 (78) "Nondepartment enforcement officer" means an individual who is:
- 1426 (a) a peace officer, examiner, or investigator; and
- 1427 (b) employed by a nondepartment enforcement agency.
- 1428 (79) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1429 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

1430 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
1431 premises.

1432 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

1433 (80) "Off-premise beer retailer state license" means a state license issued in accordance
1434 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

1435 (81) "On-premise banquet license" means a license issued in accordance with Chapter
1436 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

1437 (82) "On-premise beer retailer" means a beer retailer who is:

1438 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
1439 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
1440 Retailer License; and

1441 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
1442 premises:

1443 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
1444 premises; and

1445 (ii) on and after March 1, 2012, operating:

1446 (A) as a tavern; or

1447 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).

1448 (83) "Opaque" means impenetrable to sight.

1449 (84) "Package agency" means a retail liquor location operated:

1450 (a) under an agreement with the department; and

1451 (b) by a person:

1452 (i) other than the state; and

1453 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
1454 Agency, to sell packaged liquor for consumption off the premises of the package agency.

1455 (85) "Package agent" means a person who holds a package agency.

1456 (86) "Patron" means an individual to whom food, beverages, or services are sold,
1457 offered for sale, or furnished, or who consumes an alcoholic product including:

- 1458 (a) a customer;
- 1459 (b) a member;
- 1460 (c) a guest;
- 1461 (d) an attendee of a banquet or event;
- 1462 (e) an individual who receives room service;
- 1463 (f) a resident of a resort; or
- 1464 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
- 1465 license.

1466 (87) (a) "Performing arts facility" means a multi-use performance space that:

- 1467 (i) is primarily used to present various types of performing arts, including dance,
- 1468 music, and theater;
- 1469 (ii) contains over 2,500 seats;
- 1470 (iii) is owned and operated by a governmental entity; and
- 1471 (iv) is located in a city of the first class.

1472 (b) "Performing arts facility" does not include a space that is used to present sporting

1473 events or sporting competitions.

1474 (88) "Permittee" means a person issued a permit under:

- 1475 (a) Chapter 9, Event Permit Act; or
- 1476 (b) Chapter 10, Special Use Permit Act.

1477 (89) "Person subject to administrative action" means:

- 1478 (a) a licensee;
- 1479 (b) a permittee;
- 1480 (c) a manufacturer;
- 1481 (d) a supplier;
- 1482 (e) an importer;
- 1483 (f) one of the following holding a certificate of approval:
 - 1484 (i) an out-of-state brewer;
 - 1485 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

- 1486 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1487 (g) staff of:
- 1488 (i) a person listed in Subsections (89)(a) through (f); or
- 1489 (ii) a package agent.
- 1490 (90) "Premises" means a building, enclosure, or room used in connection with the
- 1491 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1492 unless otherwise defined in this title or rules made by the commission.
- 1493 (91) "Prescription" means an order issued by a health care practitioner when:
- 1494 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1495 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1496 (b) the order is made in the course of that health care practitioner's professional
- 1497 practice; and
- 1498 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1499 (92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1500 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1501 (93) "Principal license" means:
- 1502 (a) a resort license;
- 1503 (b) a hotel license; or
- 1504 (c) an arena license.
- 1505 (94) (a) "Private event" means a specific social, business, or recreational event:
- 1506 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 1507 group; and
- 1508 (ii) that is limited in attendance to people who are specifically designated and their
- 1509 guests.
- 1510 (b) "Private event" does not include an event to which the general public is invited,
- 1511 whether for an admission fee or not.
- 1512 (95) "Privately sponsored event" means a specific social, business, or recreational
- 1513 event:

- 1514 (a) that is held in or on the premises of an on-premise banquet licensee; and
- 1515 (b) to which entry is restricted by an admission fee.
- 1516 (96) (a) "Proof of age" means:
- 1517 (i) an identification card;
- 1518 (ii) an identification that:
- 1519 (A) is substantially similar to an identification card;
- 1520 (B) is issued in accordance with the laws of a state other than Utah in which the
- 1521 identification is issued;
- 1522 (C) includes date of birth; and
- 1523 (D) has a picture affixed;
- 1524 (iii) a valid driver license certificate that:
- 1525 (A) includes date of birth;
- 1526 (B) has a picture affixed; and
- 1527 (C) is issued:
- 1528 (I) under Title 53, Chapter 3, Uniform Driver License Act;
- 1529 (II) in accordance with the laws of the state in which it is issued; or
- 1530 (III) in accordance with federal law by the United States Department of State;
- 1531 (iv) a military identification card that:
- 1532 (A) includes date of birth; and
- 1533 (B) has a picture affixed; or
- 1534 (v) a valid passport.
- 1535 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 1536 Section [53-3-207](#).
- 1537 (97) "Provisions applicable to a sublicense" means:
- 1538 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
- 1539 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
- 1540 (b) for a limited-service restaurant sublicense, the provisions applicable to a
- 1541 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

1542 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
1543 license under Chapter 6, Part 4, Bar Establishment License;

1544 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
1545 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

1546 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
1547 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

1548 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
1549 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

1550 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
1551 license under Chapter 6, Part 10, Hospitality Amenity License; and

1552 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
1553 Part 2, Spa Sublicense.

1554 (98) (a) "Public building" means a building or permanent structure that is:

1555 (i) owned or leased by:

1556 (A) the state; or

1557 (B) a local government entity; and

1558 (ii) used for:

1559 (A) public education;

1560 (B) transacting public business; or

1561 (C) regularly conducting government activities.

1562 (b) "Public building" does not include a building owned by the state or a local
1563 government entity when the building is used by a person, in whole or in part, for a proprietary
1564 function.

1565 (99) "Public conveyance" means a conveyance that the public or a portion of the public
1566 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or
1567 other public conveyance.

1568 (100) "Reception center" means a business that:

1569 (a) operates facilities that are at least 5,000 square feet; and

1570 (b) has as its primary purpose the leasing of the facilities described in Subsection
1571 (100)(a) to a third party for the third party's event.

1572 (101) "Reception center license" means a license issued in accordance with Chapter 5,
1573 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1574 (102) (a) "Record" means information that is:

1575 (i) inscribed on a tangible medium; or

1576 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

1577 (b) "Record" includes:

1578 (i) a book;

1579 (ii) a book of account;

1580 (iii) a paper;

1581 (iv) a contract;

1582 (v) an agreement;

1583 (vi) a document; or

1584 (vii) a recording in any medium.

1585 (103) "Residence" means a person's principal place of abode within Utah.

1586 (104) "Resident," in relation to a resort, means the same as that term is defined in
1587 Section [32B-8-102](#).

1588 (105) "Resort" means the same as that term is defined in Section [32B-8-102](#).

1589 (106) "Resort facility" is as defined by the commission by rule.

1590 (107) "Resort license" means a license issued in accordance with Chapter 5, Retail
1591 License Act, and Chapter 8, Resort License Act.

1592 (108) "Responsible alcohol service plan" means a written set of policies and
1593 procedures that outlines measures to prevent employees from:

1594 (a) over-serving alcoholic beverages to customers;

1595 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
1596 intoxicated; and

1597 (c) serving alcoholic beverages to minors.

- 1598 (109) "Restaurant" means a business location:
- 1599 (a) at which a variety of foods are prepared;
- 1600 (b) at which complete meals are served; and
- 1601 (c) that is engaged primarily in serving meals.
- 1602 (110) "Restaurant license" means one of the following licenses issued under this title:
- 1603 (a) a full-service restaurant license;
- 1604 (b) a limited-service restaurant license; or
- 1605 (c) a beer-only restaurant license.
- 1606 (111) "Retail license" means one of the following licenses issued under this title:
- 1607 (a) a full-service restaurant license;
- 1608 (b) a master full-service restaurant license;
- 1609 (c) a limited-service restaurant license;
- 1610 (d) a master limited-service restaurant license;
- 1611 (e) a bar establishment license;
- 1612 (f) an airport lounge license;
- 1613 (g) an on-premise banquet license;
- 1614 (h) an on-premise beer license;
- 1615 (i) a reception center license;
- 1616 (j) a beer-only restaurant license;
- 1617 (k) a hospitality amenity license;
- 1618 (l) a resort license;
- 1619 (m) a hotel license; or
- 1620 (n) an arena license.
- 1621 (112) "Room service" means furnishing an alcoholic product to a person in a guest
- 1622 room or privately owned dwelling unit of a:
- 1623 (a) hotel; or
- 1624 (b) resort facility.
- 1625 (113) (a) "School" means a building in which any part is used for more than three

1626 hours each weekday during a school year as a public or private:

1627 (i) elementary school;

1628 (ii) secondary school; or

1629 (iii) kindergarten.

1630 (b) "School" does not include:

1631 (i) a nursery school;

1632 (ii) a day care center;

1633 (iii) a trade and technical school;

1634 (iv) a preschool; or

1635 (v) a home school.

1636 (114) "Secondary flavoring ingredient" means any spirituous liquor added to a
1637 beverage for additional flavoring that is different in type, flavor, or brand from the primary
1638 spirituous liquor in the beverage.

1639 (115) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
1640 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
1641 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
1642 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
1643 made by the commission.

1644 (116) "Serve" means to place an alcoholic product before an individual.

1645 (117) "Sexually oriented entertainer" means a person who while in a state of
1646 seminudity appears at or performs:

1647 (a) for the entertainment of one or more patrons;

1648 (b) on the premises of:

1649 (i) a bar licensee; or

1650 (ii) a tavern;

1651 (c) on behalf of or at the request of the licensee described in Subsection (117)(b);

1652 (d) on a contractual or voluntary basis; and

1653 (e) whether or not the person is designated as:

- 1654 (i) an employee;
- 1655 (ii) an independent contractor;
- 1656 (iii) an agent of the licensee; or
- 1657 (iv) a different type of classification.

1658 (118) "Shared seating area" means the licensed premises of two or more restaurant
1659 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
1660 accordance with Subsection [32B-5-207\(3\)](#).

1661 (119) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1662 3, Single Event Permit.

1663 (120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
1664 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

1665 (a) if the brewer is part of a controlled group of manufacturers, including the combined
1666 volume totals of production for all breweries that constitute the controlled group of
1667 manufacturers; and

1668 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:

1669 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
1670 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1671 Rulemaking Act; and

1672 (ii) does not sell for consumption as, or in, a beverage.

1673 (121) "Small or unincorporated locality" means:

1674 (a) a city of the third, fourth, or fifth class, as classified under Section [10-2-301](#);

1675 (b) a town, as classified under Section [10-2-301](#); or

1676 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
1677 under Section [17-50-501](#).

1678 (122) "Spa sublicense" means a sublicense:

1679 (a) to a resort license or hotel license; and

1680 (b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

1681 (123) "Special use permit" means a permit issued in accordance with Chapter 10,

1682 Special Use Permit Act.

1683 (124) (a) "Spirituous liquor" means liquor that is distilled.

1684 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by

1685 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

1686 (125) "Sports center" is as defined by the commission by rule.

1687 (126) (a) "Staff" means an individual who engages in activity governed by this title:

1688 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
1689 holder;

1690 (ii) at the request of the business, including a package agent, licensee, permittee, or
1691 certificate holder; or

1692 (iii) under the authority of the business, including a package agent, licensee, permittee,
1693 or certificate holder.

1694 (b) "Staff" includes:

1695 (i) an officer;

1696 (ii) a director;

1697 (iii) an employee;

1698 (iv) personnel management;

1699 (v) an agent of the licensee, including a managing agent;

1700 (vi) an operator; or

1701 (vii) a representative.

1702 (127) "State of nudity" means:

1703 (a) the appearance of:

1704 (i) the nipple or areola of a female human breast;

1705 (ii) a human genital;

1706 (iii) a human pubic area; or

1707 (iv) a human anus; or

1708 (b) a state of dress that fails to opaquely cover:

1709 (i) the nipple or areola of a female human breast;

1710 (ii) a human genital;

1711 (iii) a human pubic area; or

1712 (iv) a human anus.

1713 (128) "State of seminudity" means a state of dress in which opaque clothing covers no

1714 more than:

1715 (a) the nipple and areola of the female human breast in a shape and color other than the
1716 natural shape and color of the nipple and areola; and

1717 (b) the human genitals, pubic area, and anus:

1718 (i) with no less than the following at its widest point:

1719 (A) four inches coverage width in the front of the human body; and

1720 (B) five inches coverage width in the back of the human body; and

1721 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

1722 (129) (a) "State store" means a facility for the sale of packaged liquor:

1723 (i) located on premises owned or leased by the state; and

1724 (ii) operated by a state employee.

1725 (b) "State store" does not include:

1726 (i) a package agency;

1727 (ii) a licensee; or

1728 (iii) a permittee.

1729 (130) (a) "Storage area" means an area on licensed premises where the licensee stores
1730 an alcoholic product.

1731 (b) "Store" means to place or maintain in a location an alcoholic product.

1732 (131) "Sublicense" means:

1733 (a) any of the following licenses issued as a subordinate license to, and contingent on
1734 the issuance of, a principal license:

1735 (i) a full-service restaurant license;

1736 (ii) a limited-service restaurant license;

1737 (iii) a bar establishment license;

- 1738 (iv) an on-premise banquet license;
- 1739 (v) an on-premise beer retailer license;
- 1740 (vi) a beer-only restaurant license; or
- 1741 (vii) a hospitality amenity license; or
- 1742 (b) a spa sublicense.
- 1743 (132) "Supplier" means a person who sells an alcoholic product to the department.
- 1744 (133) "Tavern" means an on-premise beer retailer who is:
 - 1745 (a) issued a license by the commission in accordance with Chapter 5, Retail License
 - 1746 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
 - 1747 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
 - 1748 On-Premise Beer Retailer License.
- 1749 (134) "Temporary beer event permit" means a permit issued in accordance with
- 1750 Chapter 9, Part 4, Temporary Beer Event Permit.
- 1751 (135) "Temporary domicile" means the principal place of abode within Utah of a
- 1752 person who does not have a present intention to continue residency within Utah permanently or
- 1753 indefinitely.
- 1754 (136) "Translucent" means a substance that allows light to pass through, but does not
- 1755 allow an object or person to be seen through the substance.
- 1756 (137) "Unsaleable liquor merchandise" means a container that:
 - 1757 (a) is unsaleable because the container is:
 - 1758 (i) unlabeled;
 - 1759 (ii) leaky;
 - 1760 (iii) damaged;
 - 1761 (iv) difficult to open; or
 - 1762 (v) partly filled;
 - 1763 (b) (i) has faded labels or defective caps or corks;
 - 1764 (ii) has contents that are:
 - 1765 (A) cloudy;

1766 (B) spoiled; or
1767 (C) chemically determined to be impure; or
1768 (iii) contains:
1769 (A) sediment; or
1770 (B) a foreign substance; or
1771 (c) is otherwise considered by the department as unfit for sale.
1772 (138) (a) "Wine" means an alcoholic product obtained by the fermentation of the
1773 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
1774 another ingredient is added.
1775 (b) "Wine" includes:
1776 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
1777 4.10; and
1778 (ii) hard cider.
1779 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
1780 in this title.
1781 (139) "Winery manufacturing license" means a license issued in accordance with
1782 Chapter 11, Part 3, Winery Manufacturing License.
1783 Section 18. Section **32B-1-703** is amended to read:
1784 **32B-1-703. Alcohol training and education for off-premise consumption.**
1785 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
1786 sell beer at retail for off-premise consumption shall require the following to have a valid record
1787 that the individual completed an alcohol training and education seminar in the time periods
1788 required by Subsection (1)(b):
1789 (i) an off-premise retail manager; or
1790 (ii) off-premise retail staff.
1791 (b) If an individual on the date the individual becomes staff to an off-premise beer
1792 retailer does not have a valid record that the individual has completed an alcohol training and
1793 education seminar for purposes of this part, the individual shall complete an alcohol training

1794 and education seminar within 30 days of the day on which the individual becomes staff of an
1795 off-premise beer retailer.

1796 (c) Section [~~62A-15-401~~] 26B-5-205 governs the validity of a record that an individual
1797 has completed an alcohol training and education seminar required by this part.

1798 (2) In accordance with Section 32B-1-702, a local authority may immediately suspend
1799 the license of an off-premise beer retailer that allows an individual to work as an off-premise
1800 retail manager without having a valid record that the individual completed an alcohol training
1801 and education seminar in accordance with Subsection (1).

1802 Section 19. Section **32B-2-208** is amended to read:

1803 **32B-2-208. Services of State Health Laboratory.**

1804 The State Health Laboratory shall make its services available to the department when
1805 necessary. The department shall pay for the services from the Liquor Control Fund to the
1806 Department of Health and Human Services.

1807 Section 20. Section **32B-10-702** is amended to read:

1808 **32B-10-702. Definitions.**

1809 As used in this part, "health care facility" means a facility that is licensed by the
1810 Department of Health and Human Services under [~~Title 26, Chapter 21, Health Care Facility
1811 Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
1812 Inspection.

1813 Section 21. Section **34-55-102** is amended to read:

1814 **34-55-102. Definitions.**

1815 (1) "Emergency" means a condition in any part of this state that requires state
1816 government emergency assistance to supplement the local efforts of the affected political
1817 subdivision to save lives and to protect property, public health, welfare, or safety in the event
1818 of a disaster, or to avoid or reduce the threat of a disaster.

1819 (2) "Emergency services volunteer" means:

1820 (a) a volunteer firefighter as defined in Section 49-16-102;

1821 (b) an individual licensed under Section [~~26-8a-302~~] 26B-4-116; or

1822 (c) an individual mobilized as part of a posse comitatus.

1823 (3) "Employer" means a person, including the state or a political subdivision of the
1824 state, that has one or more workers employed in the same business, or in or about the same
1825 establishment, under any contract of hire, express or implied, oral or written.

1826 (4) "Public safety agency" means a governmental entity that provides fire protection,
1827 law enforcement, ambulance, medical, or other emergency services.

1828 Section 22. Section **34A-2-102** is amended to read:

1829 **34A-2-102. Definitions.**

1830 (1) As used in this chapter:

1831 (a) "Average weekly wages" means the average weekly wages as determined under
1832 Section [34A-2-409](#).

1833 (b) "Award" means a final order of the commission as to the amount of compensation
1834 due:

1835 (i) an injured employee; or

1836 (ii) a dependent of a deceased employee.

1837 (c) "Compensation" means the payments and benefits provided for in this chapter or
1838 Chapter 3, Utah Occupational Disease Act.

1839 (d) (i) "Decision" means a ruling of:

1840 (A) an administrative law judge; or

1841 (B) in accordance with Section [34A-2-801](#):

1842 (I) the commissioner; or

1843 (II) the Appeals Board.

1844 (ii) "Decision" includes:

1845 (A) an award or denial of a medical, disability, death, or other related benefit under this
1846 chapter or Chapter 3, Utah Occupational Disease Act; or

1847 (B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah
1848 Occupational Disease Act.

1849 (e) "Director" means the director of the division, unless the context requires otherwise.

1850 (f) "Disability" means an administrative determination that may result in an entitlement
1851 to compensation as a consequence of becoming medically impaired as to function. Disability
1852 can be total or partial, temporary or permanent, industrial or nonindustrial.

1853 (g) "Division" means the Division of Industrial Accidents.

1854 (h) "First responder" means:

1855 (i) a law enforcement officer, as defined in Section [53-13-103](#);

1856 (ii) an emergency medical technician, as defined in Section ~~[26-8c-102]~~ [26B-4-137](#);

1857 (iii) an advanced emergency medical technician, as defined in Section ~~[26-8c-102]~~

1858 [26B-4-137](#);

1859 (iv) a paramedic, as defined in Section ~~[26-8c-102]~~ [26B-4-137](#);

1860 (v) a firefighter, as defined in Section [34A-3-113](#);

1861 (vi) a dispatcher, as defined in Section [53-6-102](#); or

1862 (vii) a correctional officer, as defined in Section [53-13-104](#).

1863 (i) "Impairment" is a purely medical condition reflecting an anatomical or functional
1864 abnormality or loss. Impairment may be either temporary or permanent, industrial or
1865 nonindustrial.

1866 (j) "Order" means an action of the commission that determines the legal rights, duties,
1867 privileges, immunities, or other interests of one or more specific persons, but not a class of
1868 persons.

1869 (k) (i) "Personal injury by accident arising out of and in the course of employment"
1870 includes an injury caused by the willful act of a third person directed against an employee
1871 because of the employee's employment.

1872 (ii) "Personal injury by accident arising out of and in the course of employment" does
1873 not include a disease, except as the disease results from the injury.

1874 (l) "Safe" and "safety," as applied to employment or a place of employment, means the
1875 freedom from danger to the life or health of employees reasonably permitted by the nature of
1876 the employment.

1877 (2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

1878 (a) "Brother or sister" includes a half brother or sister.

1879 (b) "Child" includes:

1880 (i) a posthumous child; or

1881 (ii) a child legally adopted prior to an injury.

1882 Section 23. Section **34A-2-111** is amended to read:

1883 **34A-2-111. Managed health care programs -- Other safety programs.**

1884 (1) As used in this section:

1885 (a) (i) "Health care provider" means a person who furnishes treatment or care to
1886 persons who have suffered bodily injury.

1887 (ii) "Health care provider" includes:

1888 (A) a hospital;

1889 (B) a clinic;

1890 (C) an emergency care center;

1891 (D) a physician;

1892 (E) a nurse;

1893 (F) a nurse practitioner;

1894 (G) a physician's assistant;

1895 (H) a paramedic; or

1896 (I) an emergency medical technician.

1897 (b) "Physician" means any health care provider licensed under:

1898 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1899 (ii) Title 58, Chapter 24b, Physical Therapy Practice Act;

1900 (iii) Title 58, Chapter 67, Utah Medical Practice Act;

1901 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

1902 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

1903 (vi) Title 58, Chapter 70a, Utah Physician Assistant Act;

1904 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;

1905 (viii) Title 58, Chapter 72, Acupuncture Licensing Act;

- 1906 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and
- 1907 (x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.
- 1908 (c) "Preferred health care facility" means a facility:
- 1909 (i) that is a health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#); and
- 1910 (ii) designated under a managed health care program.
- 1911 (d) "Preferred provider physician" means a physician designated under a managed
- 1912 health care program.
- 1913 (e) "Self-insured employer" is as defined in Section [34A-2-201.5](#).
- 1914 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care
- 1915 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational
- 1916 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).
- 1917 (b) (i) A preferred provider program may be developed if the preferred provider
- 1918 program allows a selection by the employee of more than one physician in the health care
- 1919 specialty required for treating the specific problem of an industrial patient.
- 1920 (ii) (A) Subject to the requirements of this section, if a preferred provider program is
- 1921 developed by an insurance carrier or self-insured employer, an employee is required to use:
- 1922 (I) preferred provider physicians; and
- 1923 (II) preferred health care facilities.
- 1924 (B) If a preferred provider program is not developed, an employee may have free
- 1925 choice of health care providers.
- 1926 (iii) The failure to do the following may, if the employee has been notified of the
- 1927 preferred provider program, result in the employee being obligated for any charges in excess of
- 1928 the preferred provider allowances:
- 1929 (A) use a preferred health care facility; or
- 1930 (B) initially receive treatment from a preferred provider physician.
- 1931 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a
- 1932 self-insured employer or other employer may:
- 1933 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and

- 1934 (Bb) continue to contract with other health care providers; or
1935 (II) operate a health care facility; and
1936 (B) require employees to first seek treatment at the provided health care or contracted
1937 facility.
1938 (v) An employee subject to a preferred provider program or employed by an employer
1939 having its own health care facility may procure the services of any qualified health care
1940 provider:
1941 (A) for emergency treatment, if a physician employed in the preferred provider
1942 program or at the health care facility is not available for any reason;
1943 (B) for conditions the employee in good faith believes are nonindustrial; or
1944 (C) when an employee living in a rural area would be unduly burdened by traveling to:
1945 (I) a preferred provider physician; or
1946 (II) a preferred health care facility.
1947 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into
1948 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):
1949 (I) health care providers;
1950 (II) medical review organizations; or
1951 (III) vendors of medical goods, services, and supplies including medicines.
1952 (B) A contract described in Subsection (2)(c)(i)(A) may be made for the following
1953 purposes:
1954 (I) insurance carriers or self-insured employers may form groups in contracting for
1955 managed health care services with health care providers;
1956 (II) peer review;
1957 (III) methods of utilization review;
1958 (IV) use of case management;
1959 (V) bill audit;
1960 (VI) discounted purchasing; and
1961 (VII) the establishment of a reasonable health care treatment protocol program

1962 including the implementation of medical treatment and quality care guidelines that are:
1963 (Aa) scientifically based;
1964 (Bb) peer reviewed; and
1965 (Cc) consistent with standards for health care treatment protocol programs that the
1966 commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah
1967 Administrative Rulemaking Act, including the authority of the commission to approve a health
1968 care treatment protocol program before it is used or disapprove a health care treatment protocol
1969 program that does not comply with this Subsection (2)(c)(i)(B)(VII).
1970 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a
1971 condition of insuring an entity in its insurance contract.
1972 (3) (a) In addition to a managed health care program, an insurance carrier may require
1973 an employer to establish a work place safety program if the employer:
1974 (i) has an experience modification factor of 1.00 or higher, as determined by the
1975 National Council on Compensation Insurance; or
1976 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or
1977 higher.
1978 (b) A workplace safety program may include:
1979 (i) a written workplace accident and injury reduction program that:
1980 (A) promotes safe and healthful working conditions; and
1981 (B) is based on clearly stated goals and objectives for meeting those goals; and
1982 (ii) a documented review of the workplace accident and injury reduction program each
1983 calendar year delineating how procedures set forth in the program are met.
1984 (c) A written workplace accident and injury reduction program permitted under
1985 Subsection (3)(b)(i) should describe:
1986 (i) how managers, supervisors, and employees are responsible for implementing the
1987 program;
1988 (ii) how continued participation of management will be established, measured, and
1989 maintained;

1990 (iii) the methods used to identify, analyze, and control new or existing hazards,
1991 conditions, and operations;

1992 (iv) how the program will be communicated to all employees so that the employees are
1993 informed of work-related hazards and controls;

1994 (v) how workplace accidents will be investigated and corrective action implemented;
1995 and

1996 (vi) how safe work practices and rules will be enforced.

1997 (d) For the purposes of a workplace accident and injury reduction program of an
1998 eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury
1999 reduction program shall:

2000 (i) include the provisions described in Subsections (3)(b) and (c), except that the
2001 employer shall conduct a documented review of the workplace accident and injury reduction
2002 program at least semiannually delineating how procedures set forth in the workplace accident
2003 and injury reduction program are met; and

2004 (ii) require a written agreement between the employer and all contractors and
2005 subcontractors on a project that states that:

2006 (A) the employer has the right to control the manner or method by which the work is
2007 executed;

2008 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor
2009 violates the workplace accident and injury reduction program, the employer maintains the right
2010 to:

2011 (I) terminate the contract with the contractor or subcontractor;

2012 (II) remove the contractor or subcontractor from the work site; or

2013 (III) require that the contractor or subcontractor not permit an employee that violates
2014 the workplace accident and injury reduction program to work on the project for which the
2015 employer is procuring work; and

2016 (C) the contractor or subcontractor shall provide safe and appropriate equipment
2017 subject to the right of the employer to:

2018 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and
2019 (II) require that the contractor or subcontractor repair, replace, or remove equipment
2020 the employer determines not to be safe or appropriate.

2021 (4) The premiums charged to any employer who fails or refuses to establish a
2022 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over
2023 any existing current rates and premium modifications charged that employer.

2024 Section 24. Section **34A-2-417** is amended to read:

2025 **34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.**

2026 (1) (a) Except with respect to prosthetic devices or in a permanent total disability case,
2027 an employee is entitled to be compensated for a medical expense if:

2028 (i) the medical expense is:

2029 (A) reasonable in amount; and

2030 (B) necessary to treat the industrial accident; and

2031 (ii) the employee submits or makes a reasonable attempt to submit the medical
2032 expense:

2033 (A) to the employee's employer or insurance carrier for payment; and

2034 (B) within one year from the later of:

2035 (I) the day on which the medical expense is incurred; or

2036 (II) the day on which the employee knows or in the exercise of reasonable diligence
2037 should have known that the medical expense is related to the industrial accident.

2038 (b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a
2039 claim for a medical expense, an employee is entitled to be compensated for the medical
2040 expense if the employee meets the requirements of Subsection (1)(a).

2041 (2) (a) A claim described in Subsection (2)(b) is barred, unless the employee:

2042 (i) files an application for hearing with the Division of Adjudication no later than six
2043 years from the date of the accident; and

2044 (ii) by no later than 12 years from the date of the accident, is able to meet the
2045 employee's burden of proving that the employee is due the compensation claimed under this

2046 chapter.

2047 (b) Subsection (2)(a) applies to a claim for compensation for:

2048 (i) temporary total disability benefits;

2049 (ii) temporary partial disability benefits;

2050 (iii) permanent partial disability benefits; or

2051 (iv) permanent total disability benefits.

2052 (c) The commission may enter an order awarding or denying an employee's claim for
2053 compensation under this chapter within a reasonable time period beyond 12 years from the date
2054 of the accident, if:

2055 (i) the employee complies with Subsection (2)(a); and

2056 (ii) 12 years from the date of the accident:

2057 (A) (I) the employee is fully cooperating in a commission approved reemployment
2058 plan; and

2059 (II) the results of that commission approved reemployment plan are not known; or

2060 (B) the employee is actively adjudicating issues of compensability before the
2061 commission.

2062 (3) A claim for death benefits is barred unless an application for hearing is filed within
2063 one year of the date of death of the employee.

2064 (4) (a) (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an
2065 application for hearing within six years from the date of the accident, the Division of
2066 Adjudication may enter an order to show cause why the employee's claim should not be
2067 dismissed because the employee has failed to meet the employee's burden of proof to establish
2068 an entitlement to compensation claimed in the application for hearing.

2069 (ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:

2070 (A) Division of Adjudication;

2071 (B) employee's employer; or

2072 (C) employer's insurance carrier.

2073 (b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:

- 2074 (i) without prejudice; or
- 2075 (ii) with prejudice only if:
- 2076 (A) the Division of Adjudication adjudicates the merits of the employee's entitlement
- 2077 to the compensation claimed in the application for hearing; or
- 2078 (B) the employee fails to comply with Subsection (2)(a)(ii).
- 2079 (c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is
- 2080 subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.
- 2081 (5) A claim for compensation under this chapter is subject to a claim or lien for
- 2082 recovery under Section [~~26-19-401~~] [26B-3-1009](#).

2083 Section 25. Section ~~34A-2-418~~ is amended to read:

2084 **34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial**
2085 **means and appliances.**

2086 (1) In addition to the compensation provided in this chapter or Chapter 3, Utah
2087 Occupational Disease Act, and subject to Subsection ~~34A-2-407~~(11), the employer or the
2088 insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for
2089 medicines, and for artificial means, appliances, and prostheses necessary to treat the injured
2090 employee.

2091 (2) The employer and the insurance carrier are not required to pay or reimburse for
2092 cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in
2093 Section [~~26-61a-102~~] [26B-4-201](#).

2094 (3) If death results from the injury, the employer or the insurance carrier shall pay the
2095 burial expenses in ordinary cases as established by rule.

2096 (4) If a compensable accident results in the breaking of or loss of an employee's
2097 artificial means or appliance including eyeglasses, the employer or insurance carrier shall
2098 provide a replacement of the artificial means or appliance.

2099 (5) An administrative law judge may require the employer or insurance carrier to
2100 maintain the artificial means or appliances or provide the employee with a replacement of any
2101 artificial means or appliance for the reason of breakage, wear and tear, deterioration, or

2102 obsolescence.

2103 (6) An administrative law judge may, in unusual cases, order, as the administrative law
2104 judge considers just and proper, the payment of additional sums:

2105 (a) for burial expenses; or

2106 (b) to provide for artificial means or appliances.

2107 Section 26. Section **34A-2-422** is amended to read:

2108 **34A-2-422. Compensation exempt from execution -- Transfer of payment rights.**

2109 (1) For purposes of this section:

2110 (a) "Payment rights under workers' compensation" means the right to receive
2111 compensation under this chapter or Chapter 3, Utah Occupational Disease Act, including the
2112 payment of a workers' compensation claim, award, benefit, or settlement.

2113 (b) (i) Subject to Subsection (1)(b)(ii), "transfer" means:

2114 (A) a sale;

2115 (B) an assignment;

2116 (C) a pledge;

2117 (D) an hypothecation; or

2118 (E) other form of encumbrance or alienation for consideration.

2119 (ii) "Transfer" does not include the creation or perfection of a security interest in a right
2120 to receive a payment under a blanket security agreement entered into with an insured
2121 depository institution, in the absence of any action to:

2122 (A) redirect the payments to:

2123 (I) the insured depository institution; or

2124 (II) an agent or successor in interest to the insured depository institution; or

2125 (B) otherwise enforce a blanket security interest against the payment rights.

2126 (2) Compensation before payment:

2127 (a) is exempt from:

2128 (i) all claims of creditors; and

2129 (ii) attachment or execution; and

2130 (b) shall be paid only to employees or their dependents, except as provided in Sections
2131 ~~[26-19-401]~~ [26B-3-1009](#) and [34A-2-417](#).

2132 (3) (a) Subject to Subsection (3)(b), beginning April 30, 2007, a person may not:

2133 (i) transfer payment rights under workers' compensation; or

2134 (ii) accept or take any action to provide for a transfer of payment rights under workers'
2135 compensation.

2136 (b) A person may take an action prohibited under Subsection (3)(a) if the commission
2137 approves the transfer of payment rights under workers' compensation:

2138 (i) before the transfer of payment rights under workers' compensation takes effect; and

2139 (ii) upon a determination by the commission that:

2140 (A) the person transferring the payment rights under workers' compensation received
2141 before executing an agreement to transfer those payment rights:

2142 (I) adequate notice that the transaction involving the transfer of payment rights under
2143 workers' compensation involves the transfer of those payment rights; and

2144 (II) an explanation of the financial consequences of and alternatives to the transfer of
2145 payment rights under workers' compensation in sufficient detail that the person transferring the
2146 payment rights under workers' compensation made an informed decision to transfer those
2147 payment rights; and

2148 (B) the transfer of payment rights under workers' compensation is in the best interest of
2149 the person transferring the payment rights under workers' compensation taking into account the
2150 welfare and support of that person's dependents.

2151 (c) The approval by the commission of the transfer of a person's payment rights under
2152 workers' compensation is a full and final resolution of the person's payment rights under
2153 workers' compensation that are transferred:

2154 (i) if the commission approves the transfer of the payment rights under workers'
2155 compensation in accordance with Subsection (3)(b); and

2156 (ii) once the person no longer has a right to appeal the decision in accordance with this
2157 title.

2158 Section 27. Section **34A-3-201** is amended to read:

2159 **34A-3-201. Definitions.**

2160 (1) As used in this part:

2161 (a) "COVID-19" means the disease caused by severe acute respiratory syndrome
2162 coronavirus 2.

2163 (b) "First responder" means:

2164 (i) a first responder as defined in Section [34A-2-102](#);

2165 (ii) an individual employed by:

2166 (A) a health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#);

2167 (B) an office of a physician, chiropractor, or dentist;

2168 (C) a nursing home;

2169 (D) a retirement facility;

2170 (E) a home health care provider;

2171 (F) a pharmacy;

2172 (G) a facility that performs laboratory or medical testing on human specimens; or

2173 (H) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (G);

2174 (iii) an individual employed by, working with, or working at the direction of a local
2175 health department; or

2176 (iv) a volunteer, as defined in Section [67-20-2](#), providing services to a local health
2177 department in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.

2178 (c) "Physician" means an individual licensed under:

2179 (i) Title 58, Chapter 67, Utah Medical Practice Act;

2180 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2181 (iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

2182 (iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered
2183 nurse.

2184 (d) "Utah minimum wage" means the highest wage designated as Utah's minimum
2185 wage under Title 34, Chapter 40, Utah Minimum Wage Act.

2186 (2) For purposes of this part, an individual is diagnosed with COVID-19 if the
2187 individual:

2188 (a) through laboratory testing of a specimen the individual provides, tests positive for
2189 the virus that causes COVID-19; and

2190 (b) is diagnosed with COVID-19 by a physician.

2191 Section 28. Section **34A-11-102** is amended to read:

2192 **34A-11-102. Restrictions on employers.**

2193 With respect to matters related to genetic testing and private genetic information, an
2194 employer shall comply with Section [~~26-45-103~~] 13-60-204 and the other applicable provisions
2195 of [~~Title 26, Chapter 45~~] Title 13, Chapter 60, Part 2, Genetic Testing and Procedure Privacy
2196 Act.

2197 Section 29. Section **35A-1-102** is amended to read:

2198 **35A-1-102. Definitions.**

2199 Unless otherwise specified, as used in this title:

2200 (1) "Client" means an individual who the department has determined to be eligible for
2201 services or benefits under:

2202 (a) Chapter 3, Employment Support Act; and

2203 (b) Chapter 5, Training and Workforce Improvement Act.

2204 (2) "Department" means the Department of Workforce Services created in Section
2205 35A-1-103.

2206 (3) "Economic service area" means an economic service area established in accordance
2207 with Chapter 2, Economic Service Areas.

2208 (4) "Employment assistance" means services or benefits provided by the department
2209 under:

2210 (a) Chapter 3, Employment Support Act; and

2211 (b) Chapter 5, Training and Workforce Improvement Act.

2212 (5) "Employment center" is a location in an economic service area where the services
2213 provided by an economic service area under Section 35A-2-201 may be accessed by a client.

2214 (6) "Employment counselor" means an individual responsible for developing an
2215 employment plan and coordinating the services and benefits under this title in accordance with
2216 Chapter 2, Economic Service Areas.

2217 (7) "Employment plan" means a written agreement between the department and a client
2218 that describes:

2219 (a) the relationship between the department and the client;

2220 (b) the obligations of the department and the client; and

2221 (c) the result if an obligation is not fulfilled by the department or the client.

2222 (8) "Executive director" means the executive director of the department appointed
2223 under Section 35A-1-201.

2224 (9) "Government entity" means the state or any county, municipality, local district,
2225 special service district, or other political subdivision or administrative unit of the state, a state
2226 institution of higher education as defined in Section 53B-2-101, or a local education agency as
2227 defined in Section 53G-7-401.

2228 (10) "Public assistance" means:

2229 (a) services or benefits provided under Chapter 3, Employment Support Act;

2230 (b) medical assistance provided under [~~Title 26, Chapter 18, Medical Assistance Act~~]
2231 Title 26B, Chapter 3, Health Care - Administration and Assistance;

2232 (c) foster care maintenance payments provided from the General Fund or under Title
2233 IV-E of the Social Security Act;

2234 (d) SNAP benefits; and

2235 (e) any other public funds expended for the benefit of a person in need of financial,
2236 medical, food, housing, or related assistance.

2237 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under
2238 Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the
2239 federal Food Stamp Program.

2240 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or
2241 privilege available under SNAP.

2242 (13) "Stabilization" means addressing the basic living, family care, and social or
2243 psychological needs of the client so that the client may take advantage of training or
2244 employment opportunities provided under this title or through other agencies or institutions.

2245 (14) "Vulnerable populations" means children or adults with a life situation that
2246 substantially affects that individual's ability to:

- 2247 (a) provide personal protection;
- 2248 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 2249 (c) obtain services necessary for health, safety, or welfare;
- 2250 (d) carry out the activities of daily living;
- 2251 (e) manage the adult's own financial resources; or
- 2252 (f) comprehend the nature and consequences of remaining in a situation of abuse,
2253 neglect, or exploitation.

2254 Section 30. Section **35A-3-103** is amended to read:

2255 **35A-3-103. Department responsibilities.**

2256 The department shall:

- 2257 (1) administer public assistance programs assigned by the Legislature and the
2258 governor;
- 2259 (2) determine eligibility for public assistance programs in accordance with the
2260 requirements of this chapter;
- 2261 (3) cooperate with the federal government in the administration of public assistance
2262 programs;
- 2263 (4) administer state employment services;
- 2264 (5) provide for the compilation of necessary or desirable information, statistics, and
2265 reports;
- 2266 (6) perform other duties and functions required by law;
- 2267 (7) monitor the application of eligibility policy;
- 2268 (8) develop personnel training programs for effective and efficient operation of the
2269 programs administered by the department;

- 2270 (9) provide refugee resettlement services in accordance with Section [35A-3-701](#);
- 2271 (10) provide child care assistance for children in accordance with Part 2, Office of
2272 Child Care;
- 2273 (11) provide services that enable an applicant or recipient to qualify for affordable
2274 housing in cooperation with:
- 2275 (a) the Utah Housing Corporation;
- 2276 (b) the Housing and Community Development Division; and
- 2277 (c) local housing authorities;
- 2278 (12) administer the Medicaid Eligibility Quality Control function in accordance with
2279 42 C.F.R. Sec. 431.812; and
- 2280 (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative
2281 proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical
2282 assistance eligibility under:
- 2283 (a) ~~[Title 26, Chapter 18, Medical Assistance Act]~~ Title 26B, Chapter 3, Health Care -
2284 Administration and Assistance; or
- 2285 (b) ~~[Title 26, Chapter 40, Utah Children's Health Insurance Act]~~ Title 26B, Chapter 3,
2286 Part 9, Utah Children's Health Insurance Program.
- 2287 Section 31. Section **35A-3-207** is amended to read:
- 2288 **35A-3-207. Community-based prevention programs.**
- 2289 (1) As used in this section:
- 2290 (a) "political subdivision" means a town, city, county, or school district;
- 2291 (b) "qualified sponsor" means a:
- 2292 (i) political subdivision;
- 2293 (ii) community nonprofit, religious, or charitable organization;
- 2294 (iii) regional or statewide nonprofit organization; or
- 2295 (iv) private for profit or nonprofit child care organization with experience and expertise
2296 in operating community-based prevention programs described in Subsection (2) and that are
2297 licensed under ~~[Title 62A, Chapter 2, Licensure of Programs and Facilities]~~ Title 26B, Chapter

2298 2, Part 1, Human Services Programs and Facilities.

2299 (2) Within appropriations from the Legislature, the department may provide grants to
2300 qualified sponsors for community-based prevention programs that:

2301 (a) support parents in their primary care giving role to children;

2302 (b) provide positive alternatives to idleness for school-aged children when school is not
2303 in session; and

2304 (c) support other community-based prevention programs.

2305 (3) In awarding a grant under this section, the department shall:

2306 (a) request proposals for funding from potential qualified sponsors; and

2307 (b) ensure that each dollar of funds from political subdivisions or private funds is
2308 matched for each dollar received from the department.

2309 (4) In meeting the matching requirements under Subsection (3), the department may
2310 consider the value of in-kind contributions, including materials, supplies, paid labor, volunteer
2311 labor, and the incremental increase in building maintenance and operation expenses incurred
2312 attributable to the prevention program.

2313 (5) In awarding a grant under this section, the department shall consider:

2314 (a) the cash portion of the proposed match in relation to the financial resources of the
2315 qualified sponsor; and

2316 (b) the extent to which the qualified sponsor has:

2317 (i) consulted and collaborated with parents of children who are likely to participate,
2318 local parent-teacher organizations, and other parent organizations;

2319 (ii) identified at-risk factors that will be addressed through the proposed prevention
2320 program;

2321 (iii) identified protective factors and developmental assets that will be supported and
2322 strengthened through the proposed prevention program; and

2323 (iv) encouraged the financial support of parents and the organizations described in
2324 Subsection (5)(b)(i).

2325 (6) The department shall award at least 50% of the grants under this section to

2326 organizations described in Subsection (1)(b)(iv).

2327 (7) The department may not allow the use of federal funds as matching funds under
2328 this act.

2329 Section 32. Section **35A-3-212** is amended to read:

2330 **35A-3-212. Use of COVID-19 relief funds -- Grants to child care providers --**
2331 **Reporting requirements.**

2332 (1) As used in this section:

2333 (a) "COVID-19 relief funds" means federal funds provided to the office under:

2334 (i) the American Rescue Plan Act, Pub. L. No. 117-2;

2335 (ii) the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136; or

2336 (iii) the Coronavirus Response and Relief Supplemental Appropriations Act, Pub. L.
2337 No. 116-260.

2338 (b) "Eligible child care provider" means:

2339 (i) a child care provider that enters into a contract with an employer to provide child
2340 care for the employer's employees, either on-site or off-site of the employer's place of business;
2341 or

2342 (ii) a regulated residential child care provider.

2343 (c) (i) "Employer" means:

2344 (A) a public employer;

2345 (B) a private employer; or

2346 (C) a cooperative organized for the purpose of providing child care for members'
2347 employees.

2348 (ii) "Employer" includes a local education agency, as defined in Section [53E-1-102](#).

2349 (d) "Regulated residential child care provider" means a person who holds a license or
2350 certificate from the Department of Health and Human Services to provide residential child care
2351 in accordance with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2,
2352 Part 4, Child Care Licensing.

2353 (2) (a) Subject to availability of funds and requirements under applicable federal law,

2354 the office shall use COVID-19 relief funds to provide grants to eligible child care providers to
2355 assist in paying start-up costs associated with the provision of child care.

2356 (b) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah
2357 Administrative Rulemaking Act, to establish criteria and procedures for applying for and
2358 awarding grants under this Subsection (2).

2359 (3) In fiscal years 2022 through 2024, the office shall submit to the department, for
2360 inclusion in the department's annual written report described in Section 35A-1-109, an annual
2361 report that provides:

2362 (a) a complete accounting of the COVID-19 relief funds expended by the office during
2363 the previous fiscal year;

2364 (b) a description of the services, projects, and programs funded by the office with
2365 COVID-19 relief funds during the previous fiscal year, including the amount of COVID-19
2366 relief funds allocated to each service, project, or program; and

2367 (c) information regarding the outcomes and effectiveness of the services, projects, and
2368 programs funded by the office with COVID-19 relief funds during the previous fiscal year.

2369 Section 33. Section 35A-3-308 is amended to read:

2370 **35A-3-308. Adoption services -- Printed information -- Supports provided.**

2371 (1) The department may provide assistance under this section to an applicant who is
2372 pregnant and is not receiving cash assistance at the beginning of the third trimester of
2373 pregnancy.

2374 (2) For a pregnant applicant, the department shall:

2375 (a) refer the applicant for appropriate prenatal medical care, including maternal health
2376 services provided under [~~Title 26, Chapter 10, Family Health Services~~] Title 26B, Chapter 7,
2377 Part 1, Health Promotion and Risk Reduction;

2378 (b) inform the applicant of free counseling about adoption from licensed child
2379 placement agencies and licensed attorneys; and

2380 (c) offer the applicant the adoption information packet described in Subsection (3).

2381 (3) The department shall publish an adoption information packet that:

- 2382 (a) is easy to understand;
- 2383 (b) contains geographically indexed materials on the public and private organizations
2384 that provide adoption assistance;
- 2385 (c) lists the names, addresses, and telephone numbers of licensed child placement
2386 agencies and licensed attorneys who place children for adoption;
- 2387 (d) explains that private adoption is legal and that the law permits adoptive parents to
2388 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to
2389 pregnancy; and
- 2390 (e) describes the services available to the applicant under this section.
- 2391 (4) (a) A recipient remains eligible for assistance under this section, even though the
2392 recipient relinquishes a child for adoption, if the adoption is in accordance with Sections
2393 [78B-6-120](#) through [78B-6-122](#).
- 2394 (b) The assistance provided under this section may include:
- 2395 (i) reimbursement for expenses associated with care and confinement during pregnancy
2396 as provided in Subsection (5); and
- 2397 (ii) for a maximum of 12 months from the date of relinquishment, coordination of
2398 services to assist the recipient in:
- 2399 (A) receiving appropriate educational and occupational assessment and planning;
- 2400 (B) enrolling in appropriate education or training programs, including high school
2401 completion and adult education programs;
- 2402 (C) enrolling in programs that provide assistance with job readiness, employment
2403 counseling, finding employment, and work skills;
- 2404 (D) finding suitable housing;
- 2405 (E) receiving medical assistance, under [~~Title 26, Chapter 18, Medical Assistance Act~~]
2406 Title 26B, Chapter 3, Health Care - Administration and Assistance, if the recipient is otherwise
2407 eligible; and
- 2408 (F) receiving counseling and other mental health services.
- 2409 (5) (a) Except as provided in Subsection (5)(b), a recipient under this section is eligible

2410 to receive an amount equal to the maximum monthly amount of cash assistance paid under this
2411 part to one person for up to 12 consecutive months from the date of relinquishment.

2412 (b) If a recipient is otherwise eligible to receive cash assistance under this part, the
2413 recipient is eligible to receive an amount equal to the increase in cash assistance the recipient
2414 would have received but for the relinquishment for up to 12 consecutive months from the date
2415 of relinquishment.

2416 (6) (a) To remain eligible for assistance under this section, a recipient shall:

2417 (i) with the cooperation of the department, develop and implement an employment plan
2418 that includes goals for achieving self-sufficiency and that describes the action the recipient will
2419 take concerning education and training to achieve full-time employment;

2420 (ii) if the recipient does not have a high school diploma, enroll in high school or an
2421 alternative to high school and demonstrate progress toward graduation; and

2422 (iii) make a good faith effort to meet the goals of the employment plan as described in
2423 Section [35A-3-304](#).

2424 (b) Cash assistance provided to a recipient before the recipient relinquishes a child for
2425 adoption is part of the state plan.

2426 (c) Assistance provided under Subsection (5):

2427 (i) shall be provided for with state funds; and

2428 (ii) may not be counted when determining subsequent eligibility for cash assistance
2429 under this chapter.

2430 (d) The time limit provisions of Section [35A-3-306](#) apply to cash assistance provided
2431 under the state plan.

2432 (e) The department shall monitor a recipient's compliance with this section.

2433 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the
2434 state plan.

2435 Section 34. Section **35A-3-401** is amended to read:

2436 **35A-3-401. General Assistance.**

2437 (1) (a) The department may provide General Assistance to individuals who are:

2438 (i) not receiving cash assistance under Part 3, Family Employment Program, or
2439 Supplemental Security Income; and

2440 (ii) unemployable according to standards established by the department.

2441 (b) (i) General Assistance described in Subsection (1)(a) may include payment in cash
2442 or in kind.

2443 (ii) The department may provide General Assistance up to an amount that is no more
2444 than the existing payment level for an otherwise similarly situated recipient receiving cash
2445 assistance under Part 3, Family Employment Program.

2446 (iii) Funding for General Assistance is nonlapsing.

2447 (c) The department shall establish asset limitations for a General Assistance applicant.

2448 (d) (i) General Assistance may be granted to meet special nonrecurrent needs of an
2449 applicant for the federal Supplemental Security Income for the Aged, Blind, and Disabled
2450 program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the
2451 department for assistance advanced to the applicant while awaiting the determination of
2452 eligibility by the Social Security Administration.

2453 (ii) (A) Reimbursements to the department described in Subsection (1)(d)(i) up to and
2454 including \$250,000 collected in a fiscal year shall be used by the department to administer the
2455 General Assistance program and provide General Assistance to eligible applicants.

2456 (B) Reimbursements to the department described in Subsection (1)(d)(i) over \$250,000
2457 collected in a fiscal year shall be deposited into the General Fund.

2458 (iii) General Assistance payments may not be made to a recipient currently receiving:

2459 (A) cash assistance; or

2460 (B) Supplemental Security Income for the Aged, Blind, and Disabled.

2461 (e) (i) General Assistance may be used for the reasonable cost of burial for a recipient
2462 if heirs or relatives are not financially able to assume this expense.

2463 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section
2464 [~~26-4-25~~] [26B-8-225](#) applies.

2465 (iii) The department shall fix the cost of a reasonable burial and conditions under

2466 which burial expenditures may be made.

2467 (2) The department may cooperate with any governmental unit or agency, or any
2468 private nonprofit agency, in establishing work projects to provide employment for employable
2469 persons.

2470 Section 35. Section **35A-3-603** is amended to read:

2471 **35A-3-603. Civil liability for overpayment.**

2472 (1) A provider, recipient, or other person who receives an overpayment shall,
2473 regardless of fault, return the overpayment or repay its value to the department immediately:

2474 (a) upon receiving written notice of the overpayment from the department; or

2475 (b) upon discovering the overpayment, if that occurs before receiving notice.

2476 (2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance
2477 of the overpayment shall accrue at the rate of 1% a month.

2478 (b) If the overpayment was not the fault of the person receiving it, that person is not
2479 liable for interest on the unreturned balance.

2480 (c) In accordance with federal law and rules made by the department in accordance
2481 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be
2482 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other
2483 cash-related assistance provided to a recipient under this chapter, or other means provided by
2484 federal law.

2485 (3) A person who knowingly assists a recipient, provider, or other person in obtaining
2486 an overpayment is jointly and severally liable for the overpayment.

2487 (4) (a) In proving civil liability for overpayment under this section, or Section
2488 [35A-3-605](#), when fault is alleged, the department shall prove by clear and convincing evidence
2489 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,
2490 knowingly, and recklessly" are defined in Section [76-2-103](#), by false statement,
2491 misrepresentation, impersonation, or other fraudulent means, including committing any of the
2492 acts or omissions described in Sections [76-8-1203](#), [76-8-1204](#), or [76-8-1205](#).

2493 (b) If fault is established under Subsection (4)(a), Section [35A-3-605](#), or Title 76,

2494 Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an
2495 overpayment is subject to:

2496 (i) a civil penalty of 10% of the amount of the overpayment, except for overpayments
2497 related to assistance for child care services;

2498 (ii) a civil penalty of 50% of the amount of the overpayment for overpayments related
2499 to assistance for child care services;

2500 (iii) disqualification from receiving cash assistance from the Family Employment
2501 Program created in Section 35A-3-302 and the General Assistance program under Section
2502 35A-3-401, if the overpayment was obtained from either of those programs, for the period
2503 described in Subsection (4)(c); and

2504 (iv) disqualification from SNAP, if the overpayment was received from SNAP, for the
2505 period described in Subsection (4)(c).

2506 (c) Unless otherwise provided by federal law, the period of a disqualification under
2507 ~~Subsection~~ Subsections (4)(b)(iii) and (iv) is for:

2508 (i) 12 months for a first offense;

2509 (ii) 24 months for a second offense; and

2510 (iii) permanently for a third offense.

2511 (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department
2512 may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

2513 (b) If the repayment obligation arose from an administrative error by the department,
2514 the department may not recover attorney fees and costs.

2515 (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the
2516 person from whom repayment is sought, the court shall assess an additional sum as considered
2517 appropriate as punitive damages up to the amount of repayment being sought.

2518 (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8,
2519 Part 12, Public Assistance Fraud.

2520 (8) Jurisdiction over benefits is continuous.

2521 (9) This chapter does not preclude the Department of Health and Human Services from

2522 carrying out its responsibilities under [~~Title 26, Chapter 19, Medical Benefits Recovery Act,~~
2523 ~~and Chapter 20, Utah False Claims Act]~~ Title 26B, Chapter 3, Part 10, Medical Benefits
2524 Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

2525 Section 36. Section **35A-9-202** is amended to read:

2526 **35A-9-202. Intergenerational poverty report.**

2527 (1) The department shall annually prepare an intergenerational poverty report for
2528 inclusion in the department's annual written report described in Section **35A-1-109**.

2529 (2) The intergenerational poverty report shall:

2530 (a) report on the data, findings, and potential uses of the intergenerational poverty
2531 tracking system described in Section **35A-9-201**;

2532 (b) describe policies, procedures, and programs that the department has implemented
2533 or modified to help break the cycle of poverty and end welfare dependency for children in the
2534 state affected by intergenerational poverty;

2535 (c) contain recommendations to the Legislature on how to address issues relating to
2536 breaking the cycle of poverty and ending welfare dependency for children in the state affected
2537 by intergenerational poverty; and

2538 (d) include the following reports:

2539 (i) the report described in Section **9-1-210** by the Department of Cultural and
2540 Community Engagement;

2541 (ii) the report described in Section [~~26-1-44~~] **26B-1-218** by the Department of Health
2542 and Human Services; and

2543 (iii) the report described in Section **53E-1-206** by the State Board of Education[;].

2544 [~~and~~]

2545 [~~(iv) the report described in Section **62A-1-123** by the Department of Health and~~
2546 ~~Human Services.]~~

2547 Section 37. Section **35A-15-102** is amended to read:

2548 **35A-15-102. Definitions.**

2549 As used in this chapter:

- 2550 (1) "Board" means the School Readiness Board, created in Section [35A-15-201](#).
- 2551 (2) "Economically disadvantaged" means to be eligible to receive free or reduced price
2552 lunch.
- 2553 (3) "Eligible home-based educational technology provider" means a provider that
2554 offers a home-based educational technology program to develop the school readiness skills of
2555 an eligible student.
- 2556 (4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect
2557 longitudinal academic outcome data, including special education use by student, by identifying
2558 each student with a statewide unique student identifier.
- 2559 (b) "Eligible LEA" includes a program exempt from licensure under Subsection
2560 ~~[26-39-403(2)(c)]~~ [26B-2-405\(2\)\(e\)](#).
- 2561 (5) (a) "Eligible private provider" means a child care program that:
- 2562 (i) is licensed under ~~[Title 26, Chapter 39, Utah Child Care Licensing Act]~~ [Title 26B,](#)
2563 [Chapter 2, Part 4, Child Care Licensing](#); or
- 2564 (ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section
2565 ~~[26-39-403]~~ [26B-2-405](#).
- 2566 (b) "Eligible private provider" does not include:
- 2567 (i) residential child care, as defined in Section ~~[26-39-102]~~ [26B-2-401](#); or
- 2568 (ii) a program exempt from licensure under Subsection ~~[26-39-403(2)(c)]~~
2569 [26B-2-405\(2\)\(e\)](#).
- 2570 (6) "Eligible student" means a student:
- 2571 (a) (i) who is age three, four, or five; and
- 2572 (ii) is not eligible for enrollment under Subsection [53G-4-402\(6\)](#); and
- 2573 (b) (i) (A) who is economically disadvantaged; and
- 2574 (B) whose parent or legal guardian reports that the student has experienced at least one
2575 risk factor;
- 2576 (ii) is an English learner; or
- 2577 (iii) is in foster care.

- 2578 (7) "Evaluation" means an evaluation conducted in accordance with Section
2579 [35A-15-303](#).
- 2580 (8) "High quality school readiness program" means a preschool program that:
2581 (a) is provided by an eligible LEA, eligible private provider, or eligible home-based
2582 educational technology provider; and
2583 (b) meets the elements of a high quality school readiness program described in Section
2584 [35A-15-202](#).
- 2585 (9) "Investor" means a person that enters into a results-based contract to provide
2586 funding to a high quality school readiness program on the condition that the person will receive
2587 payment in accordance with Section [35A-15-402](#) if the high quality school readiness program
2588 meets the performance outcome measures included in the results-based contract.
- 2589 (10) "Kindergarten assessment" means the kindergarten entry assessment described in
2590 Section [53G-7-203](#).
- 2591 (11) "Kindergarten transition plan" means a plan that supports the smooth transition of
2592 a preschool student to kindergarten and includes communication and alignment among the
2593 preschool, program, parents, and K-12 personnel.
- 2594 (12) "Local Education Agency" or "LEA" means a school district or charter school.
- 2595 (13) "Performance outcome measure" means:
2596 (a) indicators, as determined by the board, on the school readiness assessment and the
2597 kindergarten assessment; or
2598 (b) for a results-based contract, the indicators included in the contract.
- 2599 (14) "Results-based contract" means a contract that:
2600 (a) is entered into in accordance with Section [35A-15-402](#);
2601 (b) includes a performance outcome measure; and
2602 (c) is between the board, a provider of a high quality school readiness program, and an
2603 investor.
- 2604 (15) "Risk factor" means:
2605 (a) having a mother who was 18 years old or younger when the child was born;

- 2606 (b) a member of a child's household is incarcerated;
- 2607 (c) living in a neighborhood with high violence or crime;
- 2608 (d) having one or both parents with a low reading ability;
- 2609 (e) moving at least once in the past year;
- 2610 (f) having ever been in foster care;
- 2611 (g) living with multiple families in the same household;
- 2612 (h) having exposure in a child's home to:
- 2613 (i) physical abuse or domestic violence;
- 2614 (ii) substance abuse;
- 2615 (iii) the death or chronic illness of a parent or sibling; or
- 2616 (iv) mental illness;
- 2617 (i) the primary language spoken in a child's home is a language other than English; or
- 2618 (j) having at least one parent who has not completed high school.

2619 (16) "School readiness assessment" means the same as that term is defined in Section
2620 [53E-4-314](#).

2621 (17) "Tool" means the tool developed in accordance with Section [35A-15-303](#).

2622 Section 38. Section **39-1-64** is amended to read:

2623 **39-1-64. Extension of licenses for members of National Guard and reservists.**

2624 (1) As used in this section, "license" means any license issued under:

2625 (a) Title 58, Occupations and Professions; and

2626 (b) Section [~~26-8a-302~~] [26B-4-116](#).

2627 (2) Any license held by a member of the National Guard or reserve component of the
2628 armed forces that expires while the member is on active duty shall be extended until 90 days
2629 after the member is discharged from active duty status.

2630 (3) The licensing agency shall renew a license extended under Subsection (2) until the
2631 next date that the license expires or for the period that the license is normally issued, at no cost
2632 to the member of the National Guard or reserve component of the armed forces if all of the
2633 following conditions are met:

2634 (a) the National Guard member or reservist requests renewal of the license within 90
2635 days after being discharged;

2636 (b) the National Guard member or reservist provides the licensing agency with a copy
2637 of the member's or reservist's official orders calling the member or reservist to active duty, and
2638 official orders discharging the member or reservist from active duty; and

2639 (c) the National Guard member or reservist meets all the requirements necessary for the
2640 renewal of the license, except the member or reservist need not meet the requirements, if any,
2641 that relate to continuing education or training.

2642 (4) The provisions of this section do not apply to regularly scheduled annual training.

2643 Section 39. Section **41-1a-230.5** is amended to read:

2644 **41-1a-230.5. Registration checkoff for promoting and supporting organ donation.**

2645 (1) A person who applies for a motor vehicle registration or registration renewal may
2646 designate a voluntary contribution of \$2 for the purpose of promoting and supporting organ
2647 donation.

2648 (2) This contribution shall be:

2649 (a) collected by the division;

2650 (b) treated as a voluntary contribution to the Allyson Gamble Organ Donation
2651 Contribution Fund created in Section [~~26-18b-101~~] [26B-1-312](#) and not as a motor vehicle
2652 registration fee; and

2653 (c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in
2654 Section [~~26-18b-101~~] [26B-1-312](#) at least monthly, less actual administrative costs associated
2655 with collecting and transferring the contributions.

2656 Section 40. Section **41-1a-230.7** is amended to read:

2657 **41-1a-230.7. Registration checkoff for supporting emergency medical services**
2658 **and search and rescue operations.**

2659 (1) A person who applies for a motor vehicle registration or registration renewal may
2660 designate a voluntary contribution of \$3 for the purpose of supporting:

2661 (a) the Emergency Medical Services Grant Program; and

2662 (b) the Search and Rescue Financial Assistance Program.

2663 (2) This contribution shall be:

2664 (a) collected by the division;

2665 (b) treated as a voluntary contribution and not as a motor vehicle or off-highway
2666 vehicle registration fee; and

2667 (c) distributed equally to the Emergency Medical Services System Account created in
2668 Section ~~[26-8a-108]~~ [26B-1-306](#) and the Search and Rescue Financial Assistance Program
2669 created in Section [53-2a-1102](#) at least monthly, less actual administrative costs associated with
2670 collecting and transferring the contributions.

2671 (3) In addition to the administrative costs deducted under Subsection (2)(c), the
2672 division may deduct the first \$1,000 collected to cover costs incurred to change the registration
2673 form.

2674 Section 41. Section **41-1a-422** is amended to read:

2675 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**
2676 **contribution collection procedures.**

2677 (1) As used in this section:

2678 (a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who
2679 has donated or in whose name at least \$25 has been donated to:

2680 (A) a scholastic scholarship fund of a single named institution;

2681 (B) the Department of Veterans and Military Affairs for veterans programs;

2682 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
2683 Section [23-14-13](#), for conservation of wildlife and the enhancement, preservation, protection,
2684 access, and management of wildlife habitat;

2685 (D) the Department of Agriculture and Food for the benefit of conservation districts;

2686 (E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

2687 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
2688 the donation evenly divided between the two;

2689 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America

2690 council as specified by the contributor;

2691 (H) No More Homeless Pets in Utah for distribution to organizations or individuals
2692 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

2693 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
2694 development programs;

2695 (J) the Utah Association of Public School Foundations to support public education;

2696 (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to
2697 assist people who have severe housing needs;

2698 (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)
2699 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
2700 Safety employees;

2701 (M) the Division of Outdoor Recreation for distribution to organizations that provide
2702 support for Zion National Park;

2703 (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support
2704 firefighter organizations;

2705 (O) the Share the Road Bicycle Support Restricted Account created in Section
2706 [72-2-127](#) to support bicycle operation and safety awareness programs;

2707 (P) the Cancer Research Restricted Account created in Section [~~26-21a-302~~]
2708 [26B-1-313](#) to support cancer research programs;

2709 (Q) Autism Awareness Restricted Account created in Section [53F-9-401](#) to support
2710 autism awareness programs;

2711 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account
2712 created in Section [9-17-102](#) to support humanitarian service and educational and cultural
2713 programs;

2714 (S) [~~Upon~~] upon renewal of a prostate cancer support special group license plate, to the
2715 Cancer Research Restricted Account created in Section [~~26-21a-302~~] [26B-1-313](#) to support
2716 cancer research programs;

2717 (T) the Choose Life Adoption Support Restricted Account created in Section [80-2-502](#)

2718 to support programs that promote adoption;

2719 (U) the National Professional Men's Basketball Team Support of Women and Children

2720 Issues Restricted Account created in Section [26B-1-302](#);

2721 (V) the Utah Law Enforcement Memorial Support Restricted Account created in

2722 Section [53-1-120](#);

2723 (W) the Children with Cancer Support Restricted Account created in Section

2724 [~~26-21a-304~~] [26B-1-314](#) for programs that provide assistance to children with cancer;

2725 (X) the National Professional Men's Soccer Team Support of Building Communities

2726 Restricted Account created in Section [9-19-102](#);

2727 (Y) the Children with Heart Disease Support Restricted Account created in Section

2728 [~~26-58-102~~] [26B-1-321](#);

2729 (Z) the Utah Intracurricular Student Organization Support for Agricultural Education

2730 and Leadership Restricted Account created in Section [4-42-102](#);

2731 (AA) the Division of Wildlife Resources for the Support for State-Owned Shooting

2732 Ranges Restricted Account created in Section [23-14-13.5](#), for the creation of new, and

2733 operation and maintenance of existing, state-owned firearm shooting ranges;

2734 (BB) the Utah State Historical Society to further the mission and purpose of the Utah

2735 State Historical Society;

2736 (CC) the Motorcycle Safety Awareness Support Restricted Account created in Section

2737 [72-2-130](#);

2738 (DD) clean air support causes, with half of the donation deposited into the Clean Air

2739 Support Restricted Account created in Section [19-1-109](#), and half of the donation deposited

2740 into the Clean Air Fund created in Section [59-10-1319](#);

2741 (EE) the Latino Community Support Restricted Account created in Section [13-1-16](#);

2742 (FF) the Allyson Gamble Organ Donation Contribution Fund created in Section

2743 [~~26-18b-101~~] [26B-1-312](#);

2744 (GG) public education on behalf of the Kiwanis International clubs, with the amount of

2745 the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support

2746 special group plates, as determined by the State Tax Commission, deposited into the Kiwanis
2747 Education Support Fund created in Section [53F-9-403](#), and all remaining donation amounts
2748 deposited into the Uniform School Fund;

2749 (HH) the Governor's Suicide Prevention Fund created in Section [~~62A-15-1103~~]
2750 [26B-1-325](#) to support the Live On suicide prevention campaign administered by the Division of
2751 Integrated Healthcare; or

2752 (II) the State Park Fees Restricted Account created in Section [79-4-402](#) to support the
2753 Division of State Parks' dark sky initiative.

2754 (ii) (A) For a veterans special group license plate described in Subsection (4) or
2755 [41-1a-421\(1\)\(a\)\(v\)](#), "contributor" means a person who has donated or in whose name at least a
2756 \$25 donation at the time of application and \$10 annual donation thereafter has been made.

2757 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a
2758 person who:

2759 (I) has donated or in whose name at least \$30 has been donated at the time of
2760 application and annually after the time of application; and

2761 (II) is a member of a trade organization for real estate licensees that has more than
2762 15,000 Utah members.

2763 (C) For an Honoring Heroes special group license plate, "contributor" means a person
2764 who has donated or in whose name at least \$35 has been donated at the time of application and
2765 annually thereafter.

2766 (D) For a firefighter support special group license plate, "contributor" means a person
2767 who:

2768 (I) has donated or in whose name at least \$15 has been donated at the time of
2769 application and annually after the time of application; and

2770 (II) is a currently employed, volunteer, or retired firefighter.

2771 (E) For a cancer research special group license plate, "contributor" means a person who
2772 has donated or in whose name at least \$35 has been donated at the time of application and
2773 annually after the time of application.

2774 (F) For a Utah Law Enforcement Memorial Support special group license plate,
2775 "contributor" means a person who has donated or in whose name at least \$35 has been donated
2776 at the time of application and annually thereafter.

2777 (b) "Institution" means a state institution of higher education as defined under Section
2778 53B-3-102 or a private institution of higher education in the state accredited by a regional or
2779 national accrediting agency recognized by the United States Department of Education.

2780 (2) (a) An applicant for original or renewal collegiate special group license plates under
2781 Subsection (1)(a)(i) must be a contributor to the institution named in the application and
2782 present the original contribution verification form under Subsection (2)(b) or make a
2783 contribution to the division at the time of application under Subsection (3).

2784 (b) An institution with a support special group license plate shall issue to a contributor
2785 a verification form designed by the commission containing:

- 2786 (i) the name of the contributor;
- 2787 (ii) the institution to which a donation was made;
- 2788 (iii) the date of the donation; and
- 2789 (iv) an attestation that the donation was for a scholastic scholarship.

2790 (c) The state auditor may audit each institution to verify that the money collected by the
2791 institutions from contributors is used for scholastic scholarships.

2792 (d) After an applicant has been issued collegiate license plates or renewal decals, the
2793 commission shall charge the institution whose plate was issued, a fee determined in accordance
2794 with Section 63J-1-504 for management and administrative expenses incurred in issuing and
2795 renewing the collegiate license plates.

2796 (e) If the contribution is made at the time of application, the contribution shall be
2797 collected, treated, and deposited as provided under Subsection (3).

2798 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or
2799 renewal support special group license plates under this section must be a contributor to the
2800 sponsoring organization associated with the license plate.

2801 (ii) An applicant for a historical special group license plate is not required to make a

2802 donation to the Utah State Historical Society if the historical special group license plate is for a
2803 vintage vehicle that has a model year of 1980 or older.

2804 (b) This contribution shall be:

2805 (i) unless collected by the named institution under Subsection (2), collected by the
2806 division;

2807 (ii) considered a voluntary contribution for the funding of the activities specified under
2808 this section and not a motor vehicle registration fee;

2809 (iii) deposited into the appropriate account less actual administrative costs associated
2810 with issuing the license plates; and

2811 (iv) for a firefighter special group license plate, deposited into the appropriate account
2812 less:

2813 (A) the costs of reordering firefighter special group license plate decals; and

2814 (B) the costs of replacing recognition special group license plates with new license
2815 plates under Subsection 41-1a-1211(13).

2816 (c) The donation described in Subsection (1)(a) must be made in the 12 months before
2817 registration or renewal of registration.

2818 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
2819 the division when issuing original:

2820 (i) snowmobile license plates; or

2821 (ii) conservation license plates.

2822 (4) Veterans license plates shall display one of the symbols representing the Army,
2823 Navy, Air Force, Marines, Coast Guard, or American Legion.

2824 Section 42. Section **41-6a-404** is amended to read:

2825 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**
2826 **-- Use as evidence -- Penalty for false information.**

2827 (1) As used in this section:

2828 (a) "Accompanying data" means all materials gathered by the investigating peace
2829 officer in an accident investigation including:

- 2830 (i) the identity of witnesses and, if known, contact information;
- 2831 (ii) witness statements;
- 2832 (iii) photographs and videotapes;
- 2833 (iv) diagrams; and
- 2834 (v) field notes.
- 2835 (b) "Agent" means:
- 2836 (i) a person's attorney;
- 2837 (ii) a person's insurer;
- 2838 (iii) a general acute hospital, as defined in Section ~~[26-21-2]~~ [26B-2-201](#), that:
- 2839 (A) has an emergency room; and
- 2840 (B) is providing or has provided emergency services to the person in relation to the
- 2841 accident; or
- 2842 (iv) any other individual or entity with signed permission from the person to receive
- 2843 the person's accident report.
- 2844 (2) (a) Except as provided in Subsections (3) and (7), all accident reports required in
- 2845 this part to be filed with the department:
- 2846 (i) are without prejudice to the reporting individual;
- 2847 (ii) are protected and for the confidential use of the department or other state, local, or
- 2848 federal agencies having use for the records for official governmental statistical, investigative,
- 2849 and accident prevention purposes; and
- 2850 (iii) may be disclosed only in a statistical form that protects the privacy of any person
- 2851 involved in the accident.
- 2852 (b) An investigating peace officer shall include in an accident report an indication as to
- 2853 whether the accident occurred on a highway designated as a livestock highway in accordance
- 2854 with Section [72-3-112](#) if the accident resulted in the injury or death of livestock.
- 2855 (3) (a) Subject to the provisions of this section, the department or the responsible law
- 2856 enforcement agency employing the peace officer that investigated the accident shall disclose an
- 2857 accident report to:

- 2858 (i) a person involved in the accident, excluding a witness to the accident;
- 2859 (ii) a person suffering loss or injury in the accident;
- 2860 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)
- 2861 and (ii);
- 2862 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;
- 2863 (v) a state, local, or federal agency that uses the records for official governmental,
- 2864 investigative, or accident prevention purposes;
- 2865 (vi) law enforcement personnel when acting in their official governmental capacity;
- 2866 and
- 2867 (vii) a licensed private investigator who:
- 2868 (A) represents an individual described in Subsections (3)(a)(i) through (iii); and
- 2869 (B) demonstrates that the representation of the individual described in Subsections
- 2870 (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.
- 2871 (b) The responsible law enforcement agency employing the peace officer that
- 2872 investigated the accident:
- 2873 (i) shall in compliance with Subsection (3)(a):
- 2874 (A) disclose an accident report; or
- 2875 (B) upon written request disclose an accident report and its accompanying data within
- 2876 10 business days from receipt of a written request for disclosure; or
- 2877 (ii) may withhold an accident report, and any of its accompanying data if disclosure
- 2878 would jeopardize an ongoing criminal investigation or criminal prosecution.
- 2879 (c) In accordance with Subsection (3)(a), the department or the responsible law
- 2880 enforcement agency employing the investigating peace officer shall disclose whether any
- 2881 person or vehicle involved in an accident reported under this section was covered by a vehicle
- 2882 insurance policy, and the name of the insurer.
- 2883 (d) Information provided to a member of the press or broadcast news media under
- 2884 Subsection (3)(a)(iv) may only include:
- 2885 (i) the name, age, sex, and city of residence of each person involved in the accident;

- 2886 (ii) the make and model year of each vehicle involved in the accident;
- 2887 (iii) whether or not each person involved in the accident was covered by a vehicle
- 2888 insurance policy;
- 2889 (iv) the location of the accident; and
- 2890 (v) a description of the accident that excludes personal identifying information not
- 2891 listed in Subsection (3)(d)(i).
- 2892 (e) The department shall disclose to any requesting person the following vehicle
- 2893 accident history information, excluding personal identifying information, in bulk electronic
- 2894 form:
- 2895 (i) any vehicle identifying information that is electronically available, including the
- 2896 make, model year, and vehicle identification number of each vehicle involved in an accident;
- 2897 (ii) the date of the accident; and
- 2898 (iii) any electronically available data which describes the accident, including a
- 2899 description of any physical damage to the vehicle.
- 2900 (f) The department may establish a fee under Section [63J-1-504](#) based on the fair
- 2901 market value of the information for providing bulk vehicle accident history information under
- 2902 Subsection (3)(e).
- 2903 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section
- 2904 may not be used as evidence in any civil or criminal trial arising out of an accident.
- 2905 (b) (i) Upon demand of any party to the trial or upon demand of any court, the
- 2906 department shall furnish a certificate showing that a specified accident report has or has not
- 2907 been made to the department in compliance with law.
- 2908 (ii) If the report has been made, the certificate furnished by the department shall show:
- 2909 (A) the date, time, and location of the accident;
- 2910 (B) the names and addresses of the drivers;
- 2911 (C) the owners of the vehicles involved; and
- 2912 (D) the investigating peace officers.
- 2913 (iii) The reports may be used as evidence when necessary to prosecute charges filed in

2914 connection with a violation of Subsection (5).

2915 (5) A person who gives information in reports as required in this part knowing or
2916 having reason to believe that the information is false is guilty of a class A misdemeanor.

2917 (6) The department and the responsible law enforcement agency employing the
2918 investigating peace officer may charge a reasonable fee determined by the department under
2919 Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report
2920 and any of its accompanying data under Subsections (3)(a) and (b).

2921 (7) (a) The Office of State Debt Collection, the Division of Risk Management, and the
2922 Department of Transportation may, in the performance of the regular duties of each respective
2923 division or department, disclose an accident report to:

2924 (i) a person involved in the accident, excluding a witness to the accident;

2925 (ii) an owner of a vehicle involved in the accident;

2926 (iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or
2927 (ii); or

2928 (iv) an insurer that provides motor vehicle insurance to a person described in
2929 Subsection (7)(a)(i) or (iii).

2930 (b) A disclosure under Subsection (7)(a) does not change the classification of the
2931 record as a protected record under Section 63G-2-305.

2932 Section 43. Section 41-6a-501 is amended to read:

2933 **41-6a-501. Definitions.**

2934 (1) As used in this part:

2935 (a) "Actual physical control" is determined by a consideration of the totality of the
2936 circumstances, but does not include a circumstance in which:

2937 (i) the person is asleep inside the vehicle;

2938 (ii) the person is not in the driver's seat of the vehicle;

2939 (iii) the engine of the vehicle is not running;

2940 (iv) the vehicle is lawfully parked; and

2941 (v) under the facts presented, it is evident that the person did not drive the vehicle to

2942 the location while under the influence of alcohol, a drug, or the combined influence of alcohol
2943 and any drug.

2944 (b) "Assessment" means an in-depth clinical interview with a licensed mental health
2945 therapist:

2946 (i) used to determine if a person is in need of:

2947 (A) substance abuse treatment that is obtained at a substance abuse program;

2948 (B) an educational series; or

2949 (C) a combination of Subsections (1)(b)(i)(A) and (B); and

2950 (ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~]
2951 Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

2952 (c) "Driving under the influence court" means a court that is approved as a driving
2953 under the influence court by the [~~Utah~~] Judicial Council according to standards established by
2954 the Judicial Council.

2955 (d) "Drug" or "drugs" means:

2956 (i) a controlled substance as defined in Section 58-37-2;

2957 (ii) a drug as defined in Section 58-17b-102; or

2958 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human
2959 body, can impair the ability of a person to safely operate a motor vehicle.

2960 (e) "Educational series" means an educational series obtained at a substance abuse
2961 program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated
2962 Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

2963 (f) "Negligence" means simple negligence, the failure to exercise that degree of care
2964 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

2965 (g) "Novice learner driver" means an individual who:

2966 (i) has applied for a Utah driver license;

2967 (ii) has not previously held a driver license in this state or another state; and

2968 (iii) has not completed the requirements for issuance of a Utah driver license.

2969 (h) "Screening" means a preliminary appraisal of a person:

- 2970 (i) used to determine if the person is in need of:
- 2971 (A) an assessment; or
- 2972 (B) an educational series; and
- 2973 (ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~]
- 2974 Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.
- 2975 (i) "Serious bodily injury" means bodily injury that creates or causes:
- 2976 (i) serious permanent disfigurement;
- 2977 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 2978 (iii) a substantial risk of death.
- 2979 (j) "Substance abuse treatment" means treatment obtained at a substance abuse
- 2980 program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated
- 2981 Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.
- 2982 (k) "Substance abuse treatment program" means a state licensed substance abuse
- 2983 program.
- 2984 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
- 2985 Section 41-6a-102; and
- 2986 (ii) "Vehicle" or "motor vehicle" includes:
- 2987 (A) an off-highway vehicle as defined under Section 41-22-2; and
- 2988 (B) a motorboat as defined in Section 73-18-2.
- 2989 (2) As used in Section 41-6a-503:
- 2990 (a) "Conviction" means any conviction arising from a separate episode of driving for a
- 2991 violation of:
- 2992 (i) driving under the influence under Section 41-6a-502;
- 2993 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
- 2994 combination of both-related reckless driving under:
- 2995 (I) Section 41-6a-512; and
- 2996 (II) Section 41-6a-528; or
- 2997 (B) for an offense committed on or after July 1, 2008, impaired driving under Section

2998 41-6a-502.5;

2999 (iii) driving with any measurable controlled substance that is taken illegally in the body
3000 under Section 41-6a-517;

3001 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
3002 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in
3003 compliance with Section 41-6a-510;

3004 (v) Section 76-5-207;

3005 (vi) operating a motor vehicle with any amount of a controlled substance in an
3006 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
3007 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

3008 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

3009 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of
3010 conviction is reduced under Section 76-3-402;

3011 (ix) refusal of a chemical test under Subsection 41-6a-520(7); or

3012 (x) statutes or ordinances previously in effect in this state or in effect in any other state,
3013 the United States, or any district, possession, or territory of the United States which would
3014 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
3015 both-related reckless driving if committed in this state, including punishments administered
3016 under 10 U.S.C. Sec. 815.

3017 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
3018 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
3019 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
3020 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

3021 (i) enhancement of penalties under this Chapter 6a, Part 5, Driving Under the Influence
3022 and Reckless Driving; and

3023 (ii) expungement under Title 77, Chapter [40] 40a, Expungement.

3024 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
3025 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah

3026 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

3027 (i) this part;

3028 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

3029 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.

3030 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
3031 metabolite of a controlled substance.

3032 Section 44. Section 41-6a-502.5 is amended to read:

3033 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
3034 **requirements.**

3035 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
3036 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
3037 impaired driving under this section if:

3038 (a) the defendant completes court ordered probation requirements; or

3039 (b) (i) the prosecutor agrees as part of a negotiated plea; and

3040 (ii) the court finds the plea to be in the interest of justice.

3041 (2) A conviction entered under this section is a class B misdemeanor.

3042 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
3043 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

3044 (ii) If the defendant fails to appear before the court and establish successful completion
3045 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
3046 amended conviction of Section 41-6a-502.

3047 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
3048 conviction.

3049 (b) The court may enter a conviction of impaired driving immediately under
3050 Subsection (1)(b).

3051 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
3052 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
3053 degree.

3054 (5) (a) The court shall notify the Driver License Division of each conviction entered
3055 under this section.

3056 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
3057 Professional Licensing, created in Section 58-1-103, a report containing the name, case
3058 number, and, if known, the date of birth of each person convicted during the preceding month
3059 of a violation of this section for whom there is evidence that the person was driving while
3060 impaired, in whole or in part, by a prescribed controlled substance.

3061 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
3062 sentencing court to order a convicted person to participate in a screening, an assessment, or an
3063 educational series, or obtain substance abuse treatment or do a combination of those things,
3064 apply to a conviction entered under this section.

3065 (b) The court shall render the same order regarding screening, assessment, an
3066 educational series, or substance abuse treatment in connection with a first, second, or
3067 subsequent conviction under this section as the court would render in connection with applying
3068 respectively, the first, second, or subsequent conviction requirements of Subsections
3069 41-6a-505(1), (3), (5), and (7).

3070 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
3071 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
3072 reporting court notifies the Driver License Division that the defendant is participating in or has
3073 successfully completed the program of a driving under the influence court.

3074 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- 3075 (i) a CDL license holder; or
- 3076 (ii) a violation that occurred in a commercial motor vehicle.

3077 (8) The provisions of this section are not available:

3078 (a) to a person who has a prior conviction as that term is defined in Subsection
3079 41-6a-501(2); or

3080 (b) where there is admissible evidence that the individual:

- 3081 (i) had a blood or breath alcohol level of .16 or higher;

3082 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable
3083 controlled substance; or

3084 (iii) had a combination of two or more controlled substances in the person's body that
3085 were not:

3086 (A) prescribed by a licensed physician; or

3087 (B) recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis~~
3088 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

3089 Section 45. Section **41-6a-505** is amended to read:

3090 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
3091 **drugs, or a combination of both violations.**

3092 (1) As part of any sentence for a first conviction of Section [41-6a-502](#) where there is
3093 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had
3094 a blood or breath alcohol level of .05 or higher in addition to any measurable controlled
3095 substance, or had a combination of two or more controlled substances in the individual's body
3096 that were not recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis~~
3097 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

3098 (a) the court shall:

3099 (i) (A) impose a jail sentence of not less than five days; or

3100 (B) impose a jail sentence of not less than two days in addition to home confinement of
3101 not fewer than 30 consecutive days through the use of electronic monitoring that includes a
3102 substance abuse testing instrument in accordance with Section [41-6a-506](#);

3103 (ii) order the individual to participate in a screening;

3104 (iii) order the individual to participate in an assessment, if it is found appropriate by a
3105 screening under Subsection (1)(a)(ii);

3106 (iv) order the individual to participate in an educational series if the court does not
3107 order substance abuse treatment as described under Subsection (1)(b);

3108 (v) impose a fine of not less than \$700;

3109 (vi) order probation for the individual in accordance with Section [41-6a-507](#);

3110 (vii) (A) order the individual to pay the administrative impound fee described in
3111 Section 41-6a-1406; or
3112 (B) if the administrative impound fee was paid by a party described in Subsection
3113 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
3114 reimburse the party;
3115 (viii) (A) order the individual to pay the towing and storage fees described in Section
3116 72-9-603; or
3117 (B) if the towing and storage fees were paid by a party described in Subsection
3118 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
3119 reimburse the party; or
3120 (ix) unless the court determines and states on the record that an ignition interlock
3121 system is not necessary for the safety of the community and in the best interest of justice, order
3122 the installation of an ignition interlock system as described in Section 41-6a-518; and
3123 (b) the court may:
3124 (i) order the individual to obtain substance abuse treatment if the substance abuse
3125 treatment program determines that substance abuse treatment is appropriate;
3126 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
3127 41-6a-515.5 if the individual is 21 years old or older; or
3128 (iii) order a combination of Subsections (1)(b)(i) and (ii).
3129 (2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety
3130 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
3131 under Subsection (1)(a).
3132 (b) If an individual described in Subsection (1) fails to successfully complete all of the
3133 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence
3134 described in Subsection (2)(a).
3135 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described
3136 in Subsection (1):
3137 (a) the court shall:

- 3138 (i) (A) impose a jail sentence of not less than two days; or
- 3139 (B) require the individual to work in a compensatory-service work program for not less
- 3140 than 48 hours;
- 3141 (ii) order the individual to participate in a screening;
- 3142 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 3143 screening under Subsection (3)(a)(ii);
- 3144 (iv) order the individual to participate in an educational series if the court does not
- 3145 order substance abuse treatment as described under Subsection (3)(b);
- 3146 (v) impose a fine of not less than \$700;
- 3147 (vi) (A) order the individual to pay the administrative impound fee described in Section
- 3148 [41-6a-1406](#); or
- 3149 (B) if the administrative impound fee was paid by a party described in Subsection
- 3150 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 3151 reimburse the party; or
- 3152 (vii) (A) order the individual to pay the towing and storage fees described in Section
- 3153 [72-9-603](#); or
- 3154 (B) if the towing and storage fees were paid by a party described in Subsection
- 3155 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 3156 reimburse the party; and
- 3157 (b) the court may:
- 3158 (i) order the individual to obtain substance abuse treatment if the substance abuse
- 3159 treatment program determines that substance abuse treatment is appropriate;
- 3160 (ii) order probation for the individual in accordance with Section [41-6a-507](#);
- 3161 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
- 3162 [41-6a-515.5](#) if the individual is 21 years old or older; or
- 3163 (iv) order a combination of Subsections (3)(b)(i) through (iii).
- 3164 (4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety
- 3165 program as defined in Section [41-6a-515.5](#), the court may suspend the jail sentence imposed

3166 under Subsection (3)(a).

3167 (b) If an individual described in Subsection (4)(a) fails to successfully complete all of
3168 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail
3169 sentence described in Subsection (4)(a).

3170 (5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
3171 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
3172 offense upon which the current conviction is based and where there is admissible evidence that
3173 the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath
3174 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a
3175 combination of two or more controlled substances in the individual's body that were not
3176 recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title
3177 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

3178 (a) the court shall:

3179 (i) (A) impose a jail sentence of not less than 20 days;

3180 (B) impose a jail sentence of not less than 10 days in addition to home confinement of
3181 not fewer than 60 consecutive days through the use of electronic monitoring that includes a
3182 substance abuse testing instrument in accordance with Section 41-6a-506; or

3183 (C) impose a jail sentence of not less than 10 days in addition to ordering the
3184 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment
3185 is more likely to reduce recidivism and is in the interests of public safety;

3186 (ii) order the individual to participate in a screening;

3187 (iii) order the individual to participate in an assessment, if it is found appropriate by a
3188 screening under Subsection (5)(a)(ii);

3189 (iv) order the individual to participate in an educational series if the court does not
3190 order substance abuse treatment as described under Subsection (5)(b);

3191 (v) impose a fine of not less than \$800;

3192 (vi) order probation for the individual in accordance with Section 41-6a-507;

3193 (vii) order the installation of an ignition interlock system as described in Section

3194 41-6a-518;

3195 (viii) (A) order the individual to pay the administrative impound fee described in

3196 Section 41-6a-1406; or

3197 (B) if the administrative impound fee was paid by a party described in Subsection

3198 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

3199 reimburse the party; or

3200 (ix) (A) order the individual to pay the towing and storage fees described in Section

3201 72-9-603; or

3202 (B) if the towing and storage fees were paid by a party described in Subsection

3203 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

3204 reimburse the party; and

3205 (b) the court may:

3206 (i) order the individual to obtain substance abuse treatment if the substance abuse

3207 treatment program determines that substance abuse treatment is appropriate;

3208 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section

3209 41-6a-515.5 if the individual is 21 years old or older; or

3210 (iii) order a combination of Subsections (5)(b)(i) and (ii).

3211 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety

3212 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed

3213 under Subsection (5)(a) after the individual has served a minimum of:

3214 (i) five days of the jail sentence for a second offense; or

3215 (ii) 10 days of the jail sentence for a third or subsequent offense.

3216 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of

3217 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail

3218 sentence described in Subsection (6)(a).

3219 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is

3220 within 10 years of the current conviction under Section 41-6a-502 or the commission of the

3221 offense upon which the current conviction is based and that does not qualify under Subsection

- 3222 (5):
- 3223 (a) the court shall:
- 3224 (i) (A) impose a jail sentence of not less than 10 days; or
- 3225 (B) impose a jail sentence of not less than 5 days in addition to home confinement of
- 3226 not fewer than 30 consecutive days through the use of electronic monitoring that includes a
- 3227 substance abuse testing instrument in accordance with Section [41-6a-506](#);
- 3228 (ii) order the individual to participate in a screening;
- 3229 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 3230 screening under Subsection (7)(a)(ii);
- 3231 (iv) order the individual to participate in an educational series if the court does not
- 3232 order substance abuse treatment as described under Subsection (7)(b);
- 3233 (v) impose a fine of not less than \$800;
- 3234 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
- 3235 (vii) (A) order the individual to pay the administrative impound fee described in
- 3236 Section [41-6a-1406](#); or
- 3237 (B) if the administrative impound fee was paid by a party described in Subsection
- 3238 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 3239 reimburse the party; or
- 3240 (viii) (A) order the individual to pay the towing and storage fees described in Section
- 3241 [72-9-603](#); or
- 3242 (B) if the towing and storage fees were paid by a party described in Subsection
- 3243 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 3244 reimburse the party; and
- 3245 (b) the court may:
- 3246 (i) order the individual to obtain substance abuse treatment if the substance abuse
- 3247 treatment program determines that substance abuse treatment is appropriate;
- 3248 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
- 3249 [41-6a-515.5](#) if the individual is 21 years old or older; or

3250 (iii) order a combination of Subsections (7)(b)(i) and (ii).

3251 (8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety

3252 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed

3253 under Subsection (7)(a) after the individual has served a minimum of:

3254 (i) five days of the jail sentence for a second offense; or

3255 (ii) 10 days of the jail sentence for a third or subsequent offense.

3256 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of

3257 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail

3258 sentence described in Subsection (8)(a).

3259 (9) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison

3260 sentence and places the defendant on probation where there is admissible evidence that the

3261 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol

3262 level of .05 in addition to any measurable controlled substance, or had a combination of two or

3263 more controlled substances in the person's body that were not recommended in accordance with

3264 [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid

3265 Research and Medical Cannabis, or prescribed, the court shall impose:

3266 (a) a fine of not less than \$1,500;

3267 (b) a jail sentence of not less than 120 days;

3268 (c) home confinement of not fewer than 120 consecutive days through the use of

3269 electronic monitoring that includes a substance abuse testing instrument in accordance with

3270 Section 41-6a-506; and

3271 (d) supervised probation.

3272 (10) (a) For Subsection (9) or Subsection 41-6a-503(3)(a), the court:

3273 (i) shall impose an order requiring the individual to obtain a screening and assessment

3274 for alcohol and substance abuse, and treatment as appropriate; and

3275 (ii) may impose an order requiring the individual to participate in a 24/7 sobriety

3276 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

3277 (b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all

3278 of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison
3279 sentence described in Subsection (9).

3280 (11) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison
3281 sentence and places the defendant on probation with a sentence not described in Subsection (9),
3282 the court shall impose:

3283 (a) a fine of not less than \$1,500;

3284 (b) a jail sentence of not less than 60 days;

3285 (c) home confinement of not fewer than 60 consecutive days through the use of
3286 electronic monitoring that includes a substance abuse testing instrument in accordance with
3287 Section 41-6a-506; and

3288 (d) supervised probation.

3289 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the
3290 requirements of this section.

3291 (ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

3292 (b) A court, with stipulation of both parties and approval from the judge, may convert a
3293 jail sentence required in this section to electronic home confinement.

3294 (c) A court may order a jail sentence imposed as a condition of misdemeanor probation
3295 under this section to be served in multiple two-day increments at weekly intervals if the court
3296 determines that separate jail increments are necessary to ensure the defendant can serve the
3297 statutorily required jail term and maintain employment.

3298 (13) If an individual is convicted of a violation of Section 41-6a-502 and there is
3299 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the
3300 court shall order the following, or describe on record why the order or orders are not
3301 appropriate:

3302 (a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

3303 (b) one or more of the following:

3304 (i) the installation of an ignition interlock system as a condition of probation for the
3305 individual in accordance with Section 41-6a-518;

3306 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
3307 device or remote alcohol monitor as a condition of probation for the individual; or

3308 (iii) the imposition of home confinement through the use of electronic monitoring in
3309 accordance with Section 41-6a-506.

3310 Section 46. Section 41-6a-517 is amended to read:

3311 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
3312 **body -- Penalties -- Arrest without warrant.**

3313 (1) As used in this section:

3314 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

3315 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

3316 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

3317 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

3318 (2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of
3319 Section 41-6a-502, 76-5-102.1, or 76-5-207, a person may not operate or be in actual physical
3320 control of a motor vehicle within this state if the person has any measurable controlled
3321 substance or metabolite of a controlled substance in the person's body.

3322 (b) Subsection (2)(a) does not apply to a person that has
3323 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
3324 body.

3325 (3) It is an affirmative defense to prosecution under this section that the controlled
3326 substance was:

3327 (a) involuntarily ingested by the accused;

3328 (b) prescribed by a practitioner for use by the accused;

3329 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
3330 form that the accused ingested in accordance with [~~Title 26, Chapter 61a, Utah Medical~~
3331 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

3332 (d) otherwise legally ingested.

3333 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B

3334 misdemeanor.

3335 (b) A person who violates this section is subject to conviction and sentencing under
3336 both this section and any applicable offense under Section 58-37-8.

3337 (5) A peace officer may, without a warrant, arrest a person for a violation of this
3338 section when the officer has probable cause to believe the violation has occurred, although not
3339 in the officer's presence, and if the officer has probable cause to believe that the violation was
3340 committed by the person.

3341 (6) The Driver License Division shall, if the person is 21 years old or older on the date
3342 of arrest:

3343 (a) suspend, for a period of 120 days, the driver license of a person convicted under
3344 Subsection (2) of an offense committed on or after July 1, 2009; or

3345 (b) revoke, for a period of two years, the driver license of a person if:

3346 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3347 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
3348 and within a period of 10 years after the date of the prior violation.

3349 (7) The Driver License Division shall, if the person is 19 years old or older but under
3350 21 years old on the date of arrest:

3351 (a) suspend, until the person is 21 years old or for a period of one year, whichever is
3352 longer, the driver license of a person convicted under Subsection (2) of an offense committed
3353 on or after July 1, 2011; or

3354 (b) revoke, until the person is 21 years old or for a period of two years, whichever is
3355 longer, the driver license of a person if:

3356 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3357 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
3358 and within a period of 10 years after the date of the prior violation.

3359 (8) The Driver License Division shall, if the person is under 19 years old on the date of
3360 arrest:

3361 (a) suspend, until the person is 21 years old, the driver license of a person convicted

3362 under Subsection (2) of an offense committed on or after July 1, 2009; or

3363 (b) revoke, until the person is 21 years old, the driver license of a person if:

3364 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3365 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

3366 and within a period of 10 years after the date of the prior violation.

3367 (9) The Driver License Division shall subtract from any suspension or revocation

3368 period the number of days for which a license was previously suspended under Section

3369 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon

3370 which the record of conviction is based.

3371 (10) The Driver License Division shall:

3372 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in

3373 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was

3374 committed prior to July 1, 2009; or

3375 (b) deny, suspend, or revoke the operator's license of a person for the denial,

3376 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

3377 (i) the person was 20 years old or older but under 21 years old at the time of arrest; and

3378 (ii) the conviction under Subsection (2) is for an offense that was committed on or after

3379 July 1, 2009, and prior to July 1, 2011.

3380 (11) A court that reported a conviction of a violation of this section for a violation that

3381 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension

3382 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period

3383 if the person:

3384 (a) completes at least six months of the license suspension;

3385 (b) completes a screening;

3386 (c) completes an assessment, if it is found appropriate by a screening under Subsection

3387 (11)(b);

3388 (d) completes substance abuse treatment if it is found appropriate by the assessment

3389 under Subsection (11)(c);

3390 (e) completes an educational series if substance abuse treatment is not required by the
3391 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

3392 (f) has not been convicted of a violation of any motor vehicle law in which the person
3393 was involved as the operator of the vehicle during the suspension period imposed under
3394 Subsection (7)(a) or (8)(a);

3395 (g) has complied with all the terms of the person's probation or all orders of the court if
3396 not ordered to probation; and

3397 (h) (i) is 18 years old or older and provides a sworn statement to the court that the
3398 person has not consumed a controlled substance not prescribed by a practitioner for use by the
3399 person or unlawfully consumed alcohol during the suspension period imposed under
3400 Subsection (7)(a) or (8)(a); or

3401 (ii) is under 18 years old and has the person's parent or legal guardian provide an
3402 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
3403 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
3404 for use by the person or unlawfully consumed alcohol during the suspension period imposed
3405 under Subsection (7)(a) or (8)(a).

3406 (12) If the court shortens a person's license suspension period in accordance with the
3407 requirements of Subsection (11), the court shall forward the order shortening the person's
3408 license suspension period to the Driver License Division in a manner specified by the division
3409 prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).

3410 (13) (a) The court shall notify the Driver License Division if a person fails to complete
3411 all court ordered screening and assessment, educational series, and substance abuse treatment.

3412 (b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division
3413 shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

3414 (14) The court:

3415 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
3416 convicted under Subsection (2); and

3417 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety

3418 program as defined in Section 41-6a-515.5 if the person is 21 years old or older.

3419 (15) (a) A court that reported a conviction of a violation of this section to the Driver
3420 License Division may shorten the suspension period imposed under Subsection (6) before
3421 completion of the suspension period if the person is participating in or has successfully
3422 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

3423 (b) If the court shortens a person's license suspension period in accordance with the
3424 requirements of this Subsection (15), the court shall forward to the Driver License Division, in
3425 a manner specified by the division, the order shortening the person's suspension period.

3426 (c) The court shall notify the Driver License Division, in a manner specified by the
3427 division, if a person fails to complete all requirements of a 24-7 sobriety program.

3428 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first
3429 offense, the division shall suspend the person's driving privilege for a period of 120 days from
3430 the date of notice.

3431 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted
3432 from the 120-day suspension period for which a driving privilege was suspended under this
3433 section or under Section 53-3-223, if the previous suspension was based on the same
3434 occurrence upon which the conviction under this section is based.

3435 (ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or
3436 subsequent offense, the division shall revoke the person's driving privilege for a period of two
3437 years from the date of notice.

3438 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted
3439 from the two-year revocation period for which a driving privilege was previously revoked
3440 under this section or under Section 53-3-223, if the previous revocation was based on the same
3441 occurrence upon which the conviction under this section is based.

3442 Section 47. Section 41-6a-523 is amended to read:

3443 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

3444 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to
3445 determine its alcohol or drug content:

3446 (i) a physician;
3447 (ii) a physician assistant;
3448 (iii) a registered nurse;
3449 (iv) a licensed practical nurse;
3450 (v) a paramedic;
3451 (vi) as provided in Subsection (1)(b), emergency medical service personnel other than
3452 paramedics; or

3453 (vii) a person with a valid permit issued by the Department of Health and Human
3454 Services under Section [~~26-1-30~~] 26B-1-202.

3455 (b) The Department of Health and Human Services may designate by rule, in
3456 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency
3457 medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to
3458 draw blood under Subsection (1)(a)(vi), based on the type of license under Section [~~26-8a-302~~]
3459 26B-4-116.

3460 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

3461 (2) The following are immune from civil or criminal liability arising from drawing a
3462 blood sample from a person whom a peace officer has reason to believe is driving in violation
3463 of this chapter, if the sample is drawn in accordance with standard medical practice:

3464 (a) a person authorized to draw blood under Subsection (1)(a); and

3465 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

3466 Section 48. Section ~~41-6a-1717~~ is amended to read:

3467 **~~41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --~~**
3468 **Enforcement.**

3469 (1) As used in this section, "smoking" has the same meaning as defined in Section
3470 [~~26-38-2~~] 26B-7-501.

3471 (2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor
3472 vehicle if a child who is 15 years [~~of age~~] old or younger is a passenger in the vehicle.

3473 (b) A person may smoke in a motor vehicle while a child who is 15 years [~~of age~~] old

3474 or younger is a passenger in the vehicle if the person:

3475 (i) is operating a convertible or open-body type motor vehicle; and

3476 (ii) the roof on the convertible or open-body type motor vehicle is in the open-air
3477 mode.

3478 (3) A person who violates this section is guilty of an infraction and is subject to a
3479 maximum fine of \$45.

3480 (4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a
3481 violation of this section but shall issue the individual a warning informing the individual that
3482 smoking is prohibited in a motor vehicle if a child who is 15 years [~~of age~~] old or younger is a
3483 passenger in the vehicle.

3484 (5) The court may suspend the fine for a violation of this section if:

3485 (a) the person has not previously been convicted of a violation of this section; and

3486 (b) the person proves to the court that the person has enrolled in a smoking cessation
3487 program.

3488 (6) Enforcement of this section by a state or local law enforcement officer shall be only
3489 as a secondary action when the vehicle has been detained for a suspected violation by any
3490 person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

3491 (7) A violation of this section may not be used as a basis for or evidence of child abuse
3492 or neglect.

3493 Section 49. Section **41-22-8** is amended to read:

3494 **41-22-8. Registration fees.**

3495 (1) The division, after notifying the commission, shall establish the fees that shall be
3496 paid in accordance with this chapter, subject to the following:

3497 (a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway
3498 vehicle registration may not exceed \$35.

3499 (ii) The fee for each snowmobile registration may not exceed \$26.

3500 (iii) The fee for each street-legal all-terrain vehicle may not exceed \$72.

3501 (b) The fee for each duplicate registration card may not exceed \$3.

3502 (c) The fee for each duplicate registration sticker may not exceed \$5.

3503 (2) A fee may not be charged for an off-highway vehicle that is owned and operated by
3504 the United States Government, this state, or its political subdivisions.

3505 (3) (a) In addition to the fees under this section, Section 41-22-33, and Section
3506 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an
3507 off-highway vehicle under Section 41-22-3.

3508 (b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division
3509 collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund
3510 described in Section ~~[26-54-102]~~ 26B-1-319.

3511 Section 50. Section **49-11-1401** is amended to read:

3512 **49-11-1401. Forfeiture of retirement benefits for employees for employment**
3513 **related offense convictions -- Notifications -- Investigations -- Appeals.**

3514 (1) As used in this section:

3515 (a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a
3516 plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
3517 regardless of whether the charge was, or is, subsequently reduced in accordance with the plea
3518 agreement or reduced or dismissed in accordance with the plea agreement or the plea in
3519 abeyance agreement.

3520 (b) "Employee" means a member of a system or plan administered by the board.

3521 (c) (i) "Employment related offense" means a felony committed during employment or
3522 the term of an elected or appointed office with a participating employer that is:

3523 (A) during the performance of the employee's duties;

3524 (B) within the scope of the employee's employment; or

3525 (C) under color of the employee's authority.

3526 (ii) "Employment related offense" does not include any federal offense for conduct that
3527 is lawful under ~~[Title 26, Chapter 61a, Utah Medical Cannabis Act]~~ Title 26B, Chapter 4, Part
3528 2, Cannabinoid Research and Medical Cannabis.

3529 (2) (a) Notwithstanding any other provision of this title, an employee shall forfeit

3530 accrual of service credit, employer retirement related contributions, including employer
3531 contributions to the employer sponsored defined contribution plans, or other retirement related
3532 benefits from a system or plan under this title in accordance with this section.

3533 (b) The forfeiture of retirement related benefits under Subsection (2)(a) does not
3534 include the employee's contribution to a defined contribution plan.

3535 (3) An employee shall forfeit the benefits described under Subsection (2)(a):

3536 (a) if the employee is convicted of an employment related offense;

3537 (b) beginning on the day on which the employment related offense occurred; and

3538 (c) until the employee is either:

3539 (i) re-elected or reappointed to office; or

3540 (ii) (A) terminated from the position for which the employee was found to have
3541 committed an employment related offense; and

3542 (B) rehired or hired as an employee who is eligible to be a member of a Utah state
3543 retirement system or plan.

3544 (4) The employee's participating employer shall:

3545 (a) immediately notify the office:

3546 (i) if an employee is charged with an offense that is or may be an employment related
3547 offense under this section; and

3548 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is
3549 or may be an employment related offense under this section; and

3550 (b) if the employee is convicted of an offense that may be an employment related
3551 offense:

3552 (i) conduct an investigation, which may rely on the conviction, to determine:

3553 (A) whether the conviction is for an employment related offense; and

3554 (B) the date on which the employment related offense was initially committed; and

3555 (ii) after the period of time for an appeal by an employee under Subsection (5),
3556 immediately notify the office of the employer's determination under this Subsection (4)(b).

3557 (5) An employee may appeal the employee's participating employer's determination

3558 under Subsection (4)(b) in accordance with the participating employer's procedures for
3559 appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if
3560 applicable.

3561 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the
3562 attorney general's office, or the state auditor may notify the office and the employee's
3563 participating employer if an employee is charged with an offense that is or may be an
3564 employment related offense under this section.

3565 (b) If the employee's participating employer receives a notification under Subsection
3566 (6)(a), the participating employer shall immediately report to the entity that provided the
3567 notification under Subsection (6)(a):

3568 (i) if the employee is acquitted of the offense;

3569 (ii) if the employee is convicted of an offense that may be an employment related
3570 offense; and

3571 (iii) when the participating employer has concluded the participating employer's duties
3572 under this section if the employee is convicted, including conducting an investigation, making
3573 a determination under Subsection (4)(b) that the conviction was for an employment related
3574 offense, and notifying the office under Subsection (7).

3575 (c) The notifying entity under Subsection (6)(a) may assist the employee's participating
3576 employer with the investigation and determination described under Subsection (4)(b).

3577 (7) Upon receiving a notification from a participating employer that the participating
3578 employer has made a determination under Subsection (4)(b) that the conviction was for an
3579 employment related offense, the office shall immediately forfeit any service credit, employer
3580 retirement related contributions, including employer contributions to the employer sponsored
3581 contribution plans, or other retirement related benefits accrued by or made for the benefit of the
3582 employee, beginning on the date of the initial employment related offense determined under
3583 Subsection (4)(b).

3584 (8) This section applies to an employee who is convicted on or after the effective date
3585 of this act for an employment related offense.

3586 (9) The board may make rules to implement this section.

3587 (10) If any provision of this section, or the application of any provision to any person
3588 or circumstance, is held invalid, the remainder of this section shall be given effect without the
3589 invalid provision or application.

3590 Section 51. Section **49-12-202** is amended to read:

3591 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3592 **requirements -- Exceptions -- Nondiscrimination requirements.**

3593 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
3594 and may not withdraw from participation in this system.

3595 (b) In addition to participation in this system, a participating employer may provide or
3596 participate in public or private retirement, supplemental or defined contribution plan, either
3597 directly or indirectly, for the participating employer's employees.

3598 (2) The following employers may be excluded from participation in this system:

3599 (a) an employer not initially admitted or included as a participating employer in this
3600 system prior to January 1, 1982, if:

3601 (i) the employer elects not to provide or participate in any type of private or public
3602 retirement, supplemental or defined contribution plan, either directly or indirectly, for the
3603 employer's employees, except for Social Security; or

3604 (ii) the employer offers another collectively bargained retirement benefit and has
3605 continued to do so on an uninterrupted basis since that date;

3606 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,
3607 Charter School Authorization, and does not elect to participate in accordance with Section
3608 [53G-5-407](#);

3609 (c) an employer that is a hospital created as a special service district under Title 17D,
3610 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3611 accordance with Subsection (4); or

3612 (d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21,~~
3613 ~~Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care

3614 Facility Licensing and Inspection, and created as a special service district under Title 17D,
3615 Chapter 1, Special Service District Act, in a rural area of the state that makes an election of
3616 nonparticipation in accordance with Subsection (4).

3617 (3) An employer who did not become a participating employer in this system prior to
3618 July 1, 1986, may not participate in this system.

3619 (4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3620 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3621 nonparticipation as an employer for retirement programs under this chapter.

3622 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3623 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,
3624 Part 2, Health Care Facility Licensing and Inspection, and created as a special service district
3625 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make
3626 an election of nonparticipation as an employer for retirement programs under this chapter.

3627 (b) An election provided under Subsection (4)(a):

3628 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

3629 (ii) shall be documented by a resolution adopted by the governing body of the special
3630 service district;

3631 (iii) is irrevocable; and

3632 (iv) applies to the special service district as the employer and to all employees of the
3633 special service district.

3634 (c) The governing body of the special service district may offer employee benefit plans
3635 for special service district's employees:

3636 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3637 or

3638 (ii) under any other program.

3639 (5) (a) If a participating employer purchases service credit on behalf of a regular
3640 full-time employee for service rendered prior to the participating employer's admission to this
3641 system, the participating employer shall:

3642 (i) purchase service credit in a nondiscriminatory manner on behalf of all current and
3643 former regular full-time employees who were eligible for service credit at the time service was
3644 rendered; and

3645 (ii) comply with the provisions of Section 49-11-403, except for the requirement
3646 described in Subsection 49-11-403(2)(a).

3647 (b) For a purchase made under this Subsection (5), an employee is not required to:

3648 (i) have at least four years of service credit before the purchase can be made; or

3649 (ii) forfeit service credit or any defined contribution balance based on the employer
3650 contributions under any other retirement system or plan based on the period of employment for
3651 which service credit is being purchased.

3652 Section 52. Section 49-13-202 is amended to read:

3653 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
3654 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

3655 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
3656 and may not withdraw from participation in this system.

3657 (b) In addition to participation in this system, a participating employer may provide or
3658 participate in any additional public or private retirement, supplemental or defined contribution
3659 plan, either directly or indirectly, for the participating employer's employees.

3660 (2) The following employers may be excluded from participation in this system:

3661 (a) an employer not initially admitted or included as a participating employer in this
3662 system before January 1, 1982, if:

3663 (i) the employer elects not to provide or participate in any type of private or public
3664 retirement, supplemental or defined contribution plan, either directly or indirectly, for the
3665 employer's employees, except for Social Security; or

3666 (ii) the employer offers another collectively bargained retirement benefit and has
3667 continued to do so on an uninterrupted basis since that date;

3668 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,
3669 Charter School Authorization, and does not elect to participate in accordance with Section

3670 [53G-5-407](#);

3671 (c) an employer that is a hospital created as a special service district under Title 17D,
3672 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
3673 accordance with Subsection (5);

3674 (d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21,~~
3675 ~~Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care
3676 Facility Licensing and Inspection, and created as a special service district under Title 17D,
3677 Chapter 1, Special Service District Act, in a rural area of the state that makes an election of
3678 nonparticipation in accordance with Subsection (5); or

3679 (e) an employer that is a risk management association initially created by interlocal
3680 agreement before 1986 for the purpose of implementing a self-insurance joint protection
3681 program for the benefit of member municipalities of the association.

3682 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
3683 provide or participate in any type of public or private retirement, supplemental or defined
3684 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
3685 a participating employer in this system regardless of whether the employer has applied for
3686 admission under Subsection (4).

3687 (4) (a) An employer may, by resolution of the employer's governing body, apply for
3688 admission to this system.

3689 (b) Upon approval of the resolution by the board, the employer is a participating
3690 employer in this system and is subject to this title.

3691 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
3692 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
3693 nonparticipation as an employer for retirement programs under this chapter.

3694 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
3695 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,
3696 Part 2, Health Care Facility Licensing and Inspection, and created as a special service district
3697 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make

3698 an election of nonparticipation as an employer for retirement programs under this chapter.

3699 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make
3700 an election of nonparticipation as an employer for retirement programs under this chapter.

3701 (b) An election provided under Subsection (5)(a):

3702 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

3703 (ii) shall be documented by a resolution adopted by the governing body of the
3704 employer;

3705 (iii) is irrevocable; and

3706 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all
3707 employees of that employer.

3708 (c) The employer making an election under Subsection (5)(a) may offer employee
3709 benefit plans for the employer's employees:

3710 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3711 or

3712 (ii) under any other program.

3713 (6) (a) If a participating employer purchases service credit on behalf of a regular
3714 full-time employee for service rendered prior to the participating employer's admission to this
3715 system, the participating employer shall:

3716 (i) purchase service credit in a nondiscriminatory manner on behalf of all current and
3717 former regular full-time employees who were eligible for service credit at the time service was
3718 rendered; and

3719 (ii) comply with the provisions of Section [49-11-403](#), except for the requirement
3720 described in Subsection [49-11-403\(2\)\(a\)](#).

3721 (b) For a purchase made under this Subsection (6), an employee is not required to:

3722 (i) have at least four years of service credit before the purchase can be made; or

3723 (ii) forfeit service credit or any defined contribution balance based on the employer
3724 contributions under any other retirement system or plan based on the period of employment for
3725 which service credit is being purchased.

3726 Section 53. Section **49-20-201** is amended to read:

3727 **49-20-201. Program participation -- Eligibility -- Optional for certain groups.**

3728 (1) (a) The state shall participate in the program on behalf of the state's employees.

3729 (b) Other employers, including political subdivisions and educational institutions, are
3730 eligible, but are not required, to participate in the program on behalf of their employees.

3731 (2) (a) As provided in Subsection [~~26-40-110~~(5)] 26B-3-908(5), the Department of
3732 Health and Human Services may participate in the program for the purpose of providing health
3733 and dental benefits to children enrolled in the Utah Children's Health Insurance Program
3734 created in [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3,
3735 Part 9, Utah Children's Health Insurance Program.

3736 (b) If the Department of Health and Human Services participates in the program under
3737 the provisions of this Subsection (2), all insurance risk associated with the Utah Children's
3738 Health Insurance Program shall be the responsibility of the Department of Health and Human
3739 Services and not the program or the office.

3740 (3) Volunteer emergency medical service personnel are eligible to participate in the
3741 program in accordance with Section [~~26-8a-603~~] 26B-4-136.

3742 (4) A covered individual shall be eligible for coverage after termination of employment
3743 under rules adopted by the board.

3744 (5) Only the following are eligible for Medicare supplement coverage under this
3745 chapter upon becoming eligible for Medicare Part A and Part B coverage:

3746 (a) retirees;

3747 (b) members;

3748 (c) participants;

3749 (d) employees who have medical employee benefit plan coverage at the time of their
3750 retirement; and

3751 (e) current spouses of those who are eligible under Subsections (5)(a) through (d).

3752 Section 54. Section **49-20-401** is amended to read:

3753 **49-20-401. Program -- Powers and duties.**

- 3754 (1) The program shall:
- 3755 (a) act as a self-insurer of employee benefit plans and administer those plans;
- 3756 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
3757 plans as considered appropriate by the program;
- 3758 (c) indemnify employee benefit plans or purchase commercial reinsurance as
3759 considered appropriate by the program;
- 3760 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
3761 with covered employers;
- 3762 (e) process claims for all employee benefit plans under this chapter or enter into
3763 contracts, after competitive bids are taken, with other benefit administrators to provide for the
3764 administration of the claims process;
- 3765 (f) obtain an annual actuarial review of all health and dental benefit plans and a
3766 periodic review of all other employee benefit plans;
- 3767 (g) consult with the covered employers to evaluate employee benefit plans and develop
3768 recommendations for benefit changes;
- 3769 (h) annually submit a budget and audited financial statements to the governor and
3770 Legislature that includes total projected benefit costs and administrative costs;
- 3771 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
3772 liabilities of the employee benefit plans as certified by the program's consulting actuary;
- 3773 (j) submit, in advance, the program's recommended benefit adjustments for state
3774 employees to:
- 3775 (i) the Legislature; and
- 3776 (ii) the director of the state Division of Human Resource Management;
- 3777 (k) determine benefits and rates, upon approval of the board, for multi-employer risk
3778 pools, retiree coverage, and conversion coverage;
- 3779 (l) determine benefits and rates based on the total estimated costs and the employee
3780 premium share established by the Legislature, upon approval of the board, for state employees;
- 3781 (m) administer benefits and rates, upon ratification of the board, for single-employer

3782 risk pools;

3783 (n) request proposals for one or more out-of-state provider networks and a dental
3784 health plan administered by a third-party carrier at least once every three years for the purposes
3785 of:

3786 (i) stimulating competition for the benefit of covered individuals;

3787 (ii) establishing better geographical coverage of medical care services; and

3788 (iii) providing coverage for both active and retired covered individuals;

3789 (o) for a proposal that meets the criteria specified in a request for proposals and is
3790 accepted by the program:

3791 (i) offer the proposal to active and retired state-covered individuals; and

3792 (ii) at the option of the covered employer, offer the proposal to active and retired
3793 covered individuals of other covered employers;

3794 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
3795 the Department of Health and Human Services if the program provides program benefits to
3796 children enrolled in the Utah Children's Health Insurance Program created in [~~Title 26, Chapter~~
3797 ~~40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health
3798 Insurance Program;

3799 (q) establish rules and procedures governing the admission of political subdivisions or
3800 educational institutions and their employees to the program;

3801 (r) (i) contract directly with medical providers to provide services for covered
3802 individuals at commercially competitive rates; and

3803 (ii) (A) discontinue the preferred network, which offers in-network access to all
3804 in-state hospitals, for the state risk pool created in Subsection ~~49-20-202~~(1)(a) for plan years
3805 starting on or after July 1, 2022; and

3806 (B) for an employee in the state risk pool who fails to elect one of the remaining
3807 networks before July 1, 2022, enroll the employee and the employee's dependents into the
3808 network that best reflects the utilization pattern of that employee and the employee's
3809 dependents;

3810 (s) (i) require state employees and the state employees' dependents to participate in the
3811 electronic exchange of clinical health records in accordance with Section ~~[26-1-37]~~ [26B-8-411](#)
3812 unless the enrollee opts out of participation; and

3813 (ii) prior to enrolling the state employee, each time the state employee logs onto the
3814 program's website, and each time the enrollee receives written enrollment information from the
3815 program, provide notice to the enrollee of the enrollee's participation in the electronic exchange
3816 of clinical health records and the option to opt out of participation at any time;

3817 (t) at the request of a procurement unit, as that term is defined in Section [63G-6a-103](#),
3818 that administers benefits to program recipients who are not covered by ~~[Title 26, Utah Health~~
3819 ~~Code]~~ [Title 26B, Utah Health and Human Services Code](#), provide services for:

3820 (i) drugs;

3821 (ii) medical devices; or

3822 (iii) other types of medical care; and

3823 (u) take additional actions necessary or appropriate to carry out the purposes of this
3824 chapter.

3825 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
3826 employers and covered individuals.

3827 (b) The board shall approve administrative costs and report the administrative costs to
3828 the governor and the Legislature.

3829 (3) The Division of Human Resource Management shall include the benefit
3830 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the
3831 governor required under Subsection [63A-17-307\(5\)\(a\)](#).

3832 (4) The program may establish a partnership with a public entity in a different state to
3833 purchase or share services related to the administration of medical benefits if:

3834 (a) the program receives approval for the partnership from the board; and

3835 (b) the partnership:

3836 (i) creates cost savings for Utah;

3837 (ii) does not commingle state funds with funds of the public entity in the other state;

3838 and

3839 (iii) does not pose a greater actuarial risk to Utah than the program has already
3840 assumed.

3841 Section 55. Section **49-20-414** is amended to read:

3842 **49-20-414. Telemedicine services -- Reimbursement -- Reporting.**

3843 (1) As used in this section:

3844 (a) "Network provider" means a health care provider who has an agreement with the
3845 program to provide health care services to a patient with an expectation of receiving payment,
3846 other than coinsurance, copayments, or deductibles, directly from the managed care
3847 organization.

3848 (b) "Telemedicine services" means the same as that term is defined in Section
3849 ~~[26-60-102]~~ [26B-4-704](#).

3850 (2) This section applies to the risk pool established for the state under Subsection
3851 ~~49-20-201~~(1)(a).

3852 (3) The program shall, at the provider's request, reimburse a network provider for
3853 medically appropriate telemedicine services at a commercially reasonable rate.

3854 (4) Before November 1, 2019, the program shall report to the Legislature's Public
3855 Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

3856 (a) the result of the reimbursement requirement described in Subsection (3);

3857 (b) existing and potential uses of telehealth and telemedicine services;

3858 (c) issues of reimbursement to a provider offering telehealth and telemedicine services;

3859 (d) potential rules or legislation related to:

3860 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;

3861 and

3862 (ii) increasing access to health care, increasing the efficiency of health care, and
3863 decreasing the costs of health care; and

3864 (e) telemedicine services that the program declined to cover because the telemedicine
3865 services that were requested were not medically appropriate.

- 3866 Section 56. Section **49-20-421** is amended to read:
- 3867 **49-20-421. Prescription discount program.**
- 3868 (1) As used in this section:
- 3869 (a) "Diabetes" means:
- 3870 (i) complete insulin deficiency or type 1 diabetes;
- 3871 (ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or
- 3872 (iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.
- 3873 (b) "Discount program" means a process developed by the program that allows
- 3874 participants to purchase a qualified prescription at a discounted, post-rebate rate.
- 3875 (c) "Epinephrine auto-injector" means the same as that term is defined in Section
- 3876 ~~[26-41-102]~~ [26B-4-401](#).
- 3877 (d) "Individual with diabetes" means an individual who has been diagnosed with
- 3878 diabetes and who uses insulin to treat diabetes.
- 3879 (e) "Insulin" means a prescription drug that contains insulin.
- 3880 (f) "Participant" means a resident of Utah who:
- 3881 (i) has a qualified condition;
- 3882 (ii) does not receive health coverage under the program; and
- 3883 (iii) enrolls in the discount program.
- 3884 (g) "Prescription drug" means the same as that term is defined in Section [58-17b-102](#).
- 3885 (h) "Qualified condition" means the individual:
- 3886 (i) uses insulin to treat diabetes; or
- 3887 (ii) has a prescription or a standing prescription drug order for an epinephrine
- 3888 auto-injector issued under Section [58-17b-1005](#).
- 3889 (i) "Qualified prescription" means:
- 3890 (i) insulin; or
- 3891 (ii) epinephrine auto-injector.
- 3892 (j) "Rebate" means the same as that term is defined in Section [31A-46-102](#).
- 3893 (2) Notwithstanding Subsection [49-20-201](#)(1), and for the purpose of the discount

3894 program only, the program shall offer a discount program that allows participants to purchase a
3895 qualified prescription at a discounted, post-rebate price when a rebate is available.

3896 (3) The discount program described in Subsection (2) shall:

3897 (a) provide a participant with a card or electronic document that identifies the
3898 participant as eligible for the discount on a qualified prescription related to the participant's
3899 qualified condition;

3900 (b) provide a participant with information about pharmacies that will honor the
3901 discount;

3902 (c) allow a participant to purchase a qualified prescription at a discounted, post-rebate
3903 price; and

3904 (d) provide a participant with instructions to pursue a reimbursement of the purchase
3905 price from the participant's health insurer.

3906 (4) The discount program shall charge a price for a qualified prescription that allows
3907 the program to retain only enough of any rebate for the qualified prescription to make the state
3908 risk pool whole for providing a discounted qualified prescription to participants.

3909 Section 57. Section **51-2a-102** is amended to read:

3910 **51-2a-102. Definitions.**

3911 As used in this chapter:

3912 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

3913 (2) "Audit" means an examination that:

3914 (a) is performed in accordance with generally accepted government auditing standards,
3915 or for a nonprofit corporation or a governmental nonprofit corporation, in accordance with
3916 generally accepted auditing standards; and

3917 (b) conforms to the uniform classification of accounts established or approved by the
3918 state auditor or any other classification of accounts established by any federal government
3919 agency.

3920 (3) "Audit report" means:

3921 (a) the financial statements presented in conformity with generally accepted accounting

3922 principles;

3923 (b) the auditor's opinion on the financial statements;

3924 (c) a statement by the auditor expressing positive assurance of compliance with state
3925 fiscal laws identified by the state auditor;

3926 (d) a copy of the auditor's letter to management that identifies any material weakness in
3927 internal controls discovered by the auditor and other financial issues related to the expenditure
3928 of funds received from federal, state, or local governments to be considered by management;
3929 and

3930 (e) management's response to the specific recommendations.

3931 (4) "Compilation" means information presented in the form of financial statements
3932 presented in conformity with generally accepted accounting principles that are the
3933 representation of management without the accountant undertaking to express any assurances on
3934 the statements.

3935 (5) "Fiscal report" means providing information detailing revenues and expenditures of
3936 all funds in a format prescribed by the state auditor.

3937 (6) "Governing board" means:

3938 (a) the governing board of each political subdivision;

3939 (b) the governing board of each interlocal organization having the power to tax or to
3940 expend public funds;

3941 (c) the governing board of any local mental health authority established under the
3942 authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B,
3943 Chapter 5, Health Care - Substance Use and Mental Health;

3944 (d) the governing board of any substance abuse authority established under the
3945 authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B,
3946 Chapter 5, Health Care - Substance Use and Mental Health;

3947 (e) the governing board of any area agency established under the authority of [~~Title~~
3948 ~~62A, Chapter 3, Aging and Adult Services~~] Title 26B, Chapter 6, Part 1, Aging and Adult
3949 Services;

3950 (f) the board of directors of any nonprofit corporation that receives an amount of
3951 money requiring an accounting report under Section 51-2a-201.5;

3952 (g) the governing board, as that term is defined in Section 11-13a-102, of a
3953 governmental nonprofit corporation;

3954 (h) the governing board of any other entity established by a local governmental unit
3955 that receives tax exempt status for bonding or taxing purposes; and

3956 (i) in municipalities organized under an optional form of municipal government, the
3957 municipal legislative body.

3958 (7) "Governmental nonprofit corporation" means the same as that term is defined in
3959 Section 11-13a-102.

3960 (8) "Nonprofit corporation" does not include a governmental nonprofit corporation.

3961 (9) "Review" means performing inquiry and analytical procedures that provide the
3962 accountant with a reasonable basis for expressing limited assurance that there are no material
3963 modifications that should be made to the financial statements for them to be in conformity with
3964 generally accepted accounting principles.

3965 Section 58. Section 51-7-2 is amended to read:

3966 **51-7-2. Exemptions from chapter.**

3967 The following funds are exempt from this chapter:

3968 (1) funds invested in accordance with the participating employees' designation or
3969 direction pursuant to a public employees' deferred compensation plan established and operated
3970 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

3971 (2) funds of the Utah State Retirement Board;

3972 (3) funds of the Utah Housing Corporation;

3973 (4) endowment funds of higher education institutions, including funds of the Higher
3974 Education Student Success Endowment, created in Section 53B-7-801;

3975 (5) permanent and other land grant trust funds established pursuant to the Utah
3976 Enabling Act and the Utah Constitution;

3977 (6) the State Post-Retirement Benefits Trust Fund;

- 3978 (7) the funds of the Utah Educational Savings Plan;
- 3979 (8) funds of the permanent state trust fund created by and operated under Utah
- 3980 Constitution, Article XXII, Section 4;
- 3981 (9) the funds in the Navajo Trust Fund;
- 3982 (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- 3983 (11) the funds in the Employers' Reinsurance Fund;
- 3984 (12) the funds in the Uninsured Employers' Fund;
- 3985 (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in
- 3986 Section [~~62A-5-206.7~~] [26B-1-331](#);

- 3987 (14) the funds in the Risk Management Fund created in Section [63A-4-201](#); and
 - 3988 (15) the Utah fund of funds created in Section [63N-6-401](#).
- 3989 Section 59. Section **51-9-201** is amended to read:

3990 **51-9-201. Creation of Tobacco Settlement Restricted Account.**

- 3991 (1) There is created within the General Fund a restricted account known as the
- 3992 "Tobacco Settlement Restricted Account."
- 3993 (2) The account shall earn interest.
- 3994 (3) The account shall consist of:
- 3995 (a) on and after July 1, 2007, 60% of all funds of every kind that are received by the
- 3996 state that are related to the settlement agreement that the state entered into with leading tobacco
- 3997 manufacturers on November 23, 1998; and
- 3998 (b) interest earned on the account.
- 3999 (4) To the extent that funds will be available for appropriation in a given fiscal year,
- 4000 those funds shall be appropriated from the account in the following order:
- 4001 (a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense
- 4002 of the Tobacco Settlement Agreement;
- 4003 (b) \$18,500 to the State Tax Commission for ongoing enforcement of business
- 4004 compliance with the Tobacco Tax Settlement Agreement;
- 4005 (c) \$11,022,900 to the Department of Health and Human Services for:

4006 (i) children in the Medicaid program created in [~~Title 26, Chapter 18, Medical~~
4007 ~~Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, and the
4008 Children's Health Insurance Program created in Section [~~26-40-103~~] 26B-3-902; and
4009 (ii) for restoration of dental benefits in the Children's Health Insurance Program;
4010 (d) \$3,277,100 to the Department of Health and Human Services for alcohol, tobacco,
4011 and other drug prevention, reduction, cessation, and control programs that promote unified
4012 messages and make use of media outlets, including radio, newspaper, billboards, and
4013 television, and with a preference in funding given to tobacco-related programs;
4014 (e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the
4015 Department of Health and Human Services for the statewide expansion of the drug court
4016 program;
4017 (f) \$4,000,000 to the Utah Board of Higher Education for the University of Utah
4018 Health Sciences Center to benefit the health and well-being of Utah citizens through in-state
4019 research, treatment, and educational activities; and
4020 (g) any remaining funds as directed by the Legislature through appropriation.
4021 Section 60. Section **51-9-203** is amended to read:
4022 **51-9-203. Requirements for tobacco and electronic cigarette programs.**
4023 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,
4024 cessation, or control program, an organization, whether private, governmental, or
4025 quasi-governmental, shall:
4026 (a) submit a request to the Department of Health and Human Services containing the
4027 following information:
4028 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
4029 sound management and periodic evaluation of the campaign's relevance to the intended
4030 audience, particularly in campaigns directed toward youth, including audience awareness of the
4031 campaign and recollection of the main message;
4032 (ii) for school-based education programs to prevent and reduce youth smoking, the
4033 request shall describe how the program will be effective in preventing and reducing youth

4034 smoking;

4035 (iii) for community-based programs to prevent and reduce smoking, the request shall

4036 demonstrate that the proposed program:

4037 (A) has a comprehensive strategy with a clear mission and goals;

4038 (B) provides for committed, caring, and professional leadership; and

4039 (C) if directed toward youth:

4040 (I) offers youth-centered activities in youth accessible facilities;

4041 (II) is culturally sensitive, inclusive, and diverse;

4042 (III) involves youth in the planning, delivery, and evaluation of services that affect

4043 them; and

4044 (IV) offers a positive focus that is inclusive of all youth; and

4045 (iv) for enforcement, control, and compliance program, the request shall demonstrate

4046 that the proposed program can reasonably be expected to reduce the extent to which tobacco

4047 products and electronic cigarette products, as those terms are defined in Section [76-10-101](#), are

4048 available to individuals under 21 years old;

4049 (b) agree, by contract, to file an annual written report with the Department of Health

4050 and Human Services that contains the following:

4051 (i) the amount funded;

4052 (ii) the amount expended;

4053 (iii) a description of the program or campaign and the number of adults and youth who

4054 participated;

4055 (iv) specific elements of the program or campaign meeting the applicable criteria set

4056 forth in Subsection (1)(a); and

4057 (v) a statement concerning the success and effectiveness of the program or campaign;

4058 (c) agree, by contract, to not use any funds received under this part directly or

4059 indirectly, to:

4060 (i) engage in any lobbying or political activity, including the support of, or opposition

4061 to, candidates, ballot questions, referenda, or similar activities; or

4062 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
4063 enforce:

4064 (A) the provisions of the Master Settlement Agreement;

4065 (B) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Title 26B, Chapter 7, Part 6,
4066 Regulation of Smoking, Tobacco Products, and Nicotine Products;

4067 (C) [~~Title 26, Chapter 62, Part 3, Enforcement~~] Sections 26B-7-514 through
4068 26B-7-520; and

4069 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

4070 (d) agree, by contract, to repay the funds provided under this part if the organization:

4071 (i) fails to file a timely report as required by Subsection (1)(b); or

4072 (ii) uses any portion of the funds in violation of Subsection (1)(c).

4073 (2) The Department of Health and Human Services shall review and evaluate the
4074 success and effectiveness of any program or campaign that receives funding pursuant to a
4075 request submitted under Subsection (1). The review and evaluation:

4076 (a) shall include a comparison of annual smoking trends;

4077 (b) may be conducted by an independent evaluator; and

4078 (c) may be paid for by funds appropriated from the account for that purpose.

4079 (3) An organization that fails to comply with the contract requirements set forth in
4080 Subsection (1) shall:

4081 (a) repay the state as provided in Subsection (1)(d); and

4082 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

4083 (4) The attorney general shall be responsible for recovering funds that are required to
4084 be repaid to the state under this section.

4085 (5) Nothing in this section may be construed as applying to funds that are not
4086 appropriated under this part.

4087 Section 61. Section **52-4-205** is amended to read:

4088 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
4089 **meetings.**

- 4090 (1) A closed meeting described under Section 52-4-204 may only be held for:
- 4091 (a) except as provided in Subsection (3), discussion of the character, professional
- 4092 competence, or physical or mental health of an individual;
- 4093 (b) strategy sessions to discuss collective bargaining;
- 4094 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 4095 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 4096 including any form of a water right or water shares, or to discuss a proposed development
- 4097 agreement, project proposal, or financing proposal related to the development of land owned by
- 4098 the state, if public discussion would:
- 4099 (i) disclose the appraisal or estimated value of the property under consideration; or
- 4100 (ii) prevent the public body from completing the transaction on the best possible terms;
- 4101 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 4102 right or water shares, if:
- 4103 (i) public discussion of the transaction would:
- 4104 (A) disclose the appraisal or estimated value of the property under consideration; or
- 4105 (B) prevent the public body from completing the transaction on the best possible terms;
- 4106 (ii) the public body previously gave public notice that the property would be offered for
- 4107 sale; and
- 4108 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 4109 sale;
- 4110 (f) discussion regarding deployment of security personnel, devices, or systems;
- 4111 (g) investigative proceedings regarding allegations of criminal misconduct;
- 4112 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 4113 relating to the receipt or review of ethics complaints;
- 4114 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 4115 Subsection 52-4-204(1)(a)(iii)(C);
- 4116 (j) as relates to the Independent Executive Branch Ethics Commission created in
- 4117 Section 63A-14-202, conducting business relating to an ethics complaint;

4118 (k) as relates to a county legislative body, discussing commercial information as
4119 defined in Section 59-1-404;

4120 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
4121 board of directors, discussing fiduciary or commercial information as defined in Section
4122 53B-12-102;

4123 (m) deliberations, not including any information gathering activities, of a public body
4124 acting in the capacity of:

4125 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
4126 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

4127 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
4128 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

4129 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
4130 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
4131 Procurement Appeals Board;

4132 (n) the purpose of considering information that is designated as a trade secret, as
4133 defined in Section 13-24-2, if the public body's consideration of the information is necessary to
4134 properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

4135 (o) the purpose of discussing information provided to the public body during the
4136 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
4137 the meeting:

4138 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
4139 disclosed to a member of the public or to a participant in the procurement process; and

4140 (ii) the public body needs to review or discuss the information to properly fulfill its
4141 role and responsibilities in the procurement process;

4142 (p) as relates to the governing board of a governmental nonprofit corporation, as that
4143 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
4144 as a trade secret, as that term is defined in Section 13-24-2, if:

4145 (i) public knowledge of the discussion would reasonably be expected to result in injury

4146 to the owner of the trade secret; and

4147 (ii) discussion of the information is necessary for the governing board to properly
4148 discharge the board's duties and conduct the board's business;

4149 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
4150 to review confidential information regarding violations and security requirements in relation to
4151 the operation of cannabis production establishments; or

4152 (r) a purpose for which a meeting is required to be closed under Subsection (2).

4153 (2) The following meetings shall be closed:

4154 (a) a meeting of the Health and Human Services Interim Committee to review a report
4155 described in Subsection [~~62A-16-301(1)(a)~~] 26B-1-506(1)(a), and the responses to the report
4156 described in Subsections [~~62A-16-301(2) and (4)~~] 26B-1-506(2) and (4);

4157 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

4158 (i) review a report described in Subsection [~~62A-16-301(1)(a)~~] 26B-1-506(1)(a), and
4159 the responses to the report described in Subsections [~~62A-16-301(2) and (4)~~] 26B-1-506(2) and
4160 (4); or

4161 (ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

4162 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
4163 Section [~~26-7-13~~] 26B-1-403, to review and discuss an individual case, as described in
4164 Subsection [~~26-7-13(10)~~] 26B-1-403(10);

4165 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
4166 purpose of advising the Natural Resource Conservation Service of the United States
4167 Department of Agriculture on a farm improvement project if the discussed information is
4168 protected information under federal law;

4169 (e) a meeting of the Compassionate Use Board established in Section [~~26-61a-105~~]
4170 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance
4171 with Section [~~26-61a-105~~] 26B-1-421;

4172 (f) a meeting of the Colorado River Authority of Utah if:

4173 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in

4174 the Colorado River system; and
4175 (ii) failing to close the meeting would:
4176 (A) reveal the contents of a record classified as protected under Subsection
4177 [63G-2-305\(82\)](#);
4178 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
4179 Colorado River system;
4180 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
4181 negotiate the best terms and conditions regarding the use of water in the Colorado River
4182 system; or
4183 (D) give an advantage to another state or to the federal government in negotiations
4184 regarding the use of water in the Colorado River system;
4185 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:
4186 (i) the purpose of the meeting is to discuss an application for participation in the
4187 regulatory sandbox as defined in Section [63N-16-102](#); and
4188 (ii) failing to close the meeting would reveal the contents of a record classified as
4189 protected under Subsection [63G-2-305\(83\)](#);
4190 (h) a meeting of a project entity if:
4191 (i) the purpose of the meeting is to conduct a strategy session to discuss market
4192 conditions relevant to a business decision regarding the value of a project entity asset if the
4193 terms of the business decision are publicly disclosed before the decision is finalized and a
4194 public discussion would:
4195 (A) disclose the appraisal or estimated value of the project entity asset under
4196 consideration; or
4197 (B) prevent the project entity from completing on the best possible terms a
4198 contemplated transaction concerning the project entity asset;
4199 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could
4200 cause commercial injury to, or confer a competitive advantage upon a potential or actual
4201 competitor of, the project entity;

4202 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of
4203 which could cause commercial injury to, or confer a competitive advantage upon a potential or
4204 actual competitor of, the project entity; or

4205 (iv) failing to close the meeting would prevent the project entity from getting the best
4206 price on the market; and

4207 (i) a meeting of the School Activity Eligibility Commission, described in Section
4208 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to
4209 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's
4210 eligibility to participate in an interscholastic activity, as that term is defined in Section
4211 53G-6-1001, including the commission's determinative vote on the student's eligibility.

4212 (3) In a closed meeting, a public body may not:

4213 (a) interview a person applying to fill an elected position;

4214 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
4215 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
4216 or

4217 (c) discuss the character, professional competence, or physical or mental health of the
4218 person whose name was submitted for consideration to fill a midterm vacancy or temporary
4219 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
4220 Temporary Absence in Elected Office.

4221 Section 62. Section 53-1-106 is amended to read:

4222 **53-1-106. Department duties -- Powers.**

4223 (1) In addition to the responsibilities contained in this title, the department shall:

4224 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic
4225 Code, including:

4226 (i) setting performance standards for towing companies to be used by the department,
4227 as required by Section 41-6a-1406; and

4228 (ii) advising the Department of Transportation regarding the safe design and operation
4229 of school buses, as required by Section 41-6a-1304;

- 4230 (b) make rules to establish and clarify standards pertaining to the curriculum and
4231 teaching methods of a motor vehicle accident prevention course under Section [31A-19a-211](#);
- 4232 (c) aid in enforcement efforts to combat drug trafficking;
- 4233 (d) meet with the Division of Technology Services to formulate contracts, establish
4234 priorities, and develop funding mechanisms for dispatch and telecommunications operations;
- 4235 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for
4236 Victims of Crime in conducting research or monitoring victims' programs, as required by
4237 Section [63M-7-505](#);
- 4238 (f) develop sexual assault exam protocol standards in conjunction with the Utah
4239 Hospital Association;
- 4240 (g) engage in emergency planning activities, including preparation of policy and
4241 procedure and rulemaking necessary for implementation of the federal Emergency Planning
4242 and Community Right to Know Act of 1986, as required by Section [53-2a-702](#);
- 4243 (h) implement the provisions of Section [53-2a-402](#), the Emergency Management
4244 Assistance Compact;
- 4245 (i) ensure that any training or certification required of a public official or public
4246 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
4247 22, State Training and Certification Requirements, if the training or certification is required:
- 4248 (i) under this title;
- 4249 (ii) by the department; or
- 4250 (iii) by an agency or division within the department;
- 4251 (j) employ a law enforcement officer as a public safety liaison to be housed at the State
4252 Board of Education who shall work with the State Board of Education to:
- 4253 (i) support training with relevant state agencies for school resource officers as
4254 described in Section [53G-8-702](#);
- 4255 (ii) coordinate the creation of model policies and memorandums of understanding for a
4256 local education agency and a local law enforcement agency; and
- 4257 (iii) ensure cooperation between relevant state agencies, a local education agency, and

4258 a local law enforcement agency to foster compliance with disciplinary related statutory
4259 provisions, including Sections [53E-3-516](#) and [53G-8-211](#); and

4260 (k) provide for the security and protection of public officials, public officials' staff, and
4261 the capitol hill complex in accordance with the provisions of this part.

4262 (2) (a) The department shall establish a schedule of fees as required or allowed in this
4263 title for services provided by the department.

4264 (b) All fees not established in statute shall be established in accordance with Section
4265 [63J-1-504](#).

4266 (3) The department may establish or contract for the establishment of an Organ
4267 Procurement Donor Registry in accordance with Section [~~26-28-120~~] [26B-8-319](#).

4268 Section 63. Section **53-2a-218** is amended to read:

4269 **53-2a-218. Legislative Emergency Response Committee.**

4270 (1) There is created an ad hoc committee known as the Legislative Emergency
4271 Response Committee.

4272 (2) (a) The committee membership includes:

4273 (i) the same membership as the Executive Appropriations Committee as constituted at
4274 the time the committee is convened;

4275 (ii) between four and six additional members designated by the speaker of the House of
4276 Representatives, chosen from the following:

4277 (A) one or more members of the House of Representatives that serve as chair or
4278 vice-chair of a legislative committee with a subject matter focus relevant to the current
4279 emergency;

4280 (B) one or more members of the House of Representatives with relevant expertise or
4281 experience relevant to the current emergency; or

4282 (C) one or more members of the House of Representatives from a minority party that
4283 serves on a relevant legislative committee or that has expertise and experience relevant to the
4284 current emergency; and

4285 (iii) between four and six additional members designated by the president of the

4286 Senate, chosen from the following:

4287 (A) one or more members of the Senate that serve as chair or vice-chair of a legislative
4288 committee with a subject matter focus relevant to the current emergency;

4289 (B) one or more members of the Senate with relevant expertise or experience relevant
4290 to the current emergency; or

4291 (C) one or more members of the Senate from a minority party that serves on a relevant
4292 legislative committee or that has expertise and experience relevant to the current emergency.

4293 (b) The speaker of the House of Representatives and the president of the Senate shall
4294 coordinate to ensure they each appoint the same number of legislators as described under
4295 Subsections (2)(a)(ii) and (iii).

4296 (3) The speaker of the House of Representatives and the president of the Senate shall
4297 serve as chairs of the committee.

4298 (4) The Office of Legislative Research and General Counsel shall provide staff support
4299 to the committee.

4300 (5) (a) If the governor declares a state of emergency as described in this chapter, and
4301 the governor finds that the emergency conditions warrant an extension of the state of
4302 emergency beyond the 30-day term or another date designated by the Legislature as described
4303 in Section [53-2a-206](#), the governor shall provide written notice to the speaker of the House of
4304 Representatives and the president of the Senate at least 10 days before the expiration of the
4305 state of emergency.

4306 (b) If the speaker of the House of Representatives and the president of the Senate
4307 receive notice as described in Subsection (5)(a) for a state of emergency within the first 30 days
4308 from the initial declaration of the state of emergency, or from the Department of Health and
4309 Human Services as described in Section [~~26-23b-104~~] [26B-7-317](#), or from a local health
4310 department as described in Section [26A-1-121](#), the speaker of the House of Representatives
4311 and the president of the Senate:

4312 (i) shall poll the members of their respective bodies to determine whether the
4313 Legislature will extend the state of emergency; and

4314 (ii) may jointly convene the committee.

4315 (c) If the speaker of the House of Representatives and the president of the Senate
4316 receive notice as described in Subsection (5)(a) for a state of emergency that has been extended
4317 beyond 30 days from the initial declaration of a state of emergency, the speaker of the House of
4318 Representatives and the president of the Senate shall jointly convene the committee.

4319 (6) If the committee is convened as described in Subsection (5), the committee shall
4320 conduct a public meeting to:

4321 (a) discuss the nature of the emergency and conditions of the emergency;

4322 (b) evaluate options for emergency response;

4323 (c) receive testimony from individuals with expertise relevant to the current
4324 emergency;

4325 (d) receive testimony from members of the public; and

4326 (e) provide a recommendation to the Legislature whether to extend the state of
4327 emergency by joint resolution.

4328 Section 64. Section **53-2c-102** is amended to read:

4329 **53-2c-102. Definitions.**

4330 (1) "Commission" means the Public Health and Economic Emergency Commission
4331 created in Section [53-2c-201](#).

4332 (2) "COVID-19" means:

4333 (a) severe acute respiratory syndrome coronavirus 2; or

4334 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.

4335 (3) "COVID-19 emergency" means the spread of COVID-19 that the World Health
4336 Organization declared a pandemic on March 11, 2020.

4337 (4) "Elective surgery or procedure" means a surgery or procedure that is not medically
4338 necessary to correct a serious medical condition or preserve the life of a patient.

4339 (5) "Epidemic or pandemic disease" means the same as that term is defined in Section
4340 [\[26-23b-102\]](#) [26B-7-301](#).

4341 (6) "Local ordinance or order" means an ordinance, order, or other regulation enacted

4342 or issued by a local government entity.

4343 (7) "Public health emergency" means an occurrence or imminent credible threat of an
4344 illness or health condition:

4345 (a) that is caused by epidemic or pandemic disease;

4346 (b) that poses a substantial risk of a significant number of human fatalities or incidents
4347 of permanent or long-term disability; and

4348 (c) for which the governor has declared a state of emergency under Title 53, Chapter
4349 2a, Part 2, Disaster Response and Recovery Act.

4350 Section 65. Section **53-3-102** is amended to read:

4351 **53-3-102. Definitions.**

4352 As used in this chapter:

4353 (1) "Autocycle" means a motor vehicle that:

4354 (a) is designed to travel with three or fewer wheels in contact with the ground; and

4355 (b) is equipped with:

4356 (i) a steering mechanism;

4357 (ii) seat belts; and

4358 (iii) seating that does not require the operator to straddle or sit astride the motor
4359 vehicle.

4360 (2) "Cancellation" means the termination by the division of a license issued through
4361 error or fraud or for which consent under Section [53-3-211](#) has been withdrawn.

4362 (3) "Class D license" means the class of license issued to drive motor vehicles not
4363 defined as commercial motor vehicles or motorcycles under this chapter.

4364 (4) "Commercial driver instruction permit" or "CDIP" means a commercial learner
4365 permit:

4366 (a) issued under Section [53-3-408](#); or

4367 (b) issued by a state or other jurisdiction of domicile in compliance with the standards
4368 contained in 49 C.F.R. Part 383.

4369 (5) "Commercial driver license" or "CDL" means a license:

4370 (a) issued substantially in accordance with the requirements of Title XII, Pub. L.
4371 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,
4372 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of
4373 commercial motor vehicle; and

4374 (b) that was obtained by providing evidence of lawful presence in the United States
4375 with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

4376 (6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a
4377 driving record that:

4378 (i) applies to a person who holds or is required to hold a commercial driver instruction
4379 permit or a CDL license; and

4380 (ii) contains the following:

4381 (A) information contained in the driver history, including convictions, pleas held in
4382 abeyance, disqualifications, and other licensing actions for violations of any state or local law
4383 relating to motor vehicle traffic control, committed in any type of vehicle;

4384 (B) driver self-certification status information under Section 53-3-410.1; and

4385 (C) information from medical certification record keeping in accordance with 49
4386 C.F.R. Sec. 383.73(o).

4387 (b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a
4388 motor vehicle record described in Subsection (30).

4389 (7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor
4390 vehicles designed or used to transport passengers or property if the motor vehicle:

4391 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as
4392 determined by federal regulation;

4393 (ii) is designed to transport 16 or more passengers, including the driver; or

4394 (iii) is transporting hazardous materials and is required to be placarded in accordance
4395 with 49 C.F.R. Part 172, Subpart F.

4396 (b) The following vehicles are not considered a commercial motor vehicle for purposes
4397 of Part 4, Uniform Commercial Driver License Act:

4398 (i) equipment owned and operated by the United States Department of Defense when
4399 driven by any active duty military personnel and members of the reserves and national guard on
4400 active duty including personnel on full-time national guard duty, personnel on part-time
4401 training, and national guard military technicians and civilians who are required to wear military
4402 uniforms and are subject to the code of military justice;

4403 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm
4404 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation
4405 as a motor carrier for hire;

4406 (iii) firefighting and emergency vehicles;

4407 (iv) recreational vehicles that are not used in commerce and are driven solely as family
4408 or personal conveyances for recreational purposes; and

4409 (v) vehicles used to provide transportation network services, as defined in Section
4410 [13-51-102](#).

4411 (8) "Conviction" means any of the following:

4412 (a) an unvacated adjudication of guilt or a determination that a person has violated or
4413 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

4414 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's
4415 appearance in court;

4416 (c) a plea of guilty or nolo contendere accepted by the court;

4417 (d) the payment of a fine or court costs; or

4418 (e) violation of a condition of release without bail, regardless of whether the penalty is
4419 rebated, suspended, or probated.

4420 (9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to
4421 which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security,
4422 do not apply.

4423 (10) "Director" means the division director appointed under Section [53-3-103](#).

4424 (11) "Disqualification" means either:

4425 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state

4426 of a person's privileges to drive a commercial motor vehicle;

4427 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,
4428 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part
4429 391; or

4430 (c) the loss of qualification that automatically follows conviction of an offense listed in
4431 49 C.F.R. Part 383.51.

4432 (12) "Division" means the Driver License Division of the department created in
4433 Section 53-3-103.

4434 (13) "Downgrade" means to obtain a lower license class than what was originally
4435 issued during an existing license cycle.

4436 (14) "Drive" means:

4437 (a) to operate or be in physical control of a motor vehicle upon a highway; and

4438 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
4439 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
4440 the state.

4441 (15) (a) "Driver" means an individual who drives, or is in actual physical control of a
4442 motor vehicle in any location open to the general public for purposes of vehicular traffic.

4443 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person
4444 who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or
4445 federal law.

4446 (16) "Driving privilege card" means the evidence of the privilege granted and issued
4447 under this chapter to drive a motor vehicle to a person whose privilege was obtained without
4448 providing evidence of lawful presence in the United States.

4449 (17) "Electronic license certificate" means the evidence, in an electronic format as
4450 described in Section 53-3-235, of a privilege granted under this chapter to drive a motor
4451 vehicle.

4452 (18) "Extension" means a renewal completed in a manner specified by the division.

4453 (19) "Farm tractor" means every motor vehicle designed and used primarily as a farm

4454 implement for drawing plows, mowing machines, and other implements of husbandry.

4455 (20) "Highway" means the entire width between property lines of every way or place of
4456 any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

4457 (21) "Human driver" means the same as that term is defined in Section [41-26-102.1](#).

4458 (22) "Identification card" means a card issued under Part 8, Identification Card Act, to
4459 a person for identification purposes.

4460 (23) "Indigent" means that a person's income falls below the federal poverty guideline
4461 issued annually by the [U.S.] United States Department of Health and Human Services in the
4462 Federal Register.

4463 (24) "License" means the privilege to drive a motor vehicle.

4464 (25) (a) "License certificate" means the evidence of the privilege issued under this
4465 chapter to drive a motor vehicle.

4466 (b) "License certificate" evidence includes:

4467 (i) a regular license certificate;

4468 (ii) a limited-term license certificate;

4469 (iii) a driving privilege card;

4470 (iv) a CDL license certificate;

4471 (v) a limited-term CDL license certificate;

4472 (vi) a temporary regular license certificate;

4473 (vii) a temporary limited-term license certificate; and

4474 (viii) an electronic license certificate created in Section [53-3-235](#).

4475 (26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

4476 (a) issued substantially in accordance with the requirements of Title XII, Pub. L. No.
4477 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,
4478 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of
4479 commercial motor vehicle; and

4480 (b) that was obtained by providing evidence of lawful presence in the United States
4481 with one of the document requirements described in Subsection [53-3-410\(1\)\(i\)\(ii\)](#).

4482 (27) "Limited-term identification card" means an identification card issued under this
4483 chapter to a person whose card was obtained by providing evidence of lawful presence in the
4484 United States with one of the document requirements described in Subsection
4485 [53-3-804\(2\)\(i\)\(ii\)](#).

4486 (28) "Limited-term license certificate" means the evidence of the privilege granted and
4487 issued under this chapter to drive a motor vehicle to a person whose privilege was obtained
4488 providing evidence of lawful presence in the United States with one of the document
4489 requirements described in Subsection [53-3-205\(8\)\(a\)\(ii\)\(B\)](#).

4490 (29) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

4491 (30) "Motor vehicle record" or "MVR" means a driving record under Subsection
4492 [53-3-109\(6\)\(a\)](#).

4493 (31) "Motorboat" means the same as that term is defined in Section [73-18-2](#).

4494 (32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or
4495 saddle for the use of the rider and designed to travel with not more than three wheels in contact
4496 with the ground.

4497 (33) "Office of Recovery Services" means the Office of Recovery Services, created in
4498 Section [~~62A-11-102~~] [26B-9-103](#).

4499 (34) "Operate" means the same as that term is defined in Section [41-1a-102](#).

4500 (35) (a) "Owner" means a person other than a lien holder having an interest in the
4501 property or title to a vehicle.

4502 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to
4503 a security interest in another person but excludes a lessee under a lease not intended as security.

4504 (36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge,
4505 or other financial penalty imposed on an individual by a court or other government entity.

4506 (37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

4507 (i) designed to transport 15 or fewer passengers, including the driver; and

4508 (ii) operated to transport an employee of the person that hires the motor vehicle.

4509 (b) "Private passenger carrier" does not include:

4510 (i) a taxicab;
4511 (ii) a motor vehicle driven by a transportation network driver as defined in Section
4512 13-51-102;
4513 (iii) a motor vehicle driven for transportation network services as defined in Section
4514 13-51-102; and
4515 (iv) a motor vehicle driven for a transportation network company as defined in Section
4516 13-51-102 and registered with the Division of Consumer Protection as described in Section
4517 13-51-104.

4518 (38) "Regular identification card" means an identification card issued under this
4519 chapter to a person whose card was obtained by providing evidence of lawful presence in the
4520 United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

4521 (39) "Regular license certificate" means the evidence of the privilege issued under this
4522 chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful
4523 presence in the United States with one of the document requirements described in Subsection
4524 53-3-205(8)(a)(ii)(A).

4525 (40) "Renewal" means to validate a license certificate so that it expires at a later date.

4526 (41) "Reportable violation" means an offense required to be reported to the division as
4527 determined by the division and includes those offenses against which points are assessed under
4528 Section 53-3-221.

4529 (42) (a) "Resident" means an individual who:

4530 (i) has established a domicile in this state, as defined in Section 41-1a-202, or
4531 regardless of domicile, remains in this state for an aggregate period of six months or more
4532 during any calendar year;

4533 (ii) engages in a trade, profession, or occupation in this state, or who accepts
4534 employment in other than seasonal work in this state, and who does not commute into the state;

4535 (iii) declares himself to be a resident of this state by obtaining a valid Utah driver
4536 license certificate or motor vehicle registration; or

4537 (iv) declares himself a resident of this state to obtain privileges not ordinarily extended

4538 to nonresidents, including going to school, or placing children in school without paying
4539 nonresident tuition or fees.

4540 (b) "Resident" does not include any of the following:

4541 (i) a member of the military, temporarily stationed in this state;

4542 (ii) an out-of-state student, as classified by an institution of higher education,
4543 regardless of whether the student engages in any type of employment in this state;

4544 (iii) a person domiciled in another state or country, who is temporarily assigned in this
4545 state, assigned by or representing an employer, religious or private organization, or a
4546 governmental entity; or

4547 (iv) an immediate family member who resides with or a household member of a person
4548 listed in Subsections (42)(b)(i) through (iii).

4549 (43) "Revocation" means the termination by action of the division of a licensee's
4550 privilege to drive a motor vehicle.

4551 (44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary,
4552 primary, or secondary school students to and from home and school, or to and from school
4553 sponsored events.

4554 (b) "School bus" does not include a bus used as a common carrier as defined in Section
4555 [59-12-102](#).

4556 (45) "Suspension" means the temporary withdrawal by action of the division of a
4557 licensee's privilege to drive a motor vehicle.

4558 (46) "Taxicab" means any class D motor vehicle transporting any number of
4559 passengers for hire and that is subject to state or federal regulation as a taxi.

4560 Section 66. Section **53-3-105** is amended to read:

4561 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling,**
4562 **and identification cards.**

4563 The following fees apply under this chapter:

4564 (1) An original class D license application under Section [53-3-205](#) is \$52.

4565 (2) An original provisional license application for a class D license under Section

- 4566 [53-3-205](#) is \$39.
- 4567 (3) An original limited term license application under Section [53-3-205](#) is \$32.
- 4568 (4) An original application for a motorcycle endorsement under Section [53-3-205](#) is
- 4569 \$18.
- 4570 (5) An original application for a taxicab endorsement under Section [53-3-205](#) is \$14.
- 4571 (6) A learner permit application under Section [53-3-210.5](#) is \$19.
- 4572 (7) A renewal of a class D license under Section [53-3-214](#) is \$52 unless Subsection
- 4573 (12) applies.
- 4574 (8) A renewal of a provisional license application for a class D license under Section
- 4575 [53-3-214](#) is \$52.
- 4576 (9) A renewal of a limited term license application under Section [53-3-214](#) is \$32.
- 4577 (10) A renewal of a motorcycle endorsement under Section [53-3-214](#) is \$18.
- 4578 (11) A renewal of a taxicab endorsement under Section [53-3-214](#) is \$14.
- 4579 (12) A renewal of a class D license for an individual 65 and older under Section
- 4580 [53-3-214](#) is \$27.
- 4581 (13) An extension of a class D license under Section [53-3-214](#) is \$42 unless Subsection
- 4582 (17) applies.
- 4583 (14) An extension of a provisional license application for a class D license under
- 4584 Section [53-3-214](#) is \$42.
- 4585 (15) An extension of a motorcycle endorsement under Section [53-3-214](#) is \$18.
- 4586 (16) An extension of a taxicab endorsement under Section [53-3-214](#) is \$14.
- 4587 (17) An extension of a class D license for an individual 65 and older under Section
- 4588 [53-3-214](#) is \$22.
- 4589 (18) An original or renewal application for a commercial class A, B, or C license or an
- 4590 original or renewal of a provisional commercial class A or B license under Part 4, Uniform
- 4591 Commercial Driver License Act, is \$52.
- 4592 (19) A commercial class A, B, or C license skills test is \$78.
- 4593 (20) Each original CDL endorsement for passengers, hazardous material, double or

4594 triple trailers, or tankers is \$9.

4595 (21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial
4596 Driver License Act, is \$9.

4597 (22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver
4598 License Act, is \$9.

4599 (23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

4600 (b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

4601 (24) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

4602 (25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

4603 (26) (a) A license reinstatement application under Section 53-3-205 is \$40.

4604 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or
4605 combination of alcohol and any drug-related offense is \$45 in addition to the fee under
4606 Subsection (26)(a).

4607 (27) (a) An administrative fee for license reinstatement after an alcohol, drug, or
4608 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or
4609 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under
4610 Part 4, Uniform Commercial Driver License Act, is \$255.

4611 (b) This administrative fee is in addition to the fees under Subsection (26).

4612 (28) (a) An administrative fee for providing the driving record of a driver under
4613 Section 53-3-104 or 53-3-420 is \$8.

4614 (b) The division may not charge for a report furnished under Section 53-3-104 to a
4615 municipal, county, state, or federal agency.

4616 (29) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

4617 (30) (a) Except as provided under Subsections (30)(b) and (c), an identification card
4618 application under Section 53-3-808 is \$23.

4619 (b) An identification card application under Section 53-3-808 for a person with a
4620 disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

4621 (c) A fee may not be charged for an identification card application if the individual

4622 applying:

4623 (i) (A) has not been issued a Utah driver license;

4624 (B) is indigent; and

4625 (C) is at least 18 years old; or

4626 (ii) submits written verification that the individual is homeless, as defined in Section

4627 ~~[26-18-411]~~ [26B-3-207](#), a person who is homeless, as defined in Section [35A-5-302](#), or a child

4628 or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

4629 (A) a homeless shelter, as defined in Section [35A-16-305](#);

4630 (B) a permanent housing, permanent, supportive, or transitional facility, as defined in

4631 Section [35A-5-302](#);

4632 (C) the Department of Workforce Services; or

4633 (D) a local educational agency liaison for homeless children and youth designated

4634 under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

4635 (31) (a) An extension of a regular identification card under Subsection [53-3-807](#)(4) for
4636 a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

4637 (b) The fee described in Subsection (31)(a) is waived if the applicant submits written
4638 verification that the individual is homeless, as defined in Section ~~[26-18-411]~~ [26B-3-207](#), or a
4639 person who is homeless, as defined in Section [35A-5-302](#), or a child or youth who is homeless,
4640 as defined in 42 U.S.C. Sec. 11434a(2), from:

4641 (i) a homeless shelter, as defined in Section [35A-16-305](#);

4642 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in

4643 Section [35A-5-302](#);

4644 (iii) the Department of Workforce Services;

4645 (iv) a homeless service provider as verified by the Department of Workforce Services
4646 as described in Section ~~[26-2-12.6]~~ [26B-8-113](#); or

4647 (v) a local educational agency liaison for homeless children and youth designated under
4648 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

4649 (32) (a) An extension of a regular identification card under Subsection [53-3-807](#)(5) is

4650 \$23.

4651 (b) The fee described in Subsection (32)(a) is waived if the applicant submits written
4652 verification that the individual is homeless, as defined in Section ~~[26-18-411]~~ 26B-3-207, or a
4653 person who is homeless, as defined in Section 35A-5-302, from:

4654 (i) a homeless shelter, as defined in Section 35A-16-305;

4655 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in
4656 Section 35A-5-302;

4657 (iii) the Department of Workforce Services; or

4658 (iv) a homeless service provider as verified by the Department of Workforce Services
4659 as described in Section ~~[26-2-12.6]~~ 26B-8-113.

4660 (33) In addition to any license application fees collected under this chapter, the division
4661 shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the
4662 fees that the Bureau of Criminal Identification is authorized to collect for the services the
4663 Bureau of Criminal Identification provides under Section 53-3-205.5.

4664 (34) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

4665 (35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

4666 (36) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

4667 (37) An original driving privilege card application under Section 53-3-207 is \$32.

4668 (38) A renewal of a driving privilege card application under Section 53-3-207 is \$23.

4669 Section 67. Section **53-3-106** is amended to read:

4670 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**

4671 **-- Uses as provided by appropriation -- Nonlapsing.**

4672 (1) There is created within the Transportation Fund a restricted account known as the
4673 "Department of Public Safety Restricted Account."

4674 (2) The account consists of money generated from the following revenue sources:

4675 (a) all money received under this chapter;

4676 (b) administrative fees received according to the fee schedule authorized under this
4677 chapter and Section 63J-1-504;

- 4678 (c) beginning on January 1, 2013, money received in accordance with Section
4679 [41-1a-1201](#); and
- 4680 (d) any appropriations made to the account by the Legislature.
- 4681 (3) (a) The account shall earn interest.
- 4682 (b) All interest earned on account money shall be deposited [~~in~~] into the account.
- 4683 (4) The expenses of the department in carrying out this chapter shall be provided for by
4684 legislative appropriation from this account.
- 4685 (5) The amount in excess of \$45 of the fees collected under Subsection [53-3-105](#)(25)
4686 shall be appropriated by the Legislature from this account to the department to implement the
4687 provisions of Section [53-1-117](#), except that of the amount in excess of \$45, \$100 shall be
4688 deposited into the State Laboratory Drug Testing Account created in Section [26B-1-304](#).
- 4689 (6) All money received under Subsection [41-6a-1406](#)(6)(c)(ii) shall be appropriated by
4690 the Legislature from this account to the department to implement the provisions of Section
4691 [53-1-117](#).
- 4692 (7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000
4693 annually from the account to the state medical examiner appointed under Section [~~26-4-4~~]
4694 [26B-8-202](#) for use in carrying out duties related to highway crash deaths under Subsection
4695 [~~26-4-7(1)~~] [26B-8-205](#)(1).
- 4696 (8) The division shall remit the fees collected under Subsection [53-3-105](#)(31) to the
4697 Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal
4698 Identification provides under Section [53-3-205.5](#).
- 4699 (9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money
4700 received in the account under Section [41-1a-1201](#) to the Utah Highway Patrol Division for
4701 field operations.
- 4702 (b) The Legislature may appropriate additional money from the account to the Utah
4703 Highway Patrol Division for law enforcement purposes.
- 4704 (10) Appropriations to the department from the account are nonlapsing.
- 4705 (11) The department shall report to the Department of Health and Human Services, on

4706 or before December 31, the amount the department expects to collect under Subsection
4707 [53-3-105](#)(25) in the next fiscal year.

4708 Section 68. Section **53-3-205** is amended to read:

4709 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
4710 **Expiration dates of licenses and endorsements -- Information required -- Previous**
4711 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
4712 **Fee required -- License agreement.**

4713 (1) An application for an original license, provisional license, or endorsement shall be:

4714 (a) made upon a form furnished by the division; and

4715 (b) accompanied by a nonrefundable fee set under Section [53-3-105](#).

4716 (2) An application and fee for an original provisional class D license or an original
4717 class D license entitle the applicant to:

4718 (a) not more than three attempts to pass both the knowledge and the skills tests for a
4719 class D license within six months after the date of the application;

4720 (b) a learner permit if needed pending completion of the application and testing
4721 process; and

4722 (c) an original class D license and license certificate after all tests are passed and
4723 requirements are completed.

4724 (3) An application and fee for a motorcycle or taxicab endorsement entitle the
4725 applicant to:

4726 (a) not more than three attempts to pass both the knowledge and skills tests within six
4727 months after the date of the application;

4728 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

4729 (c) a motorcycle or taxicab endorsement when all tests are passed.

4730 (4) An application for a commercial class A, B, or C license entitles the applicant to:

4731 (a) not more than two attempts to pass a knowledge test when accompanied by the fee
4732 provided in Subsection [53-3-105](#)(18);

4733 (b) not more than two attempts to pass a skills test when accompanied by a fee in

4734 Subsection 53-3-105(19) within six months after the date of application;

4735 (c) both a commercial driver instruction permit and a temporary license permit for the
4736 license class held before the applicant submits the application if needed after the knowledge
4737 test is passed; and

4738 (d) an original commercial class A, B, or C license and license certificate when all
4739 applicable tests are passed.

4740 (5) An application and fee for a CDL endorsement entitle the applicant to:

4741 (a) not more than two attempts to pass a knowledge test and not more than two
4742 attempts to pass a skills test within six months after the date of the application; and

4743 (b) a CDL endorsement when all tests are passed.

4744 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
4745 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
4746 two additional times within the six months for the fee provided in Section 53-3-105.

4747 (b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction
4748 that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if
4749 the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

4750 (ii) The division shall:

4751 (A) electronically transmit skills test results for an out-of-state resident to the licensing
4752 agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP;
4753 and

4754 (B) provide the out-of-state resident with documentary evidence upon successful
4755 completion of the skills test.

4756 (7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class
4757 D license expires on the birth date of the applicant in the eighth year after the year the license
4758 certificate was issued.

4759 (ii) An original provisional class D license expires on the birth date of the applicant in
4760 the fifth year following the year the license certificate was issued.

4761 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on

4762 the birth date of the applicant in the fifth year the license certificate was issued.

4763 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a
4764 license expires on the birth date of the licensee in the eighth year after the expiration date of the
4765 license certificate renewed or extended.

4766 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on
4767 the same date as the last license certificate issued.

4768 (d) An endorsement to a license expires on the same date as the license certificate
4769 regardless of the date the endorsement was granted.

4770 (e) (i) A regular license certificate and an endorsement to the regular license certificate
4771 held by an individual described in Subsection (7)(e)(ii), that expires during the time period the
4772 individual is stationed outside of the state, is valid until 90 days after the individual's orders are
4773 terminated, the individual is discharged, or the individual's assignment is changed or
4774 terminated, unless:

4775 (A) the license is suspended, disqualified, denied, or has been cancelled or revoked by
4776 the division; or

4777 (B) the licensee updates the information or photograph on the license certificate.

4778 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:

4779 (A) ordered to active duty and stationed outside of Utah in any of the armed forces of
4780 the United States;

4781 (B) who is an immediate family member or dependent of an individual described in
4782 Subsection (7)(e)(ii)(A) and is residing outside of Utah;

4783 (C) who is a civilian employee of the United States State Department or United States
4784 Department of Defense and is stationed outside of the United States; or

4785 (D) who is an immediate family member or dependent of an individual described in
4786 Subsection (7)(e)(ii)(C) and is residing outside of the United States.

4787 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a
4788 renewal to a limited-term license certificate expires:

4789 (A) on the expiration date of the period of time of the individual's authorized stay in

4790 the United States or on the date provided under this Subsection (7), whichever is sooner; or

4791 (B) on the date of issuance in the first year following the year that the limited-term
4792 license certificate was issued if there is no definite end to the individual's period of authorized
4793 stay.

4794 (ii) A limited-term license certificate or a renewal to a limited-term license certificate
4795 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth
4796 year following the year that the limited-term license certificate was issued.

4797 (g) A driving privilege card issued or renewed under Section 53-3-207 expires on the
4798 birth date of the applicant in the first year following the year that the driving privilege card was
4799 issued or renewed.

4800 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
4801 Procedures Act, for requests for agency action, an applicant shall:

4802 (i) provide:

4803 (A) the applicant's full legal name;

4804 (B) the applicant's birth date;

4805 (C) the applicant's sex;

4806 (D) (I) documentary evidence of the applicant's valid social security number;

4807 (II) written proof that the applicant is ineligible to receive a social security number;

4808 (III) the applicant's temporary identification number (ITIN) issued by the Internal

4809 Revenue Service for an individual who:

4810 (Aa) does not qualify for a social security number; and

4811 (Bb) is applying for a driving privilege card; or

4812 (IV) other documentary evidence approved by the division;

4813 (E) the applicant's Utah residence address as documented by a form or forms

4814 acceptable under rules made by the division under Section 53-3-104, unless the application is

4815 for a temporary CDL issued under Subsection 53-3-407(2)(b); and

4816 (F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the

4817 applicant is applying for a driving privilege card;

- 4818 (ii) provide evidence of the applicant's lawful presence in the United States by
- 4819 providing documentary evidence:
- 4820 (A) that the applicant is:
- 4821 (I) a United States citizen;
- 4822 (II) a United States national; or
- 4823 (III) a legal permanent resident alien; or
- 4824 (B) of the applicant's:
- 4825 (I) unexpired immigrant or nonimmigrant visa status for admission into the United
- 4826 States;
- 4827 (II) pending or approved application for asylum in the United States;
- 4828 (III) admission into the United States as a refugee;
- 4829 (IV) pending or approved application for temporary protected status in the United
- 4830 States;
- 4831 (V) approved deferred action status;
- 4832 (VI) pending application for adjustment of status to legal permanent resident or
- 4833 conditional resident; or
- 4834 (VII) conditional permanent resident alien status;
- 4835 (iii) provide a description of the applicant;
- 4836 (iv) state whether the applicant has previously been licensed to drive a motor vehicle
- 4837 and, if so, when and by what state or country;
- 4838 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,
- 4839 disqualified, or denied in the last 10 years, or whether the applicant has ever had a license
- 4840 application refused, and if so, the date of and reason for the suspension, cancellation,
- 4841 revocation, disqualification, denial, or refusal;
- 4842 (vi) state whether the applicant intends to make an anatomical gift under [~~Title 26,~~
- 4843 ~~Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised
- 4844 Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 4845 (vii) state whether the applicant is required to register as a sex offender in accordance

4846 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

4847 (viii) state whether the applicant is a veteran of the United States military, provide
4848 verification that the applicant was granted an honorable or general discharge from the United
4849 States Armed Forces, and state whether the applicant does or does not authorize sharing the
4850 information with the Department of Veterans and Military Affairs;

4851 (ix) provide all other information the division requires; and

4852 (x) sign the application which signature may include an electronic signature as defined
4853 in Section 46-4-102.

4854 (b) Unless the applicant provides acceptable verification of homelessness as described
4855 in rules made by the division, an applicant shall have a Utah residence address, unless the
4856 application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

4857 (c) An applicant shall provide evidence of lawful presence in the United States in
4858 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

4859 (d) The division shall maintain on the division's computerized records an applicant's:

4860 (i) (A) social security number;

4861 (B) temporary identification number (ITIN); or

4862 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

4863 (ii) indication whether the applicant is required to register as a sex offender in

4864 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

4865 (9) The division shall require proof of an applicant's name, birth date, and birthplace by
4866 at least one of the following means:

4867 (a) current license certificate;

4868 (b) birth certificate;

4869 (c) Selective Service registration; or

4870 (d) other proof, including church records, family Bible notations, school records, or

4871 other evidence considered acceptable by the division.

4872 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
4873 higher class than what the applicant originally was issued:

- 4874 (i) the license application is treated as an original application; and
4875 (ii) license and endorsement fees is assessed under Section 53-3-105.
- 4876 (b) An applicant that receives a downgraded license in a lower license class during an
4877 existing license cycle that has not expired:
- 4878 (i) may be issued a duplicate license with a lower license classification for the
4879 remainder of the existing license cycle; and
- 4880 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
4881 duplicate license is issued under Subsection (10)(b)(i).
- 4882 (c) An applicant who has received a downgraded license in a lower license class under
4883 Subsection (10)(b):
- 4884 (i) may, when eligible, receive a duplicate license in the highest class previously issued
4885 during a license cycle that has not expired for the remainder of the existing license cycle; and
- 4886 (ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a
4887 duplicate license is issued under Subsection (10)(c)(i).
- 4888 (11) (a) When an application is received from an applicant previously licensed in
4889 another state to drive a motor vehicle, the division shall request a copy of the driver's record
4890 from the other state.
- 4891 (b) When received, the driver's record becomes part of the driver's record in this state
4892 with the same effect as though entered originally on the driver's record in this state.
- 4893 (12) An application for reinstatement of a license after the suspension, cancellation,
4894 disqualification, denial, or revocation of a previous license is accompanied by the additional
4895 fee or fees specified in Section 53-3-105.
- 4896 (13) An individual who has an appointment with the division for testing and fails to
4897 keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the
4898 fee under Section 53-3-105.
- 4899 (14) An applicant who applies for an original license or renewal of a license agrees that
4900 the individual's license is subject to a suspension or revocation authorized under this title or
4901 Title 41, Motor Vehicles.

4902 (15) (a) A licensee shall authenticate the indication of intent under Subsection
4903 (8)(a)(vi) in accordance with division rule.

4904 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
4905 Management Act, the division may, upon request, release to an organ procurement
4906 organization, as defined in Section [~~26-28-102~~] [26B-8-301](#), the names and addresses of all
4907 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical
4908 gift.

4909 (ii) An organ procurement organization may use released information only to:

4910 (A) obtain additional information for an anatomical gift registry; and

4911 (B) inform licensees of anatomical gift options, procedures, and benefits.

4912 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
4913 Management Act, the division may release to the Department of Veterans and Military Affairs
4914 the names and addresses of all applicants who indicate their status as a veteran under
4915 Subsection (8)(a)(viii).

4916 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and
4917 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
4918 Registry office in the Department of Corrections, the names and addresses of all applicants
4919 who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in
4920 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

4921 (18) The division and its employees are not liable, as a result of false or inaccurate
4922 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

4923 (a) loss;

4924 (b) detriment; or

4925 (c) injury.

4926 (19) An applicant who knowingly fails to provide the information required under
4927 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

4928 (20) A person may not hold both an unexpired Utah license certificate and an
4929 unexpired identification card.

4930 (21) (a) An applicant who applies for an original motorcycle endorsement to a regular
4931 license certificate is exempt from the requirement to pass the knowledge and skills test to be
4932 eligible for the motorcycle endorsement if the applicant:

4933 (i) is a resident of the state of Utah;

4934 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed
4935 forces of the United States; or

4936 (B) is an immediate family member or dependent of an individual described in
4937 Subsection (21)(a)(ii)(A) and is residing outside of Utah;

4938 (iii) has a digitized driver license photo on file with the division;

4939 (iv) provides proof to the division of the successful completion of a certified
4940 Motorcycle Safety Foundation rider training course; and

4941 (v) provides the necessary information and documentary evidence required under
4942 Subsection (8).

4943 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4944 division shall make rules:

4945 (i) establishing the procedures for an individual to obtain a motorcycle endorsement
4946 under this Subsection (21); and

4947 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under
4948 this Subsection (21).

4949 Section 69. Section **53-3-207** is amended to read:

4950 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
4951 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
4952 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

4953 (1) As used in this section:

4954 (a) "Driving privilege" means the privilege granted under this chapter to drive a motor
4955 vehicle.

4956 (b) "Governmental entity" means the state or a political subdivision of the state.

4957 (c) "Health care professional" means:

- 4958 (i) a licensed physician, physician assistant, nurse practitioner, or mental health
4959 therapist; or
- 4960 (ii) any other licensed health care professional the division designates by rule made in
4961 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 4962 (d) "Political subdivision" means any county, city, town, school district, public transit
4963 district, community reinvestment agency, special improvement or taxing district, local district,
4964 special service district, an entity created by an interlocal agreement adopted under Title 11,
4965 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public
4966 corporation.
- 4967 (e) "Invisible condition" means a physical or mental condition that may interfere with
4968 an individual's ability to communicate with a law enforcement officer, including:
- 4969 (i) a communication impediment;
 - 4970 (ii) hearing loss;
 - 4971 (iii) blindness or a visual impairment;
 - 4972 (iv) autism spectrum disorder;
 - 4973 (v) a drug allergy;
 - 4974 (vi) Alzheimer's disease or dementia;
 - 4975 (vii) post-traumatic stress disorder;
 - 4976 (viii) traumatic brain injury;
 - 4977 (ix) schizophrenia;
 - 4978 (x) epilepsy;
 - 4979 (xi) a developmental disability;
 - 4980 (xii) Down syndrome;
 - 4981 (xiii) diabetes;
 - 4982 (xiv) a heart condition; or
 - 4983 (xv) any other condition approved by the department.
- 4984 (f) "Invisible condition identification symbol" means a symbol or alphanumeric code
4985 that indicates that an individual is an individual with an invisible condition.

4986 (g) "State" means this state, and includes any office, department, agency, authority,
4987 commission, board, institution, hospital, college, university, children's justice center, or other
4988 instrumentality of the state.

4989 (2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a
4990 regular license certificate, a limited-term license certificate, or a driving privilege card
4991 indicating the type or class of motor vehicle the individual may drive.

4992 (b) An individual may not drive a class of motor vehicle unless granted the privilege in
4993 that class.

4994 (3) (a) Every regular license certificate, limited-term license certificate, or driving
4995 privilege card shall bear:

4996 (i) the distinguishing number assigned to the individual by the division;

4997 (ii) the name, birth date, and Utah residence address of the individual;

4998 (iii) a brief description of the individual for the purpose of identification;

4999 (iv) any restrictions imposed on the license under Section 53-3-208;

5000 (v) a photograph of the individual;

5001 (vi) a photograph or other facsimile of the individual's signature;

5002 (vii) an indication whether the individual intends to make an anatomical gift under

5003 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,

5004 Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under

5005 Subsection 53-3-214(3); and

5006 (viii) except as provided in Subsection (3)(b), if the individual states that the individual

5007 is a veteran of the United States military on the application for a driver license in accordance

5008 with Section 53-3-205 and provides verification that the individual was granted an honorable

5009 or general discharge from the United States Armed Forces, an indication that the individual is a

5010 United States military veteran for a regular license certificate or limited-term license certificate

5011 issued on or after July 1, 2011.

5012 (b) A regular license certificate or limited-term license certificate issued to an

5013 individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b)

5014 is not required to include an indication that the individual is a United States military veteran
5015 under Subsection (3)(a)(viii).

5016 (c) A new license certificate issued by the division may not bear the individual's social
5017 security number.

5018 (d) (i) The regular license certificate, limited-term license certificate, or driving
5019 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

5020 (ii) The size, form, and color of the regular license certificate, limited-term license
5021 certificate, or driving privilege card shall be as prescribed by the commissioner.

5022 (iii) The commissioner may also prescribe the issuance of a special type of limited
5023 regular license certificate, limited-term license certificate, or driving privilege card under
5024 Subsection [53-3-220](#)(4).

5025 (4) (a) The division shall include or affix an invisible condition identification symbol
5026 on an individual's regular license certificate, limited-term license certificate, or driving
5027 privilege card if the individual, on a form prescribed by the department:

5028 (i) requests the division to include the invisible condition identification symbol;

5029 (ii) provides written verification from a health care professional that the individual is
5030 an individual with an invisible condition; and

5031 (iii) signs a waiver of liability for the release of any medical information to:

5032 (A) the department;

5033 (B) any person who has access to the individual's medical information as recorded on
5034 the individual's driving record or the Utah Criminal Justice Information System under this
5035 chapter; and

5036 (C) any other person who may view or receive notice of the individual's medical
5037 information by seeing the individual's regular license certificate, limited-term license
5038 certificate, or driving privilege card or the individual's information in the Utah Criminal Justice
5039 Information System.

5040 (b) As part of the form described in Subsection (4)(a), the department shall advise the
5041 individual that by submitting the signed waiver, the individual consents to the release of the

5042 individual's medical information to any person described in Subsections (4)(a)(iii)(A) through
5043 (C), even if the person is otherwise ineligible to access the individual's medical information
5044 under state or federal law.

5045 (c) The division may not:

5046 (i) charge a fee to include the invisible condition identification symbol on the
5047 individual's regular license certificate, limited-term license certificate, or driving privilege card;
5048 or

5049 (ii) after including the invisible condition identification symbol on the individual's
5050 previously issued regular license certificate, limited-term license certificate, or driving
5051 privilege card, require the individual to provide subsequent written verification described in
5052 Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's
5053 renewed or extended regular license certificate, limited-term license certificate, or driving
5054 privilege card.

5055 (d) The inclusion of an invisible condition identification symbol on an individual's
5056 license certificate, limited-term license certificate, or driving privilege card in accordance with
5057 Subsection (4)(a) does not confer any legal rights or privileges on the individual, including
5058 parking privileges for individuals with disabilities under Section [41-1a-414](#).

5059 (e) For each individual issued a regular license certificate, limited-term license
5060 certificate, or driving privilege card under this section that includes an invisible condition
5061 identification symbol, the division shall include in the division's database a brief description of
5062 the nature of the individual's invisible condition in the individual's record and provide the brief
5063 description to the Utah Criminal Justice Information System.

5064 (f) Except as provided in this section, the division may not release the information
5065 described in Subsection (4)(e).

5066 (g) Within 30 days after the day on which the division receives an individual's written
5067 request, the division shall:

5068 (i) remove from the individual's record in the division's database the invisible condition
5069 identification symbol and the brief description described in Subsection (4)(e); and

5070 (ii) provide the individual's updated record to the Utah Criminal Justice Information
5071 System.

5072 (5) As provided in Section 63G-2-302, the information described in Subsection (4)(a)
5073 is a private record for purposes of Title 63G, Chapter 2, Government Records Access and
5074 Management Act.

5075 (6) (a) (i) The division, upon determining after an examination that an applicant is
5076 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a
5077 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term
5078 license certificate.

5079 (ii) (A) The division shall issue a temporary regular license certificate or temporary
5080 limited-term license certificate allowing the individual to drive a motor vehicle while the
5081 division is completing the division's investigation to determine whether the individual is
5082 entitled to be granted a driving privilege.

5083 (B) A temporary regular license certificate or a temporary limited-term license
5084 certificate issued under this Subsection (6) shall be recognized and have the same rights and
5085 privileges as a regular license certificate or a limited-term license certificate.

5086 (b) The temporary regular license certificate or temporary limited-term license
5087 certificate shall be in the individual's immediate possession while driving a motor vehicle, and
5088 the temporary regular license certificate or temporary limited-term license certificate is invalid
5089 when the individual's regular license certificate or limited-term license certificate has been
5090 issued or when, for good cause, the privilege has been refused.

5091 (c) The division shall indicate on the temporary regular license certificate or temporary
5092 limited-term license certificate a date after which the temporary regular license certificate or
5093 temporary limited-term license certificate is not valid as a temporary license.

5094 (d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a
5095 temporary driving privilege card or other temporary permit to an applicant for a driving
5096 privilege card.

5097 (ii) The division may issue a learner permit issued in accordance with Section

5098 [53-3-210.5](#) to an applicant for a driving privilege card.

5099 (7) (a) The division shall distinguish learner permits, temporary permits, regular
5100 license certificates, limited-term license certificates, and driving privilege cards issued to any
5101 individual younger than 21 years old by use of plainly printed information or the use of a color
5102 or other means not used for other regular license certificates, limited-term license certificates,
5103 or driving privilege cards.

5104 (b) The division shall distinguish a regular license certificate, limited-term license
5105 certificate, or driving privilege card issued to an individual younger than 21 years old by use of
5106 a portrait-style format not used for other regular license certificates, limited-term license
5107 certificates, or driving privilege cards and by plainly printing the date the regular license
5108 certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

5109 (8) The division shall distinguish a limited-term license certificate by clearly indicating
5110 on the document:

5111 (a) that the limited-term license certificate is temporary; and

5112 (b) the limited-term license certificate's expiration date.

5113 (9) (a) The division shall only issue a driving privilege card to an individual whose
5114 privilege was obtained without providing evidence of lawful presence in the United States as
5115 required under Subsection [53-3-205](#)(8).

5116 (b) The division shall distinguish a driving privilege card from a license certificate by:

5117 (i) use of a format, color, font, or other means; and

5118 (ii) clearly displaying on the front of the driving privilege card a phrase substantially
5119 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

5120 (10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary
5121 permit, temporary regular license certificate, temporary limited-term license certificate, or any
5122 other temporary permit.

5123 (11) The division shall issue temporary license certificates of the same nature, except
5124 as to duration, as the license certificates that they temporarily replace, as are necessary to
5125 implement applicable provisions of this section and Section [53-3-223](#).

5126 (12) (a) A governmental entity may not accept a driving privilege card as proof of
5127 personal identification.

5128 (b) A driving privilege card may not be used as a document providing proof of an
5129 individual's age for any government required purpose.

5130 (13) An individual who violates Subsection (2)(b) is guilty of an infraction.

5131 (14) Unless otherwise provided, the provisions, requirements, classes, endorsements,
5132 fees, restrictions, and sanctions under this code apply to a:

5133 (a) driving privilege in the same way as a license or limited-term license issued under
5134 this chapter; and

5135 (b) limited-term license certificate or driving privilege card in the same way as a
5136 regular license certificate issued under this chapter.

5137 Section 70. Section **53-3-214.7** is amended to read:

5138 **53-3-214.7. License or identification card checkoff for promoting and supporting**
5139 **organ donation.**

5140 (1) A person who applies for a license or identification card or a renewal of a license or
5141 identification card may designate a voluntary contribution of \$2 for the purpose of promoting
5142 and supporting organ donation.

5143 (2) This contribution shall be:

5144 (a) collected by the division;

5145 (b) treated as a voluntary contribution to the Allyson Gamble Organ Donation
5146 Contribution Fund created in Section [~~26-18b-101~~] [26B-1-312](#) and not as a license fee; and

5147 (c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in
5148 Section [~~26-18b-101~~] [26B-1-312](#) at least monthly, less actual administrative costs associated
5149 with collecting and transferring the contributions.

5150 Section 71. Section **53-3-214.8** is amended to read:

5151 **53-3-214.8. License or identification card checkoff for public transportation for**
5152 **seniors or people with disabilities.**

5153 (1) A person who applies for a license or identification card or a renewal of a license or

5154 identification card may designate a voluntary contribution of \$1 for public transportation
5155 assistance for seniors or people with disabilities.

5156 (2) This contribution shall be:

5157 (a) collected by the division;

5158 (b) treated as a voluntary contribution to the "Out and About" Homebound

5159 Transportation Assistance Fund created in Section [~~62A-3-110~~] [26B-1-323](#) to provide public
5160 transportation assistance for seniors or people with disabilities and not as a license fee; and

5161 (c) transferred to the "Out and About" Homebound Transportation Assistance Fund
5162 created in Section [~~62A-3-110~~] [26B-1-323](#) at least monthly, less actual administrative costs
5163 associated with collecting and transferring the contributions.

5164 Section 72. Section **53-3-804** is amended to read:

5165 **53-3-804. Application for identification card -- Required information -- Release**
5166 **of anatomical gift information -- Cancellation of identification card.**

5167 (1) To apply for a regular identification card or limited-term identification card, an
5168 applicant shall:

5169 (a) be a Utah resident;

5170 (b) have a Utah residence address; and

5171 (c) appear in person at any license examining station.

5172 (2) An applicant shall provide the following information to the division:

5173 (a) true and full legal name and Utah residence address;

5174 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
5175 other satisfactory evidence of birth, which shall be attached to the application;

5176 (c) (i) social security number; or

5177 (ii) written proof that the applicant is ineligible to receive a social security number;

5178 (d) place of birth;

5179 (e) height and weight;

5180 (f) color of eyes and hair;

5181 (g) signature;

- 5182 (h) photograph;
- 5183 (i) evidence of the applicant's lawful presence in the United States by providing
- 5184 documentary evidence:
- 5185 (i) that the applicant is:
- 5186 (A) a United States citizen;
- 5187 (B) a United States national; or
- 5188 (C) a legal permanent resident alien; or
- 5189 (ii) of the applicant's:
- 5190 (A) unexpired immigrant or nonimmigrant visa status for admission into the United
- 5191 States;
- 5192 (B) pending or approved application for asylum in the United States;
- 5193 (C) admission into the United States as a refugee;
- 5194 (D) pending or approved application for temporary protected status in the United
- 5195 States;
- 5196 (E) approved deferred action status;
- 5197 (F) pending application for adjustment of status to legal permanent resident or
- 5198 conditional resident; or
- 5199 (G) conditional permanent resident alien status;
- 5200 (j) an indication whether the applicant intends to make an anatomical gift under [Title
- 5201 ~~26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised
- 5202 Uniform Anatomical Gift Act;
- 5203 (k) an indication whether the applicant is required to register as a sex offender in
- 5204 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and
- 5205 (l) an indication whether the applicant is a veteran of the United States Armed Forces,
- 5206 verification that the applicant has received an honorable or general discharge from the United
- 5207 States Armed Forces, and an indication whether the applicant does or does not authorize
- 5208 sharing the information with the state Department of Veterans and Military Affairs.
- 5209 (3) (a) The requirements of Section [53-3-234](#) apply to this section for each individual,

5210 age 16 and older, applying for an identification card.

5211 (b) Refusal to consent to the release of information under Section 53-3-234 shall result
5212 in the denial of the identification card.

5213 (4) An individual person who knowingly fails to provide the information required
5214 under Subsection (2)(k) is guilty of a class A misdemeanor.

5215 (5) (a) A person may not hold both an unexpired Utah license certificate and an
5216 unexpired identification card.

5217 (b) A person who holds a regular or limited term Utah driver license and chooses to
5218 relinquish the person's driving privilege may apply for an identification card under this chapter,
5219 provided:

5220 (i) the driver:

5221 (A) no longer qualifies for a driver license for failure to meet the requirement in
5222 Section 53-3-304; or

5223 (B) makes a personal decision to permanently discontinue driving; and

5224 (ii) the driver:

5225 (A) submits an application to the division on a form approved by the division in
5226 person, through electronic means, or by mail;

5227 (B) affirms their intention to permanently discontinue driving; and

5228 (C) surrenders to the division the driver license certificate; and

5229 (iii) the division possesses a digital photograph of the driver obtained within the
5230 preceding 10 years.

5231 (c) (i) The division shall waive the fee under Section 53-3-105 for an identification
5232 card for an original identification card application under this Subsection (5).

5233 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose
5234 driving privilege is suspended or revoked.

5235 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and
5236 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender
5237 Registry office in the Department of Corrections, the names and addresses of all applicants

5238 who, under Subsection (2)(k), indicate they are required to register as a sex offender in
5239 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

5240 Section 73. Section **53-3-805** is amended to read:

5241 **53-3-805. Identification card -- Contents -- Specifications.**

5242 (1) As used in this section:

5243 (a) "Health care professional" means the same as that term is defined in Section
5244 [53-3-207](#).

5245 (b) "Invisible condition" means the same as that term is defined in Section [53-3-207](#).

5246 (c) "Invisible condition identification symbol" means the same as that term is defined
5247 in Section [53-3-207](#).

5248 (2) (a) The division shall issue an identification card that bears:

5249 (i) the distinguishing number assigned to the individual by the division;

5250 (ii) the name, birth date, and Utah residence address of the individual;

5251 (iii) a brief description of the individual for the purpose of identification;

5252 (iv) a photograph of the individual;

5253 (v) a photograph or other facsimile of the individual's signature;

5254 (vi) an indication whether the individual intends to make an anatomical gift under

5255 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,

5256 Revised Uniform Anatomical Gift Act; and

5257 (vii) if the individual states that the individual is a veteran of the United States military
5258 on the application for an identification card in accordance with Section [53-3-804](#) and provides
5259 verification that the individual received an honorable or general discharge from the United
5260 States Armed Forces, an indication that the individual is a United States military veteran for a
5261 regular identification card or a limited-term identification card issued on or after July 1, 2011.

5262 (b) An identification card issued by the division may not bear the individual's [~~Social~~
5263 ~~Security~~] social security number or place of birth.

5264 (3) (a) The card shall be of an impervious material, resistant to wear, damage, and
5265 alteration.

5266 (b) Except as provided under Section 53-3-806, the size, form, and color of the card is
5267 prescribed by the commissioner.

5268 (4) At the applicant's request, the card may include a statement that the applicant has a
5269 special medical problem or allergies to certain drugs, for the purpose of medical treatment.

5270 (5) (a) The division shall include or affix an invisible condition identification symbol
5271 on an individual's identification card if the individual, on a form prescribed by the department:

5272 (i) requests the division to include the invisible condition identification symbol;

5273 (ii) provides written verification from a health care professional that the individual is
5274 an individual with an invisible condition; and

5275 (iii) submits a signed waiver of liability for the release of any medical information to:

5276 (A) the department;

5277 (B) any person who has access to the individual's medical information as recorded on
5278 the individual's driving record or the Utah Criminal Justice Information System under this
5279 chapter; and

5280 (C) any other person who may view or receive notice of the individual's medical
5281 information by seeing the individual's regular license certificate, limited-term license
5282 certificate, or driving privilege card or the individual's information in the Utah Criminal Justice
5283 Information System.

5284 (b) As part of the form described in Subsection (5)(a), the department shall advise the
5285 individual that by submitting the request and signed waiver, the individual consents to the
5286 release of the individual's medical information to any person described in Subsections
5287 (5)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's
5288 medical information under state or federal law.

5289 (c) The division may not:

5290 (i) charge a fee to include the invisible condition identification symbol on the
5291 individual's identification card; or

5292 (ii) after including the invisible condition identification symbol on the individual's
5293 previously issued identification card, require the individual to provide subsequent written

5294 verification described in Subsection (5)(a)(ii) to include the invisible condition identification
5295 symbol on the individual's extended identification card.

5296 (d) The inclusion of an invisible condition identification symbol on an individual's
5297 identification card in accordance with Subsection (5)(a) does not confer any legal rights or
5298 privileges on the individual, including parking privileges for individuals with disabilities under
5299 Section [41-1a-414](#).

5300 (e) For each individual issued an identification card under this section that includes an
5301 invisible condition identification symbol, the division shall include in the division's database a
5302 brief description of the nature of the individual's invisible condition in the individual's record
5303 and provide the brief description to the Utah Criminal Justice Information System.

5304 (f) Except as provided in this section, the division may not release the information
5305 described in Subsection (5)(e).

5306 (g) Within 30 days after the day on which the division receives an individual's written
5307 request, the division shall:

5308 (i) remove from the individual's record in the division's database the invisible condition
5309 identification symbol and the brief description described in Subsection (5)(e); and

5310 (ii) provide the individual's updated record to the Utah Criminal Justice Information
5311 System.

5312 (6) As provided in Section [63G-2-302](#), the information described in Subsection (5)(a)
5313 is a private record for purposes of Title 63G, Chapter 2, Government Records Access and
5314 Management Act.

5315 (7) (a) The indication of intent under Subsection [53-3-804\(2\)\(j\)](#) shall be authenticated
5316 by the applicant in accordance with division rule.

5317 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
5318 Management Act, the division may, upon request, release to an organ procurement
5319 organization, as defined in Section [~~26-28-102~~] [26B-8-301](#), the names and addresses of all
5320 individuals who under Subsection [53-3-804\(2\)\(j\)](#) indicate that they intend to make an
5321 anatomical gift.

- 5322 (ii) An organ procurement organization may use released information only to:
- 5323 (A) obtain additional information for an anatomical gift registry; and
- 5324 (B) inform applicants of anatomical gift options, procedures, and benefits.
- 5325 (8) Notwithstanding Title 63G, Chapter 2, Government Records Access and
- 5326 Management Act, the division may release to the Department of Veterans and Military Affairs
- 5327 the names and addresses of all individuals who indicate their status as a veteran under
- 5328 Subsection [53-3-804\(2\)\(l\)](#).
- 5329 (9) The division and the division's employees are not liable, as a result of false or
- 5330 inaccurate information provided under Subsection [53-3-804\(2\)\(j\)](#) or (l), for direct or indirect:
- 5331 (a) loss;
- 5332 (b) detriment; or
- 5333 (c) injury.
- 5334 (10) (a) The division may issue a temporary regular identification card to an individual
- 5335 while the individual obtains the required documentation to establish verification of the
- 5336 information described in Subsections [53-3-804\(2\)\(a\)](#), (b), (c), (d), and (i)(i).
- 5337 (b) A temporary regular identification card issued under this Subsection (10) shall be
- 5338 recognized and grant the individual the same privileges as a regular identification card.
- 5339 (c) A temporary regular identification card issued under this Subsection (10) is invalid:
- 5340 (i) when the individual's regular identification card has been issued;
- 5341 (ii) when, for good cause, an applicant's application for a regular identification card has
- 5342 been refused; or
- 5343 (iii) upon expiration of the temporary regular identification card.
- 5344 Section 74. Section [53-5-707](#) is amended to read:
- 5345 **53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**
- 5346 (1) (a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of
- 5347 filing an application.
- 5348 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of
- 5349 processing a nonresident application.

5350 (c) The bureau shall waive the initial fee for an applicant who is a law enforcement
5351 officer under Section [53-13-103](#).

5352 (d) Concealed firearm permit renewal fees for active duty service members and the
5353 spouse of an active duty service member shall be waived.

5354 (2) The renewal fee for the permit is \$20. A nonresident shall pay an additional \$5 for
5355 the additional cost of processing a nonresidential renewal.

5356 (3) The replacement fee for the permit is \$10.

5357 (4) (a) The late fee for the renewal permit is \$7.50.

5358 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
5359 submitted on a permit that has been expired for more than 30 days but less than one year.

5360 (5) (a) There is created a restricted account within the General Fund known as the
5361 "Concealed Weapons Account."

5362 (b) The account shall be funded from fees collected under this section and Section
5363 [53-5-707.5](#).

5364 (c) Funds in the account may only be used to cover costs relating to:

5365 (i) the issuance of concealed firearm permits under this part; or

5366 (ii) the programs described in Subsection [~~62A-15-103(3)~~] [26B-5-102\(3\)](#) and Section
5367 [~~62A-15-1101~~] [26B-5-611](#).

5368 (d) No later than 90 days after the end of the fiscal year 50% of the fund balance shall
5369 be transferred to the Suicide Prevention and Education Fund, created in Section [~~62A-15-1104~~]
5370 [26B-1-326](#).

5371 (6) (a) The bureau may collect any fees charged by an outside agency for additional
5372 services required by statute as a prerequisite for issuance of a permit.

5373 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
5374 appropriate agency.

5375 (7) The bureau shall make an annual report in writing to the Legislature's Law
5376 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees
5377 collected under this section and Section [53-5-707.5](#).

5378 Section 75. Section **53-10-102** is amended to read:

5379 **53-10-102. Definitions.**

5380 As used in this chapter:

5381 (1) "Administration of criminal justice" means performance of any of the following:
5382 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
5383 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5384 (2) "Alcoholic beverage" means the same as that term is defined in Section [32B-1-102](#).

5385 (3) "Alcoholic product" means the same as that term is defined in Section [32B-1-102](#).

5386 (4) "Bureau" means the Bureau of Criminal Identification within the department,
5387 created in Section [53-10-201](#).

5388 (5) "Commission" means the Alcoholic Beverage Services Commission.

5389 (6) "Communications services" means the technology of reception, relay, and
5390 transmission of information required by a public safety agency in the performance of the public
5391 safety agency's duty.

5392 (7) "Conviction record" means criminal history information indicating a record of a
5393 criminal charge that has led to a declaration of guilt of an offense.

5394 (8) "Criminal history record information" means information on an individual
5395 consisting of identifiable descriptions and notations of:

5396 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and
5397 any disposition arising from any of them; and

5398 (b) sentencing, correctional supervision, and release.

5399 (9) "Criminal justice agency" means a court or a government agency or subdivision of
5400 a government agency that administers criminal justice under a statute, executive order, or local
5401 ordinance and that allocates greater than 50% of its annual budget to the administration of
5402 criminal justice.

5403 (10) "Criminalist" means the scientific discipline directed to the recognition,
5404 identification, individualization, and evaluation of physical evidence by application of the
5405 natural sciences in law-science matters.

- 5406 (11) "Department" means the Department of Public Safety.
- 5407 (12) "Director" means the division director appointed under Section [53-10-103](#).
- 5408 (13) "Division" means the Criminal Investigations and Technical Services Division
5409 created in Section [53-10-103](#).
- 5410 (14) "Executive order" means an order of the president of the United States or the chief
5411 executive of a state that has the force of law and that is published in a manner permitting
5412 regular public access to the order.
- 5413 (15) "Forensic" means dealing with the application of scientific knowledge relating to
5414 criminal evidence.
- 5415 (16) "Mental defective" means an individual who, by a district court, as a result of
5416 marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is
5417 found:
- 5418 (a) to be a danger to himself or herself or others;
- 5419 (b) to lack the mental capacity to contract or manage the individual's own affairs;
- 5420 (c) to be incompetent by a court in a criminal case; or
- 5421 (d) to be incompetent to stand trial or found not guilty by reason or lack of mental
5422 responsibility.
- 5423 (17) "Missing child" means an individual under 18 years old who is missing from the
5424 individual's home environment or a temporary placement facility for any reason and whose
5425 location cannot be determined by the person responsible for the individual's care.
- 5426 (18) "Missing person" means the same as that term is defined in Section [~~26-2-27~~]
5427 [26B-8-130](#).
- 5428 (19) "Pathogens" means disease-causing agents.
- 5429 (20) "Physical evidence" means something submitted to the bureau to determine the
5430 truth of a matter using scientific methods of analysis.
- 5431 (21) "Qualifying entity" means a business, organization, or a governmental entity that
5432 employs persons or utilizes volunteers who deal with:
- 5433 (a) national security interests;

- 5434 (b) fiduciary trust over money; or
- 5435 (c) the provision of care, treatment, education, training, instruction, supervision, or
- 5436 recreation to children, the elderly, or individuals with disabilities.

5437 Section 76. Section **53-10-104** is amended to read:

5438 **53-10-104. Division duties.**

5439 The division shall:

- 5440 (1) provide and coordinate the delivery of support services to law enforcement
- 5441 agencies;
- 5442 (2) maintain and provide access to criminal records for use by law enforcement
- 5443 agencies;
- 5444 (3) publish law enforcement and statistical data;
- 5445 (4) maintain dispatch and communications services for public safety communications
- 5446 centers and provide emergency medical, fire suppression, highway maintenance, public works,
- 5447 and law enforcement communications for municipal, county, state, and federal agencies;
- 5448 (5) analyze evidence from crime scenes and crime-related incidents for criminal
- 5449 prosecution;
- 5450 (6) provide criminalistic laboratory services to federal, state, and local law enforcement
- 5451 agencies, prosecuting attorneys^[1] and agencies, and public defenders, with the exception of
- 5452 those services provided by the state medical examiner in accordance with [~~Title 26, Chapter 4,~~
- 5453 ~~Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
- 5454 (7) establish satellite laboratories as necessary to provide criminalistic services;
- 5455 (8) safeguard the public through licensing and regulation of activities that impact
- 5456 public safety, including concealed weapons, emergency vehicles, and private investigators;
- 5457 (9) provide investigative assistance to law enforcement and other government agencies;
- 5458 (10) collect and provide intelligence information to criminal justice agencies;
- 5459 (11) investigate crimes that jeopardize the safety of the citizens, as well as the interests,
- 5460 of the state;
- 5461 (12) regulate and investigate laws pertaining to the sale and distribution of liquor;

- 5462 (13) make rules to implement this chapter;
5463 (14) perform the functions specified in this chapter;
5464 (15) comply with the requirements of Section 11-40-103;
5465 (16) comply with the requirements of Sections 72-10-602 and 72-10-603; and
5466 (17) develop and maintain a secure database of cold cases within the Utah Criminal
5467 Justice Information System pursuant to Section 53-10-115.

5468 Section 77. Section 53-10-108 is amended to read:

5469 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
5470 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
5471 **-- Missing children records -- Penalty for misuse of records.**

5472 (1) As used in this section:

5473 (a) "Clone" means to copy a subscription or subscription data from a rap back system,
5474 including associated criminal history record information, from a qualified entity to another
5475 qualified entity.

5476 (b) "FBI Rap Back System" means the rap back system maintained by the Federal
5477 Bureau of Investigation.

5478 (c) "Rap back system" means a system that enables authorized entities to receive
5479 ongoing status notifications of any criminal history reported on individuals whose fingerprints
5480 are registered in the system.

5481 (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that
5482 allows the bureau and the Federal Bureau of Investigation to provide criminal history record
5483 information to a qualifying entity, including a non-governmental qualifying entity.

5484 (e) "WIN Database" means the Western Identification Network Database that consists
5485 of eight western states sharing one electronic fingerprint database.

5486 (2) Except as provided in Subsection (17), dissemination of information from a
5487 criminal history record, including information obtained from a fingerprint background check,
5488 name check, warrant of arrest information, or information from division files, is limited to:

5489 (a) criminal justice agencies for purposes of administration of criminal justice and for

- 5490 employment screening by criminal justice agencies;
- 5491 (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
5492 agency to provide services required for the administration of criminal justice; and
- 5493 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
5494 purposes for which given, and ensure the security and confidentiality of the data;
- 5495 (c) a qualifying entity for employment background checks for the qualifying entity's
5496 own employees or volunteers and individuals who have applied for employment with or to
5497 serve as a volunteer for the qualifying entity;
- 5498 (d) noncriminal justice agencies or individuals for any purpose authorized by statute,
5499 executive order, court rule, court order, or local ordinance;
- 5500 (e) agencies or individuals for the purpose of obtaining required clearances connected
5501 with foreign travel or obtaining citizenship;
- 5502 (f) agencies or individuals for the purpose of a preplacement adoptive study, in
5503 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);
- 5504 (g) private security agencies through guidelines established by the commissioner for
5505 employment background checks for their own employees and prospective employees;
- 5506 (h) state agencies for the purpose of conducting a background check for the following
5507 individuals:
- 5508 (i) employees;
- 5509 (ii) applicants for employment;
- 5510 (iii) volunteers; and
- 5511 (iv) contract employees;
- 5512 (i) governor's office for the purpose of conducting a background check on the
5513 following individuals:
- 5514 (i) cabinet members;
- 5515 (ii) judicial applicants; and
- 5516 (iii) members of boards, committees, and commissions appointed by the governor;
- 5517 (j) the office of the lieutenant governor for the purpose of conducting a background

5518 check on an individual applying to be a notary public under Section 46-1-3;

5519 (k) agencies and individuals as the commissioner authorizes for the express purpose of
5520 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
5521 agency; and

5522 (l) other agencies and individuals as the commissioner authorizes and finds necessary
5523 for protection of life and property and for offender identification, apprehension, and
5524 prosecution pursuant to an agreement.

5525 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data,
5526 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
5527 individuals to whom the information relates, and ensure the confidentiality and security of the
5528 data.

5529 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state
5530 agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a
5531 signed waiver from the person whose information is requested.

5532 (b) The waiver shall notify the signee:

5533 (i) that a criminal history background check will be conducted;

5534 (ii) who will see the information; and

5535 (iii) how the information will be used.

5536 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
5537 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal
5538 justice name based background check of local databases to the bureau shall provide to the
5539 bureau:

5540 (i) personal identifying information for the subject of the background check; and

5541 (ii) the fee required by Subsection (15).

5542 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or
5543 individual described in Subsections (2)(d) through (g) that submits a request for a WIN
5544 database check and a nationwide background check shall provide to the bureau:

5545 (i) personal identifying information for the subject of the background check;

5546 (ii) a fingerprint card for the subject of the background check; and
5547 (iii) the fee required by Subsection (15).

5548 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or
5549 other agency or individual described in Subsections (2)(d) through (j) may only be:

5550 (i) available to individuals involved in the hiring or background investigation of the job
5551 applicant, employee, notary applicant, or as authorized under federal or state law;

5552 (ii) used for the purpose of assisting in making an employment appointment, selection,
5553 or promotion decision or for considering a notary applicant under Section 46-1-3; and

5554 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection
5555 (4)(b).

5556 (f) An individual who disseminates or uses information obtained from the division
5557 under Subsections (2)(c) through (j) for purposes other than those specified under Subsection
5558 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

5559 (g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or
5560 individual described in Subsections (2)(d) through (j) that obtains background check
5561 information shall provide the subject of the background check an opportunity to:

5562 (A) request a copy of the information received; and
5563 (B) respond to and challenge the accuracy of any information received.

5564 (ii) An individual who is the subject of a background check and who receives a copy of
5565 the information described in Subsection (4)(g)(i) may use the information only for the purpose
5566 of reviewing, responding to, or challenging the accuracy of the information.

5567 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5568 division may make rules to implement this Subsection (4).

5569 (i) The division or the division's employees are not liable for defamation, invasion of
5570 privacy, negligence, or any other claim in connection with the contents of information
5571 disseminated under Subsections (2)(c) through (j).

5572 (5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise
5573 authorized under state law, criminal history record information obtained from division files

5574 may be used only for the purposes for which the information was provided.

5575 (b) A criminal history provided to an agency under Subsection (2)(f) may be provided
5576 by the agency to the individual who is the subject of the history, another licensed child-placing
5577 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

5578 (c) A criminal history of a defendant provided to a criminal justice agency under
5579 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,
5580 upon request during the discovery process, for the purpose of establishing a defense in a
5581 criminal case.

5582 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
5583 Transit District Act, that is under contract with a state agency to provide services may, for the
5584 purposes of complying with Subsection [~~62A-5-103.5(5)~~] 26B-6-410(5), provide a criminal
5585 history record to the state agency or the agency's designee.

5586 (e) Criminal history record information obtained from a national source may be
5587 disseminated if the dissemination is authorized by a policy issued by the Criminal Justice
5588 Information Services Division or other federal law.

5589 (6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the
5590 bureau and the Federal Bureau of Investigation for a local and national background check
5591 under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

5592 (b) A qualifying entity under Subsection (2)(c) that submits fingerprints under
5593 Subsection (6)(a):

5594 (i) shall meet all VECHS requirements for using VECHS; and

5595 (ii) may only submit fingerprints for an employee, volunteer, or applicant who has
5596 resided in Utah for the seven years before the day on which the qualifying entity submits the
5597 employee's, volunteer's, or applicant's fingerprints.

5598 (7) (a) This section does not preclude the use of the division's central computing
5599 facilities for the storage and retrieval of criminal history record information.

5600 (b) This information shall be stored so the information cannot be modified, destroyed,
5601 or accessed by unauthorized agencies or individuals.

5602 (8) Direct access through remote computer terminals to criminal history record
5603 information in the division's files is limited to those agencies authorized by the commissioner
5604 under procedures designed to prevent unauthorized access to this information.

5605 (9) (a) The commissioner shall establish procedures to allow an individual right of
5606 access to review and receive a copy of the individual's criminal history report.

5607 (b) A processing fee for the right of access service, including obtaining a copy of the
5608 individual's criminal history report under Subsection (9)(a) shall be set in accordance with
5609 Section 63J-1-504.

5610 (c) (i) The commissioner shall establish procedures for an individual to challenge the
5611 completeness and accuracy of criminal history record information contained in the division's
5612 computerized criminal history files regarding that individual.

5613 (ii) These procedures shall include provisions for amending any information found to
5614 be inaccurate or incomplete.

5615 (10) The private security agencies as provided in Subsection (2)(g):

5616 (a) shall be charged for access; and

5617 (b) shall be registered with the division according to rules made by the division under
5618 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5619 (11) Before providing information requested under this section, the division shall give
5620 priority to a criminal justice agency's needs.

5621 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,
5622 use, disclose, or disseminate a record created, maintained, or to which access is granted by the
5623 division or any information contained in a record created, maintained, or to which access is
5624 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or
5625 policy of a governmental entity.

5626 (b) A person who discovers or becomes aware of any unauthorized use of records
5627 created or maintained, or to which access is granted by the division shall inform the
5628 commissioner and the director of the bureau of the unauthorized use.

5629 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in

5630 Subsection (2) may request that the division register fingerprints taken for the purpose of
5631 conducting current and future criminal background checks under this section with:

5632 (i) the WIN Database rap back system, or any successor system;

5633 (ii) the FBI Rap Back System; or

5634 (iii) a system maintained by the division.

5635 (b) A qualifying entity or an entity described in Subsection (2) may only make a
5636 request under Subsection (13)(a) if the entity:

5637 (i) has the authority through state or federal statute or federal executive order;

5638 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

5639 and

5640 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives
5641 notifications for individuals with whom the entity maintains an authorizing relationship.

5642 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to
5643 be retained in the FBI Rap Back System for the purpose of being searched by future
5644 submissions to the FBI Rap Back System, including latent fingerprint searches.

5645 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for
5646 the applicant fingerprint card, name check, and to register fingerprints under Subsection
5647 (13)(a).

5648 (b) Funds generated under this Subsection (15) shall be deposited into the General
5649 Fund as a dedicated credit by the department to cover the costs incurred in providing the
5650 information.

5651 (c) The division may collect fees charged by an outside agency for services required
5652 under this section.

5653 (16) For the purposes of conducting a criminal background check authorized under
5654 Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with
5655 Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall
5656 have direct access to criminal background information maintained under Chapter 10, Part 2,
5657 Bureau of Criminal Identification.

5658 (17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap
5659 Back System subscription with a qualifying entity, the division may, upon request from another
5660 qualifying entity, clone the subscription to the requesting qualifying entity if:

5661 (i) the requesting qualifying entity requests the clone:

5662 (A) for the purpose of evaluating whether the individual should be permitted to obtain
5663 or retain a license for, or serve as an employee or volunteer in a position in which the
5664 individual is responsible for, the care, treatment, training, instruction, supervision, or recreation
5665 of children, the elderly, or individuals with disabilities; or

5666 (B) for the same purpose as the purpose for which the original qualifying entity
5667 requested the criminal history record information;

5668 (ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal
5669 history record information for the individual who is the subject of the request;

5670 (iii) before requesting the clone, the requesting qualifying entity obtains a signed
5671 waiver, containing the information described in Subsection (4)(b), from the individual who is
5672 the subject of the request;

5673 (iv) the requesting qualifying entity or the individual pays any applicable fees set by the
5674 division in accordance with Section 63J-1-504; and

5675 (v) the requesting qualifying entity complies with the requirements described in
5676 Subsection (4)(g).

5677 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5678 division may make rules regulating the process described in this Subsection (17).

5679 (18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation
5680 approves the use of the FBI Rap Back System for the purpose described in Subsection
5681 (17)(a)(i) under the conditions described in Subsection (17).

5682 (b) Subsection (17) does not apply to the extent that implementation of the provisions
5683 of Subsection (17) are contrary to the requirements of the Child Care and Development Block
5684 Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

5685 (19) (a) Information received by a qualifying entity under Subsection (17) may only be

5686 disclosed and used as described in Subsection (4)(e).

5687 (b) A person who disseminates or uses information received under Subsection (17) for
5688 a purpose other than those described in Subsection (4)(e) is subject to the penalties described in
5689 this section and is also subject to civil liability.

5690 (c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or
5691 any other claim in connection with the contents of information disseminated under Subsection
5692 (17).

5693 Section 78. Section **53-10-202** is amended to read:

5694 **53-10-202. Criminal identification -- Duties of bureau.**

5695 The bureau shall:

5696 (1) procure and file information relating to identification and activities of persons who:

5697 (a) are fugitives from justice;

5698 (b) are wanted or missing;

5699 (c) have been arrested for or convicted of a crime under the laws of any state or nation;

5700 and

5701 (d) are believed to be involved in racketeering, organized crime, or a dangerous
5702 offense;

5703 (2) establish a statewide uniform crime reporting system that shall include:

5704 (a) statistics concerning general categories of criminal activities;

5705 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
5706 religion, ancestry, national origin, ethnicity, or other categories that the division finds
5707 appropriate;

5708 (c) statistics concerning the use of force by law enforcement officers in accordance
5709 with the Federal Bureau of Investigation's standards; and

5710 (d) other statistics required by the Federal Bureau of Investigation;

5711 (3) make a complete and systematic record and index of the information obtained
5712 under this part;

5713 (4) subject to the restrictions in this part, establish policy concerning the use and

- 5714 dissemination of data obtained under this part;
- 5715 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
5716 of crime in Utah;
- 5717 (6) establish a statewide central register for the identification and location of missing
5718 persons, which may include:
- 5719 (a) identifying data including fingerprints of each missing person;
- 5720 (b) identifying data of any missing person who is reported as missing to a law
5721 enforcement agency having jurisdiction;
- 5722 (c) dates and circumstances of any persons requesting or receiving information from
5723 the register; and
- 5724 (d) any other information, including blood types and photographs found necessary in
5725 furthering the purposes of this part;
- 5726 (7) publish a quarterly directory of missing persons for distribution to persons or
5727 entities likely to be instrumental in the identification and location of missing persons;
- 5728 (8) list the name of every missing person with the appropriate nationally maintained
5729 missing persons lists;
- 5730 (9) establish and operate a 24-hour communication network for reports of missing
5731 persons and reports of sightings of missing persons;
- 5732 (10) coordinate with the National Center for Missing and Exploited Children and other
5733 agencies to facilitate the identification and location of missing persons and the identification of
5734 unidentified persons and bodies;
- 5735 (11) receive information regarding missing persons as provided in Sections [~~26-2-27~~]
5736 [26B-8-130](#) and [53G-6-602](#), and stolen vehicles, vessels, and outboard motors, as provided in
5737 Section [41-1a-1401](#);
- 5738 (12) adopt systems of identification, including the fingerprint system, to be used by the
5739 division to facilitate law enforcement;
- 5740 (13) assign a distinguishing number or mark of identification to any pistol or revolver,
5741 as provided in Section [76-10-520](#);

5742 (14) check certain criminal records databases for information regarding motor vehicle
5743 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,
5744 and inform the Motor Vehicle Enforcement Division when new entries are made for certain
5745 criminal offenses for motor vehicle salespersons in accordance with the requirements of
5746 Section 41-3-205.5;

5747 (15) check certain criminal records databases for information regarding driving
5748 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving
5749 privilege applicants and cardholders and inform the federal Immigration and Customs
5750 Enforcement Agency of the United States Department of Homeland Security when new entries
5751 are made in accordance with the requirements of Section 53-3-205.5;

5752 (16) review and approve or disapprove applications for license renewal that meet the
5753 requirements for renewal; and

5754 (17) forward to the board those applications for renewal under Subsection (16) that do
5755 not meet the requirements for renewal.

5756 Section 79. Section 53-10-208.1 is amended to read:

5757 **53-10-208.1. Magistrates and court clerks to supply information.**

5758 (1) Every magistrate or clerk of a court responsible for court records in this state shall,
5759 within 30 days of the disposition and on forms and in the manner provided by the division,
5760 furnish the division with information pertaining to:

5761 (a) all dispositions of criminal matters, including:

5762 (i) guilty pleas;

5763 (ii) convictions;

5764 (iii) dismissals;

5765 (iv) acquittals;

5766 (v) pleas held in abeyance;

5767 (vi) judgments of not guilty by reason of insanity;

5768 (vii) judgments of guilty with a mental illness;

5769 (viii) finding of mental incompetence to stand trial; and

- 5770 (ix) probations granted;
- 5771 (b) orders of civil commitment under the terms of Section [~~62A-15-631~~] 26B-5-332;
- 5772 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 5773 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,
- 5774 within one day of the action and in a manner provided by the division; and
- 5775 (d) protective orders issued after notice and hearing, pursuant to:
- 5776 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
- 5777 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
- 5778 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
- 5779 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
- 5780 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 5781 (2) The court in the county where a determination or finding was made shall transmit a
- 5782 record of the determination or finding to the bureau no later than 48 hours after the
- 5783 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
- 5784 (a) adjudicated as a mental defective; or
- 5785 (b) involuntarily committed to a mental institution in accordance with Subsection
- 5786 [~~62A-15-631(16)~~] 26B-5-332(16).
- 5787 (3) The record described in Subsection (2) shall include:
- 5788 (a) an agency record identifier;
- 5789 (b) the individual's name, sex, race, and date of birth; and
- 5790 (c) the individual's social security number, government issued driver license or
- 5791 identification number, alien registration number, government passport number, state
- 5792 identification number, or FBI number.
- 5793 Section 80. Section **53-10-403** is amended to read:
- 5794 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**
- 5795 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to
- 5796 any person who:
- 5797 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

5798 (2)(a) or (b) on or after July 1, 2002;

5799 (b) has pled guilty to or has been convicted by any other state or by the United States
5800 government of an offense which if committed in this state would be punishable as one or more
5801 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

5802 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
5803 offense under Subsection (2)(c);

5804 (d) has been booked:

5805 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
5806 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

5807 (ii) on or after January 1, 2015, for any felony offense; or

5808 (e) is a minor under Subsection (3).

5809 (2) Offenses referred to in Subsection (1) are:

5810 (a) any felony or class A misdemeanor under the Utah Code;

5811 (b) any offense under Subsection (2)(a):

5812 (i) for which the court enters a judgment for conviction to a lower degree of offense
5813 under Section [76-3-402](#); or

5814 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
5815 defined in Section [77-2a-1](#); or

5816 (c) (i) any violent felony as defined in Section [53-10-403.5](#);

5817 (ii) sale or use of body parts, Section [~~26-28-116~~] [26B-8-315](#);

5818 (iii) failure to stop at an accident that resulted in death, Section [41-6a-401.5](#);

5819 (iv) operating a motor vehicle with any amount of a controlled substance in an
5820 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
5821 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

5822 (v) a felony violation of enticing a minor over the Internet, Section [76-4-401](#);

5823 (vi) negligently operating a vehicle resulting in injury, Subsection [76-5-102.1\(2\)\(b\)](#);

5824 (vii) a felony violation of propelling a substance or object at a correctional officer, a
5825 peace officer, or an employee or a volunteer, including health care providers, Section

- 5826 76-5-102.6;
- 5827 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);
- 5828 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
- 5829 smuggling, Section 76-5-310.1;
- 5830 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 5831 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 5832 (xii) unlawful sexual contact with a 16- or 17-year old, Section 76-5-401.2;
- 5833 (xiii) sale of a child, Section 76-7-203;
- 5834 (xiv) aggravated escape, Subsection 76-8-309(2);
- 5835 (xv) a felony violation of assault on an elected official, Section 76-8-315;
- 5836 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of
- 5837 Pardons and Parole, Section 76-8-316;
- 5838 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 5839 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 5840 (xix) a felony violation of sexual battery, Section 76-9-702.1;
- 5841 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 5842 (xxi) a felony violation of abuse or desecration of a dead human body, Section
- 5843 76-9-704;
- 5844 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section
- 5845 76-10-402;
- 5846 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
- 5847 Section 76-10-403;
- 5848 (xxiv) possession of a concealed firearm in the commission of a violent felony,
- 5849 Subsection 76-10-504(4);
- 5850 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,
- 5851 Subsection 76-10-1504(3);
- 5852 (xxvi) commercial obstruction, Subsection 76-10-2402(2);
- 5853 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section

5854 77-41-107;

5855 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

5856 (xxix) violation of condition for release after arrest under Section 78B-7-802.

5857 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated
5858 by the juvenile court due to the commission of any offense described in Subsection (2), and
5859 who:

5860 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
5861 court on or after July 1, 2002; or

5862 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or
5863 after July 1, 2002₂ for an offense under Subsection (2).

5864 Section 81. Section **53-10-405** is amended to read:

5865 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**
5866 **Blood sample to be drawn by professional.**

5867 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection
5868 53-10-404(5).

5869 (b) The sample shall be obtained in a professionally acceptable manner, using
5870 appropriate procedures to ensure the sample is adequate for DNA analysis.

5871 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the
5872 following:

5873 (i) a physician;

5874 (ii) a physician assistant;

5875 (iii) a registered nurse;

5876 (iv) a licensed practical nurse;

5877 (v) a paramedic;

5878 (vi) as provided in Subsection (2)(b), emergency medical service personnel other than
5879 paramedics; or

5880 (vii) a person with a valid permit issued by the Department of Health and Human
5881 Services under Section [~~26-1-30~~] 26B-1-202.

5882 (b) The Department of Health and Human Services may designate by rule, in
5883 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency
5884 medical service personnel, as defined in Section [~~26-8a-102~~] 26B-4-101, are authorized to
5885 draw blood under Subsection (2)(a)(vi), based on the type of license under Section [~~26-8a-302~~]
5886 26B-4-116.

5887 (c) A person authorized by this section to draw a blood sample may not be held civilly
5888 liable for drawing a sample in a medically acceptable manner.

5889 (3) A test result or opinion based upon a test result regarding a DNA specimen may not
5890 be rendered inadmissible as evidence solely because of deviations from procedures adopted by
5891 the department that do not affect the reliability of the opinion or test result.

5892 (4) A DNA specimen is not required to be obtained if:

5893 (a) the court or the responsible agency confirms with the department that the
5894 department has previously received an adequate DNA specimen obtained from the person in
5895 accordance with this section; or

5896 (b) the court determines that obtaining a DNA specimen would create a substantial and
5897 unreasonable risk to the health of the person.

5898 Section 82. Section **53-10-802** is amended to read:

5899 **53-10-802. Request for testing -- Mandatory testing -- Liability for costs.**

5900 (1) (a) An alleged victim of a sexual offense, the parent or guardian of an alleged
5901 victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined
5902 in Section [~~62A-3-301~~] 26B-6-201 may request that the alleged sexual offender against whom
5903 the indictment, information, or petition is filed or regarding whom the arrest has been made be
5904 tested to determine whether the alleged offender is an HIV positive individual.

5905 (b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender
5906 be tested, the alleged offender shall submit to being tested not later than 48 hours after an
5907 information or indictment is filed or an order requiring a test is signed.

5908 (c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be
5909 tested more than 48 hours after an information or indictment is filed, the offender shall submit

5910 to being tested not later than 24 hours after the request is made.

5911 (d) As soon as practicable, the results of the test conducted pursuant to this section
5912 shall be provided to:

5913 (i) the alleged victim who requested the test;

5914 (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;

5915 (iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as
5916 defined in Section [~~62A-3-301~~] [26B-6-201](#);

5917 (iv) the alleged offender; and

5918 (v) the parent or legal guardian of the alleged offender, if the offender is a minor.

5919 (e) If follow-up testing is medically indicated, the results of follow-up testing of the
5920 alleged offender shall be sent as soon as practicable to:

5921 (i) the alleged victim;

5922 (ii) the parent or guardian of the alleged victim if the alleged victim is a minor;

5923 (iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as
5924 defined in Section [~~62A-3-301~~] [26B-6-201](#);

5925 (iv) the alleged offender; and

5926 (v) the parent or legal guardian of the alleged offender, if the alleged offender is a
5927 minor.

5928 (2) If the mandatory test has not been conducted, and the alleged offender or alleged
5929 minor offender is already confined in a county jail, state prison, or a secure youth corrections
5930 facility, the alleged offender shall be tested while in confinement.

5931 (3) (a) The secure youth corrections facility or county jail shall cause the blood
5932 specimen of the alleged offender under Subsection (1) confined in that facility to be taken and
5933 shall forward the specimen to:

5934 (i) the Department of Health and Human Services; or

5935 (ii) an alternate testing facility, as determined by the secure youth corrections facility or
5936 county jail, if testing under Subsection (3)(a)(i) is unavailable.

5937 (b) The entity that receives the specimen under Subsection (3)(a) shall provide the

5938 result to the prosecutor as soon as practicable for release to the parties as described in
5939 Subsection (1)(d) or (e).

5940 (4) The Department of Corrections shall cause the blood specimen of the alleged
5941 offender defined in Subsection (1) confined in any state prison to be taken and shall forward
5942 the specimen to the Department of Health and Human Services as provided in Section
5943 [64-13-36](#).

5944 (5) The alleged offender who is tested is responsible upon conviction for the costs of
5945 testing, unless the alleged offender is indigent. The costs will then be paid by the Department
5946 of Health and Human Services from the General Fund.

5947 Section 83. Section **53-10-804** is amended to read:

5948 **53-10-804. Victim notification and counseling.**

5949 (1) (a) The Department of Health of Human Services shall provide the victim who
5950 requests testing of the alleged sexual offender's human immunodeficiency virus status
5951 counseling regarding HIV disease and referral for appropriate health care and support services.

5952 (b) If the local health department in whose jurisdiction the victim resides and the
5953 Department of Health and Human Services agree, the Department of Health and Human
5954 Services shall forward a report of the alleged sexual offender's human immunodeficiency virus
5955 status to the local health department and the local health department shall provide the victim
5956 who requests the test with the test results, counseling regarding HIV disease, and referral for
5957 appropriate health care and support services.

5958 (2) Notwithstanding the provisions of Section [~~26-6-27~~] [26B-7-217](#), the Department of
5959 Health and Human Services and a local health department acting pursuant to an agreement
5960 made under Subsection (1) may disclose to the victim the results of the alleged sexual
5961 offender's human immunodeficiency virus status as provided in this section.

5962 Section 84. Section **53-13-105** is amended to read:

5963 **53-13-105. Special function officer.**

5964 (1) (a) "Special function officer" means a sworn and certified peace officer performing
5965 specialized investigations, service of legal process, security functions, or specialized ordinance,

5966 rule, or regulatory functions.

5967 (b) "Special function officer" includes:

5968 (i) state military police;

5969 (ii) constables;

5970 (iii) port-of-entry agents as defined in Section [72-1-102](#);

5971 (iv) authorized employees or agents of the Department of Transportation assigned to
5972 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

5973 (v) school district security officers;

5974 (vi) Utah State Hospital security officers designated pursuant to Section [~~62A-15-603~~]
5975 [26B-5-303](#);

5976 (vii) Utah State Developmental Center security officers designated pursuant to

5977 [~~Subsection 62A-5-206(8)~~] [Section 26B-6-506](#);

5978 (viii) fire arson investigators for any political subdivision of the state;

5979 (ix) ordinance enforcement officers employed by municipalities or counties may be
5980 special function officers;

5981 (x) employees of the Department of Natural Resources who have been designated to
5982 conduct supplemental enforcement functions as a collateral duty;

5983 (xi) railroad special agents deputized by a county sheriff under Section [17-30-2](#) or
5984 [17-30a-104](#), or appointed pursuant to Section [56-1-21.5](#);

5985 (xii) auxiliary officers, as described by Section [53-13-112](#);

5986 (xiii) special agents, process servers, and investigators employed by city attorneys;

5987 (xiv) criminal tax investigators designated under Section [59-1-206](#); and

5988 (xv) all other persons designated by statute as having special function officer authority
5989 or limited peace officer authority.

5990 (2) (a) A special function officer may exercise that spectrum of peace officer authority
5991 that has been designated by statute to the employing agency, and only while on duty, and not
5992 for the purpose of general law enforcement.

5993 (b) If the special function officer is charged with security functions respecting facilities

5994 or property, the powers may be exercised only in connection with acts occurring on the
5995 property where the officer is employed or when required for the protection of the employer's
5996 interest, property, or employees.

5997 (c) A special function officer may carry firearms only while on duty, and only if
5998 authorized and under conditions specified by the officer's employer or chief administrator.

5999 (3) (a) A special function officer may not exercise the authority of a special function
6000 officer until:

6001 (i) the officer has satisfactorily completed an approved basic training program for
6002 special function officers as provided under Subsection (4); and

6003 (ii) the chief law enforcement officer or administrator has certified this fact to the
6004 director of the division.

6005 (b) City and county constables and their deputies shall certify their completion of
6006 training to the legislative governing body of the city or county they serve.

6007 (4) (a) The agency that the special function officer serves may establish and maintain a
6008 basic special function course and in-service training programs as approved by the director of
6009 the division with the advice and consent of the council.

6010 (b) The in-service training shall consist of no fewer than 40 hours per year and may be
6011 conducted by the agency's own staff or by other agencies.

6012 (5) (a) An individual shall be 19 years old or older before being certified or employed
6013 as a special function officer.

6014 (b) A special function officer who is under 21 years old may only work as a
6015 correctional officer in accordance with Section 53-13-104.

6016 Section 85. Section 53-13-110 is amended to read:

6017 **53-13-110. Duties to investigate specified instances of abuse or neglect.**

6018 In accordance with the requirements of Section 80-2-703, law enforcement officers
6019 shall investigate alleged instances of abuse or neglect of a child that occur while the child is in
6020 the custody of the Division of Child and Family Services, within the Department of Health and
6021 Human Services.

6022 Section 86. Section **53-21-101** is amended to read:

6023 **53-21-101. Definitions.**

6024 As used in this chapter:

6025 (1) "Crime scene investigator technician" means an individual employed by a law
6026 enforcement agency to collect and analyze evidence from crime scenes and crime-related
6027 incidents.

6028 (2) "Department" means the Department of Public Safety.

6029 (3) "First responder" means:

6030 (a) a law enforcement officer, as defined in Section [53-13-103](#);

6031 (b) an emergency medical technician, as defined in Section [~~26-8c-102~~] [26B-4-137](#);

6032 (c) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~]
6033 [26B-4-137](#);

6034 (d) a paramedic, as defined in Section [~~26-8c-102~~] [26B-4-137](#);

6035 (e) a firefighter, as defined in Section [34A-3-113](#);

6036 (f) a dispatcher, as defined in Section [53-6-102](#);

6037 (g) a correctional officer, as defined in Section [53-13-104](#);

6038 (h) a special function officer, as defined in Section [53-13-105](#), employed by a local
6039 sheriff;

6040 (i) a search and rescue worker under the supervision of a local sheriff;

6041 (j) a credentialed criminal justice system victim advocate as defined in Section
6042 [77-38-403](#) who responds to incidents with a law enforcement officer;

6043 (k) a crime scene investigator technician; or

6044 (l) a wildland firefighter.

6045 (4) "First responder agency" means a local district, municipality, interlocal entity, or
6046 other political subdivision that employs a first responder to provide fire protection, paramedic,
6047 law enforcement, or emergency services.

6048 (5) "Mental health resources" means:

6049 (a) an assessment to determine appropriate mental health treatment that is performed

6050 by a mental health therapist;

6051 (b) outpatient mental health treatment provided by a mental health therapist; or

6052 (c) peer support services provided by a peer support specialist who is qualified to
6053 provide peer support services under Subsection [~~62A-15-103(2)(h)~~] [26B-5-102\(2\)\(h\)](#).

6054 (6) "Mental health therapist" means the same as that term is defined in Section
6055 [58-60-102](#).

6056 (7) "Plan" means a plan to implement or expand a program that provides mental health
6057 resources to first responders for which the division awards a grant under this chapter.

6058 Section 87. Section **53B-1-111** is amended to read:

6059 **53B-1-111. Organ donation notification.**

6060 (1) As used in this section:

6061 (a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] [26B-4-137](#).

6062 (b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~]
6063 [26B-4-137](#).

6064 (c) "Institution of higher education" means an institution as described in Section
6065 [53B-3-102](#).

6066 (2) (a) An institution of higher education shall distribute, twice each academic year to
6067 each enrolled student:

6068 (i) an electronic message notifying each student of the option to register as a donor by
6069 selecting the Internet link described in Subsection (2)(a)(ii); and

6070 (ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to
6071 a website for a donor registry established under Section [~~26-28-120~~] [26B-8-319](#).

6072 (b) An institution of higher education may also provide to students information on
6073 donor registry by other electronic, printed, or in-person means.

6074 Section 88. Section **53B-17-301** is amended to read:

6075 **53B-17-301. Unclaimed dead bodies -- Notice to school of medicine at the**
6076 **University of Utah -- Preservation of dead bodies.**

6077 (1) A county shall, within 24 hours after assuming custody of an unclaimed body for

6078 which the county is required to provide burial under Section [~~26-4-25~~] [26B-8-225](#), provide
6079 notice of the county's custody of the body to the dean of the school of medicine at the
6080 University of Utah.

6081 (2) The notice described in Subsection (1) shall specify the body's probable cause of
6082 death.

6083 (3) Subject to Section [~~26-4-25~~] [26B-8-225](#), the county shall, at the request of the dean
6084 of the school of medicine at the University of Utah, forward the body to the university, at the
6085 university's expense, within 24 hours of receiving the dean's request.

6086 (4) The school of medicine at the University of Utah shall, for a body it receives under
6087 Subsection (3):

6088 (a) properly embalm and preserve the body for at least 60 days; and

6089 (b) upon request, release the body to a person with priority to control the disposition of
6090 the body under Section [58-9-602](#).

6091 Section 89. Section **53B-17-903** is amended to read:

6092 **53B-17-903. Education in pain treatment.**

6093 The University of Utah School of Medicine shall ensure that any licensed physicians
6094 who oversee fellowship training to specialize in pain treatment are qualified medical providers,
6095 as that term is defined in Section [~~26-61a-102~~] [26B-4-201](#).

6096 Section 90. Section **53B-17-1203** is amended to read:

6097 **53B-17-1203. SafeUT and School Safety Commission established -- Members.**

6098 (1) There is created the SafeUT and School Safety Commission composed of the
6099 following members:

6100 (a) one member who represents the Office of the Attorney General, appointed by the
6101 attorney general;

6102 (b) one member who represents the Utah public education system, appointed by the
6103 State Board of Education;

6104 (c) one member who represents the Utah system of higher education, appointed by the
6105 board;

6106 (d) one member who represents the [~~Utah~~] Department of Health and Human Services,
6107 appointed by the executive director of the Department of Health and Human Services;

6108 (e) one member of the House of Representatives, appointed by the speaker of the
6109 House of Representatives;

6110 (f) one member of the Senate, appointed by the president of the Senate;

6111 (g) one member who represents the University Neuropsychiatric Institute, appointed by
6112 the chair of the commission;

6113 (h) one member who represents law enforcement who has extensive experience in
6114 emergency response, appointed by the chair of the commission;

6115 (i) one member who represents the [~~Utah~~] Department of Health and Human Services
6116 who has experience in youth services or treatment services, appointed by the executive director
6117 of the Department of Health and Human Services; and

6118 (j) two members of the public, appointed by the chair of the commission.

6119 (2) (a) Except as provided in Subsection (2)(b), members of the commission shall be
6120 appointed to four-year terms.

6121 (b) The length of the terms of the members shall be staggered so that approximately
6122 half of the committee is appointed every two years.

6123 (c) When a vacancy occurs in the membership of the commission, the replacement
6124 shall be appointed for the unexpired term.

6125 (3) (a) The attorney general's designee shall serve as chair of the commission.

6126 (b) The chair shall set the agenda for commission meetings.

6127 (4) Attendance of a simple majority of the members constitutes a quorum for the
6128 transaction of official commission business.

6129 (5) Formal action by the commission requires a majority vote of a quorum.

6130 (6) (a) Except as provided in Subsection (6)(b), a member may not receive
6131 compensation, benefits, per diem, or travel expenses for the member's service.

6132 (b) Compensation and expenses of a member who is a legislator are governed by
6133 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

6134 (7) The Office of the Attorney General shall provide staff support to the commission.

6135 Section 91. Section **53B-26-202** is amended to read:

6136 **53B-26-202. Nursing initiative -- Reporting requirements -- Proposals -- Funding.**

6137 (1) Every even-numbered year, the Utah Health Workforce Information Center created
6138 in Section [~~26-69-301~~] [26B-4-705](#) shall:

6139 (a) project the demand, by license classification, for individuals to enter a nursing
6140 profession in each region;

6141 (b) receive input from at least one medical association in developing the projections
6142 described in Subsection (1)(a); and

6143 (c) report the projections described in Subsection (1)(a) to:

6144 (i) the board; and

6145 (ii) the Higher Education Appropriations Subcommittee.

6146 (2) To receive funding under this section, on or before January 5, an eligible program
6147 shall submit to the Higher Education Appropriations Subcommittee, through the budget
6148 process for the board, as applicable, a proposal that describes:

6149 (a) a program of instruction offered by the eligible program that is responsive to a
6150 projection described in Subsection (1)(a);

6151 (b) the following information about the eligible program:

6152 (i) expected student enrollment;

6153 (ii) attainment rates;

6154 (iii) job placement rates; and

6155 (iv) passage rates for exams required for licensure for a nursing profession;

6156 (c) the instructional cost per full-time equivalent student enrolled in the eligible
6157 program;

6158 (d) financial or in-kind contributions to the eligible program from:

6159 (i) the health care industry; or

6160 (ii) an institution; and

6161 (e) a funding request, including justification for the request.

- 6162 (3) The Higher Education Appropriations Subcommittee shall:
6163 (a) review a proposal submitted under this section using the following criteria:
6164 (i) the proposal:
6165 (A) contains the elements described in Subsection (2);
6166 (B) expands the capacity to meet the projected demand described in Subsection (1)(a);
6167 and
6168 (C) has health care industry or institution support; and
6169 (ii) the program of instruction described in the proposal:
6170 (A) is cost effective;
6171 (B) has support from the health care industry or an institution; and
6172 (C) has high passage rates on exams required for licensure for a nursing profession;
6173 (b) determine the extent to which to fund the proposal; and
6174 (c) make an appropriation recommendation to the Legislature on the amount of money
6175 determined under Subsection (3)(b) to the eligible program's institution.
6176 (4) An institution that receives funding under this section shall use the funding to
6177 increase the number of students enrolled in the eligible program for which the institution
6178 receives funding.
6179 (5) On or before November 1 of each year, the board shall report to the Higher
6180 Education Appropriations Subcommittee on the elements described in Subsection (2) for each
6181 eligible program funded under this section.
6182 Section 92. Section **53B-28-202** is amended to read:
6183 **53B-28-202. Confidentiality of information -- Disclosure of confidential**
6184 **communication.**
6185 (1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2,
6186 Government Records Access and Management Act, a person may not disclose a confidential
6187 communication.
6188 (2) A person may disclose a confidential communication if:
6189 (a) the victim gives written and informed consent to the disclosure;

6190 (b) the person has an obligation to disclose the confidential communication under
6191 Section [~~62A-3-305~~] 26B-6-205, 80-2-602, or 78B-3-502;

6192 (c) the disclosure is required by federal law; or

6193 (d) a court of competent jurisdiction orders the disclosure.

6194 Section 93. Section **53B-28-303** is amended to read:

6195 **53B-28-303. Institution engagement with a law enforcement agency -- Articulate**
6196 **and significant threat -- Notification to victim.**

6197 (1) (a) An institution shall keep confidential from a law enforcement agency a covered
6198 allegation reported to the institution by the victim of the covered allegation.

6199 (b) Notwithstanding Subsection (1)(a), an institution may engage with a law
6200 enforcement agency in response to a covered allegation described in Subsection (1)(a):

6201 (i) if the victim consents to the institution engaging with the law enforcement agency;

6202 or

6203 (ii) in accordance with Subsection (2).

6204 (2) (a) Subject to Subsection (3), an institution that receives a report described in
6205 Subsection (1)(a) may engage with a law enforcement agency in response to the covered
6206 allegation if the institution determines, in accordance with Subsection (2)(b), that the
6207 information in the covered allegation creates an articulable and significant threat to individual
6208 or campus safety at the institution.

6209 (b) To determine whether the information in a covered allegation creates an articulable
6210 and significant threat described in Subsection (2)(a), the institution shall consider, if the
6211 information is known to the institution, at least the following factors:

6212 (i) whether the circumstances of the covered allegation suggest an increased risk that
6213 the alleged perpetrator will commit an additional act of sexual violence or other violence;

6214 (ii) whether the alleged perpetrator has an arrest history that indicates a history of
6215 sexual violence or other violence;

6216 (iii) whether records from the alleged perpetrator's previous postsecondary institution
6217 indicate that the alleged perpetrator has a history of sexual violence or other violence;

- 6218 (iv) whether the alleged perpetrator is alleged to have threatened further sexual
- 6219 violence or other violence against the victim or another individual;
- 6220 (v) whether the act of sexual violence was committed by more than one alleged
- 6221 perpetrator;
- 6222 (vi) whether the circumstances of the covered allegation suggest there is an increased
- 6223 risk of future acts of sexual violence under similar circumstances;
- 6224 (vii) whether the act of sexual violence was perpetrated with a weapon; and
- 6225 (viii) the age of the victim.
- 6226 (3) An institution shall:
- 6227 (a) before engaging with a law enforcement agency in accordance with Subsection (2),
- 6228 provide notice to the victim of the following:
- 6229 (i) the institution's intent to engage with a law enforcement agency;
- 6230 (ii) the law enforcement agency with which the institution intends to engage; and
- 6231 (iii) the reason the institution made the determination described in Subsection (2); and
- 6232 (b) in engaging with a law enforcement agency under Subsection (2):
- 6233 (i) maintain the confidentiality of the victim; and
- 6234 (ii) disclose the minimum information required to appropriately address the threat
- 6235 described in Subsection (2)(a).
- 6236 (4) Nothing in this section supersedes:
- 6237 (a) an obligation described in Section [~~62A-3-305~~] [26B-6-205](#), [80-2-602](#), or
- 6238 [78B-3-502](#); or
- 6239 (b) a requirement described in Part 2, Confidential Communications for Institutional
- 6240 Advocacy Services Act.
- 6241 Section 94. Section **53E-1-201** is amended to read:
- 6242 **53E-1-201. Reports to and action required of the Education Interim Committee.**
- 6243 (1) In accordance with applicable provisions and Section [68-3-14](#), the following
- 6244 recurring reports are due to the Education Interim Committee:
- 6245 (a) the report described in Section [9-22-109](#) by the STEM Action Center Board,

6246 including the information described in Section 9-22-113 on the status of the computer science
6247 initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

6248 (b) the prioritized list of data research described in Section 53B-33-302 and the report
6249 on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

6250 (c) the report described in Section 35A-15-303 by the State Board of Education on
6251 preschool programs;

6252 (d) the report described in Section 53B-1-402 by the Utah Board of Higher Education
6253 on career and technical education issues and addressing workforce needs;

6254 (e) the annual report of the Utah Board of Higher Education described in Section
6255 53B-1-402;

6256 (f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education
6257 regarding activities related to campus safety;

6258 (g) the State Superintendent's Annual Report by the state board described in Section
6259 53E-1-203;

6260 (h) the annual report described in Section 53E-2-202 by the state board on the strategic
6261 plan to improve student outcomes;

6262 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
6263 the Deaf and the Blind;

6264 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
6265 Actionable, and Dynamic Education director on research and other activities;

6266 (k) the report described in Section 53F-2-522 regarding mental health screening
6267 programs;

6268 (l) the report described in Section 53F-4-203 by the state board and the independent
6269 evaluator on an evaluation of early interactive reading software;

6270 (m) the report described in Section 53F-4-407 by the state board on UPSTART;

6271 (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board
6272 related to grants for professional learning and grants for an elementary teacher preparation
6273 assessment;

6274 (o) upon request, the report described in Section 53F-5-219 by the state board on the
6275 Local Innovations Civics Education Pilot Program;

6276 (p) the report described in Section 53F-5-405 by the State Board of Education
6277 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
6278 for students who are low income;

6279 (q) the report described in Section 53B-35-202 regarding the Higher Education and
6280 Corrections Council;

6281 (r) the report described in Section 53G-7-221 by the State Board of Education
6282 regarding innovation plans; and

6283 (s) the annual report described in Section 63A-2-502 by the Educational Interpretation
6284 and Translation Service Procurement Advisory Council.

6285 (2) In accordance with applicable provisions and Section 68-3-14, the following
6286 occasional reports are due to the Education Interim Committee:

6287 (a) the report described in Section 35A-15-303 by the School Readiness Board by
6288 November 30, 2020, on benchmarks for certain preschool programs;

6289 (b) the report described in Section 53B-28-402 by the Utah Board of Higher Education
6290 on or before the Education Interim Committee's November 2021 meeting;

6291 (c) if required, the report described in Section 53E-4-309 by the state board explaining
6292 the reasons for changing the grade level specification for the administration of specific
6293 assessments;

6294 (d) if required, the report described in Section 53E-5-210 by the state board of an
6295 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

6296 (e) in 2022 and in 2023, on or before November 30, the report described in Subsection
6297 53E-10-309(7) related to the PRIME pilot program;

6298 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,
6299 Actionable, and Dynamic Education;

6300 (g) if required, the report described in Section 53F-2-513 by the state board evaluating
6301 the effects of salary bonuses on the recruitment and retention of effective teachers in high

6302 poverty schools;

6303 (h) the report described in Section 53F-5-210 by the state board on the Educational
6304 Improvement Opportunities Outside of the Regular School Day Grant Program;

6305 (i) upon request, a report described in Section 53G-7-222 by an LEA regarding
6306 expenditure of a percentage of state restricted funds to support an innovative education
6307 program;

6308 (j) the report described in Section 53G-7-503 by the state board regarding fees that
6309 LEAs charge during the 2020-2021 school year;

6310 (k) the reports described in Section 53G-11-304 by the state board regarding proposed
6311 rules and results related to educator exit surveys; and

6312 (l) the report described in Section [~~62A-15-117~~] 26B-5-113 by the [~~Division of~~
6313 ~~Substance Abuse~~] Office of Substance Use and Mental Health, the State Board of Education,
6314 and the Department of Health and Human Services regarding recommendations related to
6315 Medicaid reimbursement for school-based health services.

6316 Section 95. Section 53E-3-503 is amended to read:

6317 **53E-3-503. Education of individuals in custody of or receiving services from**
6318 **certain state agencies -- Establishment of coordinating council -- Advisory councils.**

6319 (1) (a) The state board is directly responsible for the education of all individuals who
6320 are:

6321 (i) (A) younger than 21 years old; or

6322 (B) eligible for special education services as described in Chapter 7, Part 2, Special
6323 Education Program; and

6324 (ii) (A) receiving services from the Department of Health and Human Services;

6325 (B) in the custody of an equivalent agency of a Native American tribe recognized by
6326 the United States Bureau of Indian Affairs and whose custodial parent resides within the state;

6327 or

6328 (C) being held in a juvenile detention facility.

6329 (b) The state board shall:

6330 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6331 Rulemaking Act, to provide for the distribution of funds for the education of individuals
6332 described in Subsection (1)(a); and

6333 (ii) expend funds appropriated for the education of youth in custody in the following
6334 order of priority:

6335 (A) for students in a facility described in Subsection (1)(a)(ii) who are not included in
6336 an LEA's average daily membership; and

6337 (B) for students in a facility described in Subsection (1)(a)(ii) who are included in an
6338 LEA's average daily membership and who may benefit from additional educational support
6339 services.

6340 (c) Subject to future budget constraints, the amount appropriated for the education of
6341 youth in custody under this section shall increase annually based on the following:

6342 (i) the percentage of enrollment growth of students in kindergarten through grade 12;
6343 and

6344 (ii) changes to the value of the weighted pupil unit as defined in Section [53F-4-301](#).

6345 (2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the
6346 primary purpose of obtaining access to education programs provided for youth in custody.

6347 (3) The state board shall, where feasible, contract with school districts or other
6348 appropriate agencies to provide educational, administrative, and supportive services, but the
6349 state board shall retain responsibility for the programs.

6350 (4) The Legislature shall establish and maintain separate education budget categories
6351 for youth in custody or who are under the jurisdiction of the following state agencies:

6352 (a) detention centers and the Divisions of Juvenile Justice and Youth Services and
6353 Child and Family Services;

6354 (b) the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health; and
6355 (c) the Division of Services for People with Disabilities.

6356 (5) (a) The Department of Health and Human Services and the state board shall appoint
6357 a coordinating council to plan, coordinate, and recommend budget, policy, and program

6358 guidelines for the education and treatment of persons in the custody of the Division of Juvenile
6359 Justice and Youth Services and the Division of Child and Family Services.

6360 (b) The Department of Health and Human Services and the state board may appoint
6361 similar councils for those in the custody of the [~~Division of Substance Abuse~~] Office of
6362 Substance Use and Mental Health or the Division of Services for People with Disabilities.

6363 (6) A school district contracting to provide services under Subsection (3) shall
6364 establish an advisory council to plan, coordinate, and review education and treatment programs
6365 for individuals held in custody in the district.

6366 Section 96. Section **53E-8-405** is amended to read:

6367 **53E-8-405. Collaboration with Department of Health and Human Services.**

6368 The Utah Schools for the Deaf and the Blind shall collaborate with the Department of
6369 Health and Human Services to provide services to children with disabilities who are younger
6370 than three years [~~of age~~] old in accordance with the Individuals with Disabilities Education
6371 Act, 20 U.S.C. Sec. 1400 et seq.

6372 Section 97. Section **53E-8-408** is amended to read:

6373 **53E-8-408. Educational services for an individual with a hearing loss.**

6374 (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide
6375 educational services to an individual:

6376 (a) who seeks to receive the educational services; and

6377 (b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the
6378 Deaf and the Blind in accordance with Section [~~26-10-6~~] [26B-4-319](#) or [~~26-10-13~~] [26B-4-323](#);
6379 or

6380 (ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

6381 (2) If the individual who will receive the services described in Subsection (1) is a
6382 minor, the Utah Schools for the Deaf and the Blind may not provide the services to the
6383 individual until after receiving permission from the individual's parent.

6384 Section 98. Section **53E-9-301** is amended to read:

6385 **53E-9-301. Definitions.**

- 6386 As used in this part:
- 6387 (1) "Adult student" means a student who:
- 6388 (a) is at least 18 years old;
- 6389 (b) is an emancipated student; or
- 6390 (c) qualifies under the McKinney-Vento Homeless Education Assistance
- 6391 Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- 6392 (2) "Aggregate data" means data that:
- 6393 (a) are totaled and reported at the group, cohort, school, school district, region, or state
- 6394 level with at least 10 individuals in the level;
- 6395 (b) do not reveal personally identifiable student data; and
- 6396 (c) are collected in accordance with state board rule.
- 6397 (3) (a) "Biometric identifier" means a:
- 6398 (i) retina or iris scan;
- 6399 (ii) fingerprint;
- 6400 (iii) human biological sample used for valid scientific testing or screening; or
- 6401 (iv) scan of hand or face geometry.
- 6402 (b) "Biometric identifier" does not include:
- 6403 (i) a writing sample;
- 6404 (ii) a written signature;
- 6405 (iii) a voiceprint;
- 6406 (iv) a photograph;
- 6407 (v) demographic data; or
- 6408 (vi) a physical description, such as height, weight, hair color, or eye color.
- 6409 (4) "Biometric information" means information, regardless of how the information is
- 6410 collected, converted, stored, or shared:
- 6411 (a) based on an individual's biometric identifier; and
- 6412 (b) used to identify the individual.
- 6413 (5) "Data breach" means an unauthorized release of or unauthorized access to

6414 personally identifiable student data that is maintained by an education entity.

6415 (6) "Data governance plan" means an education entity's comprehensive plan for
6416 managing education data that:

6417 (a) incorporates reasonable data industry best practices to maintain and protect student
6418 data and other education-related data;

6419 (b) describes the role, responsibility, and authority of an education entity data
6420 governance staff member;

6421 (c) provides for necessary technical assistance, training, support, and auditing;

6422 (d) describes the process for sharing student data between an education entity and
6423 another person;

6424 (e) describes the education entity's data expungement process, including how to
6425 respond to requests for expungement;

6426 (f) describes the data breach response process; and

6427 (g) is published annually and available on the education entity's website.

6428 (7) "Education entity" means:

6429 (a) the state board;

6430 (b) a local school board;

6431 (c) a charter school governing board;

6432 (d) a school district;

6433 (e) a charter school; or

6434 (f) the Utah Schools for the Deaf and the Blind.

6435 (8) "Expunge" means to seal or permanently delete data, as described in state board
6436 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
6437 under Section [53E-9-306](#).

6438 (9) "General audience application" means an Internet website, online service, online
6439 application, mobile application, or software program that:

6440 (a) is not specifically intended for use by an audience member that attends kindergarten
6441 or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from

6442 1 to 12; and

6443 (b) is not subject to a contract between an education entity and a third-party contractor.

6444 (10) "Local education agency" or "LEA" means:

6445 (a) a school district;

6446 (b) a charter school; or

6447 (c) the Utah Schools for the Deaf and the Blind.

6448 (11) "Metadata dictionary" means a record that:

6449 (a) defines and discloses all personally identifiable student data collected and shared by

6450 the education entity;

6451 (b) comprehensively lists all recipients with whom the education entity has shared

6452 personally identifiable student data, including:

6453 (i) the purpose for sharing the data with the recipient;

6454 (ii) the justification for sharing the data, including whether sharing the data was

6455 required by federal law, state law, or a local directive; and

6456 (iii) how sharing the data is permitted under federal or state law; and

6457 (c) without disclosing personally identifiable student data, is displayed on the

6458 education entity's website.

6459 (12) "Necessary student data" means data required by state statute or federal law to

6460 conduct the regular activities of an education entity, including:

6461 (a) name;

6462 (b) date of birth;

6463 (c) sex;

6464 (d) parent contact information;

6465 (e) custodial parent information;

6466 (f) contact information;

6467 (g) a student identification number;

6468 (h) local, state, and national assessment results or an exception from taking a local,

6469 state, or national assessment;

- 6470 (i) courses taken and completed, credits earned, and other transcript information;
- 6471 (j) course grades and grade point average;
- 6472 (k) grade level and expected graduation date or graduation cohort;
- 6473 (l) degree, diploma, credential attainment, and other school exit information;
- 6474 (m) attendance and mobility;
- 6475 (n) drop-out data;
- 6476 (o) immunization record or an exception from an immunization record;
- 6477 (p) race;
- 6478 (q) ethnicity;
- 6479 (r) tribal affiliation;
- 6480 (s) remediation efforts;
- 6481 (t) an exception from a vision screening required under Section [53G-9-404](#) or
- 6482 information collected from a vision screening described in Section [53G-9-404](#);
- 6483 (u) information related to the Utah Registry of Autism and Developmental Disabilities,
- 6484 described in Section [~~26-7-4~~] [26B-7-115](#);
- 6485 (v) student injury information;
- 6486 (w) a disciplinary record created and maintained as described in Section [53E-9-306](#);
- 6487 (x) juvenile delinquency records;
- 6488 (y) English language learner status; and
- 6489 (z) child find and special education evaluation data related to initiation of an IEP.
- 6490 (13) (a) "Optional student data" means student data that is not:
 - 6491 (i) necessary student data; or
 - 6492 (ii) student data that an education entity may not collect under Section [53E-9-305](#).
- 6493 (b) "Optional student data" includes:
 - 6494 (i) information that is:
 - 6495 (A) related to an IEP or needed to provide special needs services; and
 - 6496 (B) not necessary student data;
 - 6497 (ii) biometric information; and

6498 (iii) information that is not necessary student data and that is required for a student to
6499 participate in a federal or other program.

6500 (14) "Parent" means:

6501 (a) a student's parent;

6502 (b) a student's legal guardian; or

6503 (c) an individual who has written authorization from a student's parent or legal

6504 guardian to act as a parent or legal guardian on behalf of the student.

6505 (15) (a) "Personally identifiable student data" means student data that identifies or is
6506 used by the holder to identify a student.

6507 (b) "Personally identifiable student data" includes:

6508 (i) a student's first and last name;

6509 (ii) the first and last name of a student's family member;

6510 (iii) a student's or a student's family's home or physical address;

6511 (iv) a student's email address or other online contact information;

6512 (v) a student's telephone number;

6513 (vi) a student's social security number;

6514 (vii) a student's biometric identifier;

6515 (viii) a student's health or disability data;

6516 (ix) a student's education entity student identification number;

6517 (x) a student's social media user name and password or alias;

6518 (xi) if associated with personally identifiable student data, the student's persistent
6519 identifier, including:

6520 (A) a customer number held in a cookie; or

6521 (B) a processor serial number;

6522 (xii) a combination of a student's last name or photograph with other information that
6523 together permits a person to contact the student online;

6524 (xiii) information about a student or a student's family that a person collects online and
6525 combines with other personally identifiable student data to identify the student; and

6526 (xiv) information that, alone or in combination, is linked or linkable to a specific
6527 student that would allow a reasonable person in the school community, who does not have
6528 personal knowledge of the relevant circumstances, to identify the student with reasonable
6529 certainty.

6530 (16) "School official" means an employee or agent of an education entity, if the
6531 education entity has authorized the employee or agent to request or receive student data on
6532 behalf of the education entity.

6533 (17) (a) "Student data" means information about a student at the individual student
6534 level.

6535 (b) "Student data" does not include aggregate or de-identified data.

6536 (18) "Student data manager" means:

6537 (a) the state student data officer; or

6538 (b) an individual designated as a student data manager by an education entity under
6539 Section [53E-9-303](#), who fulfills the duties described in Section [53E-9-308](#).

6540 (19) (a) "Targeted advertising" means presenting advertisements to a student where the
6541 advertisement is selected based on information obtained or inferred over time from that
6542 student's online behavior, usage of applications, or student data.

6543 (b) "Targeted advertising" does not include advertising to a student:

6544 (i) at an online location based upon that student's current visit to that location; or

6545 (ii) in response to that student's request for information or feedback, without retention
6546 of that student's online activities or requests over time for the purpose of targeting subsequent
6547 ads.

6548 (20) "Third-party contractor" means a person who:

6549 (a) is not an education entity; and

6550 (b) pursuant to a contract with an education entity, collects or receives student data in
6551 order to provide a product or service, as described in the contract, if the product or service is
6552 not related to school photography, yearbooks, graduation announcements, or a similar product
6553 or service.

6554 (21) "Written consent" means written authorization to collect or share a student's
6555 student data, from:

- 6556 (a) the student's parent, if the student is not an adult student; or
- 6557 (b) the student, if the student is an adult student.

6558 Section 99. Section **53E-9-307** is amended to read:

6559 **53E-9-307. Securing and cataloguing student data.**

6560 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6561 state board shall make rules that:

6562 (1) using reasonable data industry best practices, prescribe the maintenance and
6563 protection of stored student data by:

- 6564 (a) an education entity;
- 6565 (b) the Utah Registry of Autism and Developmental Disabilities, described in Section
6566 ~~[26-7-4]~~ [26B-7-115](#), for student data obtained under Section [53E-9-308](#); and

6567 (c) a third-party contractor; and

6568 (2) state requirements for an education entity's metadata dictionary.

6569 Section 100. Section **53E-9-308** is amended to read:

6570 **53E-9-308. Sharing student data -- Prohibition -- Requirements for student data**
6571 **manager -- Authorized student data sharing.**

6572 (1) (a) Except as provided in Subsection (1)(b), an education entity, including a student
6573 data manager, may not share personally identifiable student data without written consent.

6574 (b) An education entity, including a student data manager, may share personally
6575 identifiable student data:

6576 (i) in accordance with the Family Education Rights and Privacy Act and related
6577 provisions under 20 U.S.C. Secs. 1232g and 1232h;

6578 (ii) as required by federal law; and

6579 (iii) as described in Subsections (3), (5), and (6).

6580 (2) A student data manager shall:

6581 (a) authorize and manage the sharing, outside of the student data manager's education

6582 entity, of personally identifiable student data for the education entity as described in this
6583 section;

6584 (b) act as the primary local point of contact for the state student data officer described
6585 in Section [53E-9-302](#); and

6586 (c) fulfill other responsibilities described in the data governance plan of the student
6587 data manager's education entity.

6588 (3) A student data manager may share a student's personally identifiable student data
6589 with a caseworker or representative of the Department of Health and Human Services if:

6590 (a) the Department of Health and Human Services is:

6591 (i) legally responsible for the care and protection of the student, including the
6592 responsibility to investigate a report of educational neglect, as provided in Subsection
6593 [80-2-701\(5\)](#); or

6594 (ii) providing services to the student;

6595 (b) the student's personally identifiable student data is not shared with a person who is
6596 not authorized:

6597 (i) to address the student's education needs; or

6598 (ii) by the Department of Health and Human Services to receive the student's
6599 personally identifiable student data; and

6600 (c) the Department of Health and Human Services maintains and protects the student's
6601 personally identifiable student data.

6602 (4) The Department of Health and Human Services, a school official, or the Utah
6603 Juvenile Court may share personally identifiable student data to improve education outcomes
6604 for youth:

6605 (a) in the custody of, or under the guardianship of, the Department of Health and
6606 Human Services;

6607 (b) receiving services from the Division of Juvenile Justice and Youth Services;

6608 (c) in the custody of the Division of Child and Family Services;

6609 (d) receiving services from the Division of Services for People with Disabilities; or

6610 (e) under the jurisdiction of the Utah Juvenile Court.

6611 (5) (a) A student data manager may share personally identifiable student data in
6612 response to a subpoena issued by a court.

6613 (b) A person who receives personally identifiable student data under Subsection (5)(a)
6614 may not use the personally identifiable student data outside of the use described in the
6615 subpoena.

6616 (6) (a) A student data manager may share student data, including personally
6617 identifiable student data, in response to a request to share student data for the purpose of
6618 research or evaluation, if the student data manager:

6619 (i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

6620 (ii) submits the request to the education entity's research review process; and

6621 (iii) fulfills the instructions that result from the review process.

6622 (b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the
6623 state board shall share student data, including personally identifiable student data, as requested
6624 by the Utah Registry of Autism and Developmental Disabilities described in Section [~~26-7-4~~]
6625 [26B-7-115](#).

6626 (ii) (A) At least 30 days before the state board shares student data in accordance with
6627 Subsection (6)(b)(i), the education entity from which the state board received the student data
6628 shall provide notice to the parent of each student for which the state board intends to share
6629 student data.

6630 (B) The state board may not, for a particular student, share student data as described in
6631 Subsection (6)(b)(i) if the student's parent requests that the state board not share the student
6632 data.

6633 (iii) A person who receives student data under Subsection (6)(b)(i):

6634 (A) shall maintain and protect the student data in accordance with state board rule
6635 described in Section [53E-9-307](#);

6636 (B) may not use the student data for a purpose not described in Section [~~26-7-4~~]
6637 [26B-7-115](#); and

6638 (C) is subject to audit by the state student data officer described in Section [53E-9-302](#).

6639 Section 101. Section **53F-2-415** is amended to read:

6640 **53F-2-415. Student health and counseling support -- Qualifying personnel --**

6641 **Distribution formula -- Rulemaking.**

6642 (1) As used in this section:

6643 (a) "Qualifying personnel" means a school counselor or other counselor, school

6644 psychologist or other psychologist, school social worker or other social worker, or school nurse

6645 who:

6646 (i) is licensed; and

6647 (ii) collaborates with educators and a student's parent on:

6648 (A) early identification and intervention of the student's academic and mental health

6649 needs; and

6650 (B) removing barriers to learning and developing skills and behaviors critical for the

6651 student's academic achievement.

6652 (b) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~]

6653 [26B-4-704](#).

6654 (2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b),

6655 the state board shall distribute money appropriated under this section to LEAs to provide in a

6656 school targeted school-based mental health support, including clinical services and

6657 trauma-informed care, through:

6658 (i) employing qualifying personnel; or

6659 (ii) entering into contracts for services provided by qualifying personnel, including

6660 telehealth services.

6661 (b) (i) The state board shall, after consulting with LEA governing boards, develop a

6662 formula to distribute money appropriated under this section to LEAs.

6663 (ii) The state board shall ensure that the formula described in Subsection (2)(b)(i)

6664 incentivizes an LEA to provide school-based mental health support in collaboration with the

6665 local mental health authority of the county in which the LEA is located.

6666 (3) To qualify for money under this section, an LEA shall submit to the state board a
6667 plan that includes:

6668 (a) measurable goals approved by the LEA governing board on improving student
6669 safety, student engagement, school culture, or academic achievement;

6670 (b) how the LEA intends to meet the goals described in Subsection (3)(a) through the
6671 use of the money;

6672 (c) how the LEA is meeting the requirements related to parent education described in
6673 Section [53G-9-703](#); and

6674 (d) whether the LEA intends to provide school-based mental health support in
6675 collaboration with the local mental health authority of the county in which the LEA is located.

6676 (4) The state board shall distribute money appropriated under this section to an LEA
6677 that qualifies under Subsection (3):

6678 (a) based on the formula described in Subsection (2)(b); and

6679 (b) if the state board approves the LEA's plan before April 1, 2020, in an amount of
6680 money that the LEA equally matches using local money, unrestricted state money, or money
6681 distributed to the LEA under Section [53G-7-1303](#).

6682 (5) An LEA may not use money distributed by the state board under this section to
6683 supplant federal, state, or local money previously allocated to:

6684 (a) employ qualifying personnel; or

6685 (b) enter into contracts for services provided by qualified personnel, including
6686 telehealth services.

6687 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6688 state board shall make rules that establish:

6689 (a) procedures for submitting a plan for and distributing money under this section;

6690 (b) the formula the state board will use to distribute money to LEAs described in
6691 Subsection (2)(b); and

6692 (c) in accordance with Subsection (7), annual reporting requirements for an LEA that
6693 receives money under this section.

6694 (7) An LEA that receives money under this section shall submit an annual report to the
6695 state board, including:

6696 (a) progress toward achieving the goals submitted under Subsection (3)(a);

6697 (b) if the LEA discontinues a qualifying personnel position, the LEA's reason for
6698 discontinuing the position; and

6699 (c) how the LEA, in providing school-based mental health support, complies with the
6700 provisions of Section 53E-9-203.

6701 (8) Beginning on or before July 1, 2019, the state board shall provide training that
6702 instructs school personnel on the impact of childhood trauma on student learning, including
6703 information advising educators against practicing medicine, giving a diagnosis, or providing
6704 treatment.

6705 (9) The state board may use up to:

6706 (a) 2% of an appropriation under this section for costs related to the administration of
6707 the provisions of this section; and

6708 (b) \$1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described
6709 in this section to provide scholarships for up to four years to certain LEA employees, as defined
6710 by the state board, for education and training to become a school social worker, a school
6711 psychologist, or other school-based mental health worker.

6712 (10) Notwithstanding the provisions of this section, money appropriated under this
6713 section may be used, as determined by the state board, for:

6714 (a) the SafeUT Crisis Line described in Section 53B-17-1202; or

6715 (b) youth suicide prevention programs described in Section 53G-9-702.

6716 Section 102. Section 53F-2-522 is amended to read:

6717 **53F-2-522. Public education mental health screening.**

6718 (1) As used in this section:

6719 (a) "Division" means the Division of [~~Substance Abuse and Mental Health.~~] Integrated
6720 Healthcare within the Department of Health and Human Services.

6721 (b) "Participating LEA" means an LEA that has an approved screening program

6722 described in this section.

6723 (c) "Participating student" means a student in a participating LEA who participates in a
6724 mental health screening program.

6725 (d) "Qualifying parent" means a parent:

6726 (i) of a participating student who, based on the results of a screening program, would
6727 benefit from resources that cannot be provided to the participating student in the school setting;
6728 and

6729 (ii) who qualifies for financial assistance to pay for the resources under rules made by
6730 the state board.

6731 (e) "Screening program" means a student mental health screening program selected by
6732 a participating LEA and approved by the state board in consultation with the division.

6733 (2) A participating LEA may implement a mental health screening for participating
6734 students using an evidence-based screening program.

6735 (3) The state board shall:

6736 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6737 Rulemaking Act, to establish:

6738 (i) a process for a participating LEA to submit a selected screening program to the state
6739 board for approval;

6740 (ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and
6741 the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, who may access and use a
6742 participating student's screening data; and

6743 (iii) a requirement and a process for appropriate LEA or school personnel to attend
6744 annual training related to administering the screening program;

6745 (b) in consultation with the division, approve an evidence-based student mental health
6746 screening program selected by a participating LEA that:

6747 (i) is age appropriate for each grade in which the screening program is administered;

6748 (ii) screens for the mental health conditions determined by the state board and division;

6749 and

6750 (iii) is an effective tool for identifying whether a student has a mental health condition
6751 that requires intervention; and

6752 (c) on or before November 30 of each year, submit a report on the screening programs
6753 to:

6754 (i) the State Suicide Prevention Coalition created under Subsection [~~62A-15-1101(2)~~]
6755 26B-5-611(2); and

6756 (ii) the Education Interim Committee in accordance with Section 53E-1-201.

6757 (4) A participating LEA shall:

6758 (a) in accordance with rules made by the state board under Subsection (3)(a), submit a
6759 selected screening program to the state board for approval;

6760 (b) administer a screening program to participating students in the participating LEA;

6761 (c) obtain prior written consent from a student's parent, that complies with Section
6762 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before
6763 the participating LEA administers the screening program to a participating student; and

6764 (d) if results of a participating student's screening indicate a potential mental health
6765 condition, notify the parent of the participating student of:

6766 (i) the participating student's results; and

6767 (ii) resources available to the participating student, including any services that can be
6768 provided by the school mental health provider or by a partnering entity.

6769 (5) (a) Within appropriations made by the Legislature for this purpose, the state board
6770 may distribute funds to a participating LEA to use to assist a qualifying parent to pay for
6771 resources described in Subsection (4)(d)(ii) that cannot be provided by a school mental health
6772 professional in the school setting.

6773 (b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah
6774 Administrative Rulemaking Act, for:

6775 (i) determining whether a parent is eligible to receive the financial support described in
6776 Subsection (5)(a); and

6777 (ii) applying for and distributing the financial support described in Subsection (5)(a).

6778 (6) A school employee trained in accordance with rules made by the state board under
6779 Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with
6780 this section in good faith, is not liable in a civil action for an act taken or not taken under this
6781 section.

6782 Section 103. Section **53F-4-401** is amended to read:

6783 **53F-4-401. Definitions.**

6784 As used in this part:

6785 (1) "Contractor" means the educational technology provider selected by the state board
6786 under Section [53F-4-402](#).

6787 (2) "Intergenerational poverty" means the same as that term is defined in Section
6788 [35A-9-102](#).

6789 (3) "Preschool child" means a child who is:

6790 (a) four or five years old; and

6791 (b) not eligible for enrollment under Subsection [53G-4-402\(6\)](#).

6792 (4) (a) "Private preschool provider" means a child care program that:

6793 (i) (A) is licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title
6794 26B, Chapter 2, Part 4, Child Care Licensing; or

6795 (B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section
6796 [~~26-39-403~~] [26B-2-405](#); and

6797 (ii) meets other criteria as established by the state board, consistent with Utah
6798 Constitution, Article X, Section 1.

6799 (b) "Private preschool provider" does not include:

6800 (i) a residential certificate provider described in Section [~~26-39-402~~] [26B-2-404](#); or

6801 (ii) a program exempt from licensure under Subsection [~~26-39-403(2)(c)~~]
6802 [26B-2-405\(2\)\(c\)](#).

6803 (5) "Public preschool" means a preschool program that is provided by a school district
6804 or charter school.

6805 (6) "Qualifying participant" means a preschool child who:

- 6806 (a) resides within the boundaries of a qualifying school as determined under Section
6807 [53G-6-302](#); or
- 6808 (b) is enrolled in a qualifying preschool.
- 6809 (7) "Qualifying preschool" means a public preschool or private preschool provider that:
- 6810 (a) serves preschool children covered by child care subsidies funded by the Child Care
6811 and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;
- 6812 (b) participates in a federally assisted meal program that provides funds to licensed
6813 child care centers as authorized under Section [53E-3-501](#); or
- 6814 (c) is located within the boundaries of a qualifying school.
- 6815 (8) "Qualifying school" means a school district elementary school that:
- 6816 (a) has at least 50% of students who were eligible to receive free or reduced lunch the
6817 previous school year;
- 6818 (b) is a school with a high percentage, as determined by the Department of Workforce
6819 Services through rule and based on the previous school year enrollments, of students
6820 experiencing intergenerational poverty; or
- 6821 (c) is located in one of the following school districts:
- 6822 (i) Beaver School District;
- 6823 (ii) Carbon School District;
- 6824 (iii) Daggett School District;
- 6825 (iv) Duchesne School District;
- 6826 (v) Emery School District;
- 6827 (vi) Garfield School District;
- 6828 (vii) Grand School District;
- 6829 (viii) Iron School District;
- 6830 (ix) Juab School District;
- 6831 (x) Kane School District;
- 6832 (xi) Millard School District;
- 6833 (xii) Morgan School District;

- 6834 (xiii) North Sanpete School District;
- 6835 (xiv) North Summit School District;
- 6836 (xv) Piute School District;
- 6837 (xvi) Rich School District;
- 6838 (xvii) San Juan School District;
- 6839 (xviii) Sevier School District;
- 6840 (xix) South Sanpete School District;
- 6841 (xx) South Summit School District;
- 6842 (xxi) Tintic School District;
- 6843 (xxii) Uintah School District; or
- 6844 (xxiii) Wayne School District.

6845 (9) "UPSTART" means the project established by Section [53F-4-402](#) that uses a
6846 home-based educational technology program to develop school readiness skills of preschool
6847 children.

6848 Section 104. Section **53F-5-207** is amended to read:

6849 **53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions**
6850 **-- Grant requirements -- Reporting requirements.**

6851 (1) As used in this section:

6852 (a) "Eligible student" means a student who is classified as a child affected by
6853 intergenerational poverty.

6854 (b) "Intergenerational poverty" has the same meaning as in Section [35A-9-102](#).

6855 (c) "LEA governing board" means a local school board or a charter school governing
6856 board.

6857 (d) "Local education agency" or "LEA" means a school district or charter school.

6858 (e) "Program" means the Intergenerational Poverty Interventions Grant Program
6859 created in Subsection (2).

6860 (2) The Intergenerational Poverty Interventions Grant Program is created to provide
6861 grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for

6862 eligible students, outside of the regular school day offerings.

6863 (3) Subject to future budget constraints, the state board shall distribute to LEAs money
6864 appropriated for the program in accordance with this section.

6865 (4) The state board shall:

6866 (a) solicit proposals from LEA governing boards to receive money under the program;
6867 and

6868 (b) award grants to an LEA governing board on behalf of an LEA based on criteria
6869 described in Subsection (5).

6870 (5) In awarding a grant under Subsection (4), the state board shall consider:

6871 (a) the percentage of an LEA's students that are classified as children affected by
6872 intergenerational poverty;

6873 (b) the level of administrative support and leadership at an eligible LEA to effectively
6874 implement, monitor, and evaluate the program; and

6875 (c) an LEA's commitment and ability to work with the Department of Workforce
6876 Services, the Department of Health and Human Services, [~~the Department of Human Services,~~]
6877 and the juvenile courts to provide services to the LEA's eligible students.

6878 (6) To receive a grant under the program on behalf of an LEA, an LEA governing
6879 board shall submit a proposal to the state board detailing:

6880 (a) the LEA's strategy to implement the program, including the LEA's strategy to
6881 improve the academic achievement of children affected by intergenerational poverty;

6882 (b) the LEA's strategy for coordinating with and engaging the Department of
6883 Workforce Services to provide services for the LEA's eligible students;

6884 (c) the number of students the LEA plans to serve, categorized by age and
6885 intergenerational poverty status;

6886 (d) the number of students, eligible students, and schools the LEA plans to fund with
6887 the grant money; and

6888 (e) the estimated cost per student.

6889 (7) (a) The state board shall annually prepare, for inclusion in the State

6890 Superintendent's Annual Report described in Section [53E-1-203](#), a report on:

6891 (i) the progress of LEA programs using grant money;

6892 (ii) the progress of LEA programs in improving the academic achievement of children
6893 affected by intergenerational poverty; and

6894 (iii) the LEA's coordination efforts with the Department of Workforce Services, the
6895 Department of Health and Human Services, [~~the Department of Human Services,~~] and the
6896 juvenile courts.

6897 (b) The state board shall provide the report described in Subsection (7)(a) to the
6898 Education Interim Committee upon request.

6899 (c) An LEA that receives grant money pursuant to this section shall provide to the state
6900 board information that is necessary for the state board's report described in Subsection (7)(a).

6901 (8) The state board may use up to 8.5% of the money appropriated for the program in
6902 accordance with this section for administration and evaluation of the program.

6903 Section 105. Section **53G-6-302** is amended to read:

6904 **53G-6-302. Child's school district of residence -- Determination -- Responsibility**
6905 **for providing educational services.**

6906 (1) As used in this section:

6907 (a) "Health care facility" means the same as that term is defined in Section [~~26-21-2~~]
6908 [26B-2-201](#).

6909 (b) "Human services program" means the same as that term is defined in Section
6910 [~~62A-2-101~~] [26B-2-101](#).

6911 (c) "Supervision" means a minor child is:

6912 (i) receiving services from a state agency, local mental health authority, or substance
6913 abuse authority with active involvement or oversight; and

6914 (ii) engaged in a human services program that is properly licensed or certified and has
6915 provided the school district receiving the minor child with an education plan that complies with
6916 the requirements of Section [~~62A-2-108.1~~] [26B-2-116](#).

6917 (2) The school district of residence of a minor child whose custodial parent resides

6918 within Utah is:

6919 (a) the school district in which the custodial parent resides; or

6920 (b) the school district in which the child resides:

6921 (i) while in the custody or under the supervision of a Utah state agency, local mental
6922 health authority, or substance abuse authority;

6923 (ii) while under the supervision of a private or public agency which is in compliance
6924 with Section [~~62A-2-127~~] 26B-2-131 and is authorized to provide child placement services by
6925 the state;

6926 (iii) while living with a responsible adult resident of the district, if a determination has
6927 been made in accordance with rules made by the state board in accordance with Title 63G,
6928 Chapter 3, Utah Administrative Rulemaking Act, that:

6929 (A) the child's physical, mental, moral, or emotional health will best be served by
6930 considering the child to be a resident for school purposes;

6931 (B) exigent circumstances exist that do not permit the case to be appropriately
6932 addressed under Section 53G-6-402; and

6933 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii)
6934 does not violate any other law or rule of the state board;

6935 (iv) while the child is receiving services from a health care facility or human services
6936 program, if a determination has been made in accordance with rules made by the state board in
6937 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

6938 (A) the child's physical, mental, moral, or emotional health will best be served by
6939 considering the child to be a resident for school purposes;

6940 (B) exigent circumstances exist that do not permit the case to be appropriately
6941 addressed under Section 53G-6-402; and

6942 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)
6943 does not violate any other law or rule of the state board; or

6944 (v) if the child is married or has been determined to be an emancipated minor by a
6945 court of law or by a state administrative agency authorized to make that determination.

6946 (3) A minor child whose custodial parent does not reside in the state is considered to be
6947 a resident of the district in which the child lives, unless that designation violates any other law
6948 or rule of the state board, if:

6949 (a) the child is married or an emancipated minor under Subsection (2)(b)(v);

6950 (b) the child lives with a resident of the district who is a responsible adult and whom
6951 the district agrees to designate as the child's legal guardian under Section [53G-6-303](#);

6952 (c) if permissible under policies adopted by a local school board, it is established to the
6953 satisfaction of the local school board that:

6954 (i) the child lives with a responsible adult who is a resident of the district and is the
6955 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

6956 (ii) the child's presence in the district is not for the primary purpose of attending the
6957 public schools;

6958 (iii) the child's physical, mental, moral, or emotional health will best be served by
6959 considering the child to be a resident for school purposes; and

6960 (iv) the child is prepared to abide by the policies of the school and school district in
6961 which attendance is sought; or

6962 (d) it is established to the satisfaction of the local school board that:

6963 (i) the child's parent moves from the state;

6964 (ii) the child's parent executes a power of attorney under Section [75-5-103](#) that:

6965 (A) meets the requirements of Subsection (4); and

6966 (B) delegates powers regarding care, custody, or property, including schooling, to a
6967 responsible adult with whom the child resides;

6968 (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the
6969 district;

6970 (iv) the child's physical, mental, moral, or emotional health will best be served by
6971 considering the child to be a resident for school purposes;

6972 (v) the child is prepared to abide by the policies of the school and school district in
6973 which attendance is sought; and

6974 (vi) the child's attendance in the school will not be detrimental to the school or school
6975 district.

6976 (4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the
6977 district may require the person with whom the child lives to be designated as the child's
6978 custodian in a durable power of attorney, issued by the party who has legal custody of the child,
6979 granting the custodian full authority to take any appropriate action, including authorization for
6980 educational or medical services, in the interests of the child.

6981 (b) Both the party granting and the party empowered by the power of attorney shall
6982 agree to:

6983 (i) assume responsibility for any fees or other charges relating to the child's education
6984 in the district; and

6985 (ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the
6986 school district with all financial information requested by the district for purposes of
6987 determining eligibility for fee waivers.

6988 (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of
6989 this section and accepted by the school district shall remain in force until the earliest of the
6990 following occurs:

6991 (i) the child reaches the age of 18, marries, or becomes emancipated;

6992 (ii) the expiration date stated in the document; or

6993 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,
6994 or by order of a court of competent jurisdiction.

6995 (5) A power of attorney does not confer legal guardianship.

6996 (6) Each school district is responsible for providing educational services for all
6997 children of school age who are residents of the district.

6998 Section 106. Section 53G-6-601 is amended to read:

6999 **53G-6-601. Definitions.**

7000 As used in this part:

7001 (1) "Division" means the Criminal Investigations and Technical Services Division of

7002 the Department of Public Safety, established in Section [53-10-103](#).

7003 (2) "Missing child" has the same meaning as provided in Section [~~26-2-27~~] [26B-8-130](#).

7004 (3) "State registrar" means the State Registrar of Vital Statistics within the Department
7005 of Health and Human Services.

7006 Section 107. Section **53G-8-802** is amended to read:

7007 **53G-8-802. State Safety and Support Program -- State board duties -- LEA**
7008 **duties.**

7009 (1) There is created the State Safety and Support Program.

7010 (2) The state board shall:

7011 (a) develop in conjunction with the [~~Division of Substance Abuse~~] Office of Substance
7012 Use and Mental Health model student safety and support policies for an LEA, including:

7013 (i) evidence-based procedures for the assessment of and intervention with an individual
7014 whose behavior poses a threat to school safety;

7015 (ii) procedures for referrals to law enforcement; and

7016 (iii) procedures for referrals to a community services entity, a family support
7017 organization, or a health care provider for evaluation or treatment;

7018 (b) provide training:

7019 (i) in school safety;

7020 (ii) in evidence-based approaches to improve school climate and address and correct
7021 bullying behavior;

7022 (iii) in evidence-based approaches in identifying an individual who may pose a threat
7023 to the school community;

7024 (iv) in evidence-based approaches in identifying an individual who may be showing
7025 signs or symptoms of mental illness;

7026 (v) on permitted disclosures of student data to law enforcement and other support
7027 services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

7028 (vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections
7029 [53E-9-203](#) and [53E-9-305](#); and

- 7030 (vii) for administrators on rights and prohibited acts under:
- 7031 (A) Chapter 9, Part 6, Bullying and Hazing;
- 7032 (B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;
- 7033 (C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- 7034 (D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and
- 7035 (E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;
- 7036 (c) conduct and disseminate evidence-based research on school safety concerns;
- 7037 (d) disseminate information on effective school safety initiatives;
- 7038 (e) encourage partnerships between public and private sectors to promote school safety;
- 7039 (f) provide technical assistance to an LEA in the development and implementation of
- 7040 school safety initiatives;
- 7041 (g) in conjunction with the Department of Public Safety, develop and make available to
- 7042 an LEA a model critical incident response training program that includes protocols for
- 7043 conducting a threat assessment, and ensuring building security during an incident;
- 7044 (h) provide space for the public safety liaison described in Section [53-1-106](#) and the
- 7045 school-based mental health specialist described in Section ~~[62A-15-103](#)~~ [26B-5-102](#);
- 7046 (i) create a model school climate survey that may be used by an LEA to assess
- 7047 stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3,
- 7048 Utah Administrative Rulemaking Act, adopt rules:
- 7049 (i) requiring an LEA to:
- 7050 (A) create or adopt and disseminate a school climate survey; and
- 7051 (B) disseminate the school climate survey;
- 7052 (ii) recommending the distribution method, survey frequency, and sample size of the
- 7053 survey; and
- 7054 (iii) specifying the areas of content for the school climate survey; and
- 7055 (j) collect aggregate data and school climate survey results from each LEA.
- 7056 (3) Nothing in this section requires an individual to respond to a school climate survey.
- 7057 (4) The state board shall require an LEA to:

7058 (a) (i) review data from the state board-facilitated surveys containing school climate
7059 data for each school within the LEA; and

7060 (ii) based on the review described in Subsection (4)(a)(i):

7061 (A) revise practices, policies, and training to eliminate harassment and discrimination
7062 in each school within the LEA;

7063 (B) adopt a plan for harassment- and discrimination-free learning; and

7064 (C) host outreach events or assemblies to inform students and parents of the plan
7065 adopted under Subsection (4)(a)(ii)(B);

7066 (b) no later than September 1 of each school year, send a notice to each student, parent,
7067 and LEA staff member stating the LEA's commitment to maintaining a school climate that is
7068 free of harassment and discrimination; and

7069 (c) report to the state board:

7070 (i) no later than August 1, 2023, on the LEA's plan adopted under Subsection
7071 (4)(a)(ii)(B); and

7072 (ii) after August 1, 2023, annually on the LEA's implementation of the plan and
7073 progress.

7074 Section 108. Section **53G-9-211** is amended to read:

7075 **53G-9-211. Therapy animal handling -- Policy.**

7076 (1) As used in this section:

7077 (a) "Animal-assisted intervention" means an intervention designed to promote
7078 improvement in an individual's physical, social, emotional, or cognitive functioning through
7079 interactions with a specially trained animal.

7080 (b) "Local education agency" means a school district or charter school.

7081 (c) (i) "Therapy animal" means an animal that:

7082 (A) provides affection and comfort to an individual for emotional support;

7083 (B) is accompanied by a therapy animal handler; and

7084 (C) is trained to provide animal-assisted intervention.

7085 (ii) "Therapy animal" does not include a service animal or support animal as those

7086 terms are defined in Section [~~62A-5b-102~~] [26B-6-801](#).

7087 (d) "Therapy animal handler" means an individual who is trained to handle a therapy
7088 animal for animal-assisted interventions.

7089 (2) (a) If a school within a local education agency provides animal-assisted
7090 interventions through therapy animals, the local education agency shall adopt a policy for
7091 proper handling of a therapy animal on school grounds.

7092 (b) The policy described in Subsection (2)(a) shall include:

7093 (i) local or national certification or registration requirements for a therapy animal and
7094 therapy animal handler;

7095 (ii) guidelines for when a therapy animal and therapy animal handler are allowed on
7096 school grounds;

7097 (iii) notice requirements for parents, students, and school faculty and staff regarding
7098 the use of a therapy animal on school grounds; and

7099 (iv) guidelines to prevent students and staff who have an animal allergy or are
7100 uncomfortable around animals from interacting with a therapy animal on school grounds.

7101 (3) This section does not require a school to allow the use of a therapy animal.

7102 Section 109. Section **53G-9-301** is amended to read:

7103 **53G-9-301. Definitions.**

7104 As used in this part:

7105 (1) "Department" means the Department of Health and Human Services created in
7106 Section [26B-1-201](#).

7107 (2) "Health official" means an individual designated by a local health department from
7108 within the local health department to consult and counsel parents and licensed health care
7109 providers, in accordance with Subsection [53G-9-304\(2\)\(a\)](#).

7110 (3) "Health official designee" means a licensed health care provider designated by a
7111 local health department, in accordance with Subsection [53G-9-304\(2\)\(b\)](#), to consult with
7112 parents, licensed health care professionals, and school officials.

7113 (4) "Immunization" or "immunize" means a process through which an individual

- 7114 develops an immunity to a disease, through vaccination or natural exposure to the disease.
- 7115 (5) "Immunization record" means a record relating to a student that includes:
- 7116 (a) information regarding each required vaccination that the student has received,
- 7117 including the date each vaccine was administered, verified by:
- 7118 (i) a licensed health care provider;
- 7119 (ii) an authorized representative of a local health department;
- 7120 (iii) an authorized representative of the department;
- 7121 (iv) a registered nurse; or
- 7122 (v) a pharmacist;
- 7123 (b) information regarding each disease against which the student has been immunized
- 7124 by previously contracting the disease; and
- 7125 (c) an exemption form identifying each required vaccination from which the student is
- 7126 exempt, including all required supporting documentation described in Section [53G-9-303](#).
- 7127 (6) "Legally responsible individual" means:
- 7128 (a) a student's parent;
- 7129 (b) the student's legal guardian;
- 7130 (c) an adult brother or sister of a student who has no legal guardian; or
- 7131 (d) the student, if the student:
- 7132 (i) is an adult; or
- 7133 (ii) is a minor who may consent to treatment under Section [~~26-10-9~~] [26B-4-321](#).
- 7134 (7) "Licensed health care provider" means a health care provider who is licensed under
- 7135 Title 58, Occupations and Professions, as:
- 7136 (a) a medical doctor;
- 7137 (b) an osteopathic doctor;
- 7138 (c) a physician assistant; or
- 7139 (d) an advanced practice registered nurse.
- 7140 (8) "Local health department" means the same as that term is defined in Section
- 7141 [26A-1-102](#).

7142 (9) "Required vaccines" means vaccines required by department rule described in
7143 Section [53G-9-305](#).

7144 (10) "School" means any public or private:

7145 (a) elementary or secondary school through grade 12;

7146 (b) preschool;

7147 (c) child care program, as that term is defined in Section [~~26-39-102~~] [26B-2-401](#);

7148 (d) nursery school; or

7149 (e) kindergarten.

7150 (11) "Student" means an individual who attends a school.

7151 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.

7152 (13) "Vaccination exemption form" means a form, described in Section [53G-9-304](#),
7153 that documents and verifies that a student is exempt from the requirement to receive one or
7154 more required vaccines.

7155 (14) "Vaccine" means the substance licensed for use by the United States Food and
7156 Drug Administration that is injected into or otherwise administered to an individual to
7157 immunize the individual against a communicable disease.

7158 Section 110. Section [53G-9-303](#) is amended to read:

7159 **[53G-9-303. Grounds for exemption from required vaccines -- Renewal.](#)**

7160 (1) A student is exempt from the requirement to receive a vaccine required under
7161 Section [53G-9-305](#) if the student qualifies for a medical or personal exemption from the
7162 vaccination under Subsection (2) or (3).

7163 (2) A student qualifies for a medical exemption from a vaccination required under
7164 Section [53G-9-305](#) if the student's legally responsible individual provides to the student's
7165 school:

7166 (a) a completed vaccination exemption form; and

7167 (b) a written notice signed by a licensed health care provider stating that, due to the
7168 physical condition of the student, administration of the vaccine would endanger the student's
7169 life or health.

7170 (3) A student qualifies for a personal exemption from a vaccination required under
7171 Section [53G-9-305](#) if the student's legally responsible individual provides to the student's
7172 school a completed vaccination exemption form, stating that the student is exempt from the
7173 vaccination because of a personal or religious belief.

7174 (4) (a) A vaccination exemption form submitted under this section is valid for as long
7175 as the student remains at the school to which the form first is presented.

7176 (b) If the student changes schools before the student is old enough to enroll in
7177 kindergarten, the vaccination exemption form accepted as valid at the student's previous school
7178 is valid until the earlier of the day on which:

- 7179 (i) the student enrolls in kindergarten; or
- 7180 (ii) the student turns six years old.

7181 (c) If the student changes schools after the student is old enough to enroll in
7182 kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption
7183 form accepted as valid at the student's previous school is valid until the earlier of the day on
7184 which:

- 7185 (i) the student enrolls in grade 7; or
- 7186 (ii) the student turns 12 years old.

7187 (d) If the student changes schools after the student is old enough to enroll in grade 7,
7188 the vaccination exemption form accepted as valid at the student's previous school is valid until
7189 the student completes grade 12.

7190 (e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained
7191 through completion of the online education module created in Section ~~[26-7-9]~~ [26B-7-118](#) is
7192 valid for at least two years.

7193 (5) An LEA that offers both remote and in-person learning options may not deny a
7194 student who is exempt from a requirement to receive a vaccine under Subsection (1) to
7195 participate in an in-person learning option based upon the student's vaccination status.

7196 (6) Nothing in this section restricts a state or local health department from acting under
7197 applicable law to contain the spread of an infectious disease.

7198 Section 111. Section **53G-9-304** is amended to read:
7199 **53G-9-304. Vaccination exemption form.**
7200 (1) The department shall:
7201 (a) develop a vaccination exemption form that includes only the following information:
7202 (i) identifying information regarding:
7203 (A) the student to whom an exemption applies; and
7204 (B) the legally responsible individual who claims the exemption for the student and
7205 signs the vaccination exemption form;
7206 (ii) an indication regarding the vaccines to which the exemption relates;
7207 (iii) a statement that the claimed exemption is for:
7208 (A) a medical reason; or
7209 (B) a personal or religious belief; and
7210 (iv) an explanation of the requirements, in the event of an outbreak of a disease for
7211 which a required vaccine exists, for a student who:
7212 (A) has not received the required vaccine; and
7213 (B) is not otherwise immune from the disease; and
7214 (b) provide the vaccination exemption form created in this Subsection (1) to local
7215 health departments.
7216 (2) (a) Each local health department shall designate one or more individuals from
7217 within the local health department as a health official to consult, regarding the requirements of
7218 this part, with:
7219 (i) parents, upon the request of parents;
7220 (ii) school principals and administrators; and
7221 (iii) licensed health care providers.
7222 (b) A local health department may designate a licensed health care provider as a health
7223 official designee to provide the services described in Subsection (2)(a).
7224 (3) (a) To receive a vaccination exemption form described in Subsection (1), a legally
7225 responsible individual shall complete the online education module described in Section

7226 [~~26-7-9~~] 26B-7-118, permitting an individual to:

7227 (i) complete any requirements online; and

7228 (ii) download and print the vaccine exemption form immediately upon completion of
7229 the requirements.

7230 (b) A legally responsible individual may decline to take the online education module
7231 and obtain a vaccination exemption form from a local health department if the individual:

7232 (i) requests and receives an in-person consultation at a local health department from a
7233 health official or a health official designee regarding the requirements of this part; and

7234 (ii) pays any fees established under Subsection (4)(b).

7235 (4) (a) Neither the department nor any other person may charge a fee for the exemption
7236 form offered through the online education module in Subsection (3)(a).

7237 (b) A local health department may establish a fee of up to \$25 to cover the costs of
7238 providing an in-person consultation.

7239 Section 112. Section **53G-9-402** is amended to read:

7240 **53G-9-402. Rules for examinations prescribed by the Department of Health and**
7241 **Human Services -- Notification of impairment.**

7242 (1) (a) Each local school board shall implement policies as prescribed by the
7243 Department of Health and Human Services for vision, dental, abnormal spinal curvature, and
7244 hearing examinations of students attending the district's schools.

7245 (b) Under guidelines of the Department of Health and Human Services, qualified
7246 health professionals shall provide instructions, equipment, and materials for conducting the
7247 examinations.

7248 (c) The policies shall include exemption provisions for students whose parents contend
7249 the examinations violate their personal beliefs.

7250 (2) The school shall notify, in writing, a student's parent of any impairment disclosed
7251 by the examinations.

7252 Section 113. Section **53G-9-404** is amended to read:

7253 **53G-9-404. Public education vision screening.**

- 7254 (1) As used in this section:
- 7255 (a) "Health care professional" means an individual licensed under:
- 7256 (i) Title 58, Chapter 16a, Utah Optometry Practice Act;
- 7257 (ii) Title 58, Chapter 31b, Nurse Practice Act, if the individual is licensed for the
- 7258 practice of advance practice registered nursing, as defined in Section [58-31b-102](#);
- 7259 (iii) Title 58, Chapter 42a, Occupational Therapy Practice Act;
- 7260 (iv) Title 58, Chapter 67, Utah Medical Practice Act;
- 7261 (v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 7262 (vi) Title 58, Chapter 70a, Utah Physician Assistant Act.
- 7263 (b) "Qualifying child" means a child who:
- 7264 (i) attends an LEA;
- 7265 (ii) is at least three years old; and
- 7266 (iii) is not yet 16 years old.
- 7267 (c) "Tier one vision screening" means a lower-level evaluation of an individual's
- 7268 vision, as determined by Department of Health and Human Services rule.
- 7269 (d) "Tier two vision screening" means an individual, higher-level evaluation of an
- 7270 individual's vision, as determined by Department of Health and Human Services rule.
- 7271 (2) The Department of Health and Human Services shall oversee public education
- 7272 vision screening, as described in this section.
- 7273 (3) A child who is less than nine years old and has not yet attended public school in the
- 7274 state shall, before attending a public school in the state, provide:
- 7275 (a) a completed vision screening form, described in Subsection (5)(a)(i), that is signed
- 7276 by a health care professional; or
- 7277 (b) a written statement signed by a parent that the child will not be screened before
- 7278 attending public school in the state.
- 7279 (4) The Department of Health and Human Services shall prepare and provide:
- 7280 (a) training for a school nurse who supervises an LEA tier one vision screening clinic;
- 7281 and

7282 (b) an online training module for a potential volunteer for an LEA tier one vision
7283 screening clinic.

7284 (5) (a) The Department of Health and Human Services shall provide a template for:

7285 (i) a form for use by a health care professional under Subsection (3)(a) to certify that a
7286 child has received an adequate vision screening; and

7287 (ii) a referral form used for the referral and follow up of a qualifying child after a tier
7288 one or tier two vision screening.

7289 (b) A template described in Subsection (5)(a) shall include the following statement: "A
7290 screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

7291 (6) The Department of Health and Human Services shall make rules to:

7292 (a) generally provide for and require the administration of tier one vision screening in
7293 accordance with this section, including an opt-out process;

7294 (b) describe standards and procedures for tier one vision screening, including referral
7295 and follow up protocols and reporting a student's significant vision impairment results to the
7296 Utah Schools for the Deaf and the Blind;

7297 (c) outline the qualifications of and parameters for the use of an outside entity to
7298 supervise an LEA tier one vision screening clinic when an LEA does not have a school nurse to
7299 supervise an LEA tier one vision screening clinic;

7300 (d) determine when a potential volunteer at an LEA tier one vision screening clinic has
7301 a conflict of interest, including if the potential volunteer could profit financially from
7302 volunteering;

7303 (e) determine the regularity of tier one vision screening in order to ensure that a
7304 qualifying child receives tier one vision screening at particular intervals; and

7305 (f) provide for tier two vision screening for a qualifying child, including:

7306 (i) in coordination with the state board, determining mandatory and optional tier two
7307 vision screening for a qualifying child;

7308 (ii) identification of and training for an individual who provides tier two vision
7309 screening;

7310 (iii) (A) the creation of a symptoms questionnaire that includes questions for a
7311 nonprofessionally trained individual to identify an eye focusing or tracking problem as well as
7312 convergence insufficiency of a qualifying child; and

7313 (B) protocol on how to administer the symptoms questionnaire in coordination with
7314 tier two vision screening;

7315 (iv) general standards, procedures, referral, and follow up protocol; and

7316 (v) aggregate reporting requirements.

7317 (7) (a) In accordance with Department of Health and Human Services oversight and
7318 rule and Subsection (7)(b), an LEA shall conduct free tier one vision screening clinics for all
7319 qualifying children who attend the LEA or a school within the LEA.

7320 (b) If the parent of a qualifying child requests that the qualifying child not participate in
7321 a tier one or tier two vision screening, an LEA may not require the qualifying child to receive
7322 the tier one or tier two vision screening.

7323 (8) (a) Except as provided in Subsection (8)(b), a school nurse shall supervise an LEA
7324 tier one vision screening clinic as well as provide referral and followup services.

7325 (b) If an LEA does not have a school nurse to supervise an LEA tier one vision
7326 screening clinic, an LEA may, in accordance with Department of Health and Human Services
7327 rule, use an outside entity to supervise an LEA tier one vision screening clinic.

7328 (9) (a) An LEA shall ensure that a volunteer who assists with an LEA tier one vision
7329 screening clinic:

7330 (i) (A) is trained by a school nurse; or

7331 (B) demonstrates successful completion of the training module described in Subsection
7332 (4)(b);

7333 (ii) complies with the requirements of Subsection (9)(c); and

7334 (iii) is supervised by a school nurse or, in accordance with Subsection (8)(b), an
7335 outside entity.

7336 (b) In accordance with Department of Health and Human Services rule, an LEA may
7337 exclude a person from volunteering at an LEA tier one vision screening clinic if the person has

7338 a conflict of interest, including if the person could profit financially from volunteering.

7339 (c) A volunteer who assists with an LEA tier one vision screening clinic may not
7340 market, advertise, or promote a business in connection with assisting at the LEA tier one vision
7341 screening clinic.

7342 (d) A volunteer who assists with an LEA tier one vision screening clinic is not liable
7343 for damages that result from an act or omission related to the LEA tier one vision screening
7344 clinic, if the act or omission is not willful or grossly negligent.

7345 Section 114. Section **53G-9-502** is amended to read:

7346 **53G-9-502. Administration of medication to students -- Prerequisites -- Immunity**
7347 **from liability -- Applicability.**

7348 (1) A public or private school that holds any classes in grades kindergarten through 12
7349 may provide for the administration of medication to any student during periods when the
7350 student is under the control of the school, subject to the following conditions:

7351 (a) the local school board, charter school governing board, or the private equivalent,
7352 after consultation with the Department of Health and Human Services and school nurses shall
7353 adopt policies that provide for:

- 7354 (i) the designation of volunteer employees who may administer medication;
- 7355 (ii) proper identification and safekeeping of medication;
- 7356 (iii) the training of designated volunteer employees by the school nurse;
- 7357 (iv) maintenance of records of administration; and
- 7358 (v) notification to the school nurse of medication that will be administered to students;

7359 and

7360 (b) medication may only be administered to a student if:

7361 (i) the student's parent has provided a current written and signed request that
7362 medication be administered during regular school hours to the student; and

7363 (ii) the student's licensed health care provider has prescribed the medication and
7364 provides documentation as to the method, amount, and time schedule for administration, and a
7365 statement that administration of medication by school employees during periods when the

7366 student is under the control of the school is medically necessary.

7367 (2) Authorization for administration of medication by school personnel may be
7368 withdrawn by the school at any time following actual notice to the student's parent.

7369 (3) School personnel who provide assistance under Subsection (1) in substantial
7370 compliance with the licensed health care provider's written prescription and the employers of
7371 these school personnel are not liable, civilly or criminally, for:

7372 (a) any adverse reaction suffered by the student as a result of taking the medication;
7373 and

7374 (b) discontinuing the administration of the medication under Subsection (2).

7375 (4) Subsections (1) through (3) do not apply to:

7376 (a) the administration of glucagon in accordance with Section 53G-9-504;

7377 (b) the administration of a seizure rescue medication in accordance with Section
7378 53G-9-505; or

7379 (c) the administration of an opiate antagonist in accordance with [~~Title 26, Chapter 55,~~
7380 ~~Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access.

7381 Section 115. Section 53G-9-702 is amended to read:

7382 **53G-9-702. Youth suicide prevention programs -- State board to develop model**
7383 **programs.**

7384 (1) As used in the section:

7385 (a) "Elementary grades" means:

7386 (i) kindergarten through grade 5; and

7387 (ii) if the associated middle or junior high school does not include grade 6, grade 6.

7388 (b) "Intervention" means an effort to prevent a student from attempting suicide.

7389 (c) "Postvention" means mental health intervention after a suicide attempt or death to
7390 prevent or contain contagion.

7391 (d) "Program" means a youth suicide prevention program described in Subsection (2).

7392 (e) "Public education suicide prevention coordinator" means an individual designated
7393 by the state board as described in Subsection (4).

- 7394 (f) "Secondary grades" means:
- 7395 (i) grades 7 through 12; and
- 7396 (ii) if a middle or junior high school includes grade 6, grade 6.
- 7397 (g) "State suicide prevention coordinator" means the state suicide prevention
- 7398 coordinator described in Section [~~62A-15-1101~~] [26B-5-611](#).
- 7399 (2) In collaboration with the public education suicide prevention coordinator, a school
- 7400 district or charter school shall implement a youth suicide prevention program, which, in
- 7401 collaboration with the training, programs, and initiatives described in Section [53G-9-607](#), shall
- 7402 include programs and training to address:
- 7403 (a) for elementary grades and secondary grades:
- 7404 (i) life-affirming education, including on the concepts of resiliency, healthy habits,
- 7405 self-care, problem solving, and conflict resolution;
- 7406 (ii) methods of strengthening the family; and
- 7407 (iii) methods of strengthening a youth's relationships in the school and community; and
- 7408 (b) for secondary grades:
- 7409 (i) prevention of youth suicide;
- 7410 (ii) decreasing the risk of suicide among youth who are:
- 7411 (A) not accepted by family for any reason, including lesbian, gay, bisexual,
- 7412 transgender, or questioning youth; or
- 7413 (B) suffer from bullying;
- 7414 (iii) youth suicide intervention; and
- 7415 (iv) postvention for family, students, and faculty.
- 7416 (3) Each school district and charter school shall ensure that the youth suicide
- 7417 prevention program described in Subsection (2):
- 7418 (a) considers appropriate coordination with the following prevention programs:
- 7419 (i) the prevention of bullying and cyber-bullying, as those terms are defined in Section
- 7420 [53G-9-601](#); and
- 7421 (ii) the prevention of underage drinking of alcohol and substance abuse under Section

7422 [53G-10-406](#); and

7423 (b) includes provisions to ensure that the school district or charter school promptly
7424 communicates with the parent or guardian of a student in accordance with Section [53G-9-604](#).

7425 (4) The state board shall:

7426 (a) designate a public education suicide prevention coordinator; and

7427 (b) in collaboration with the Department of Health and Human Services and the state
7428 suicide prevention coordinator, develop model programs to provide to school districts and
7429 charter schools:

7430 (i) program training; and

7431 (ii) resources regarding the required components described in Subsections (2)(a) and

7432 (b).

7433 (5) The public education suicide prevention coordinator shall:

7434 (a) oversee the youth suicide prevention programs of school districts and charter
7435 schools; and

7436 (b) coordinate prevention and postvention programs, services, and efforts with the state
7437 suicide prevention coordinator.

7438 (6) A public school suicide prevention program may allow school personnel to ask a
7439 student questions related to youth suicide prevention, intervention, or postvention.

7440 (7) (a) Subject to legislative appropriation, the state board may distribute money to a
7441 school district or charter school to be used to implement evidence-based practices and
7442 programs, or emerging best practices and programs, for preventing suicide in the school district
7443 or charter school.

7444 (b) The state board shall ensure that an LEA's allocation of funds from the board's
7445 distribution of money under Subsection (7)(a) provides an amount equal to at least \$1,000 per
7446 school.

7447 (c) (i) A school shall use money allocated to the school under Subsection (7)(b) to
7448 implement evidence-based practices and programs, or emerging best practices and programs,
7449 for preventing suicide.

7450 (ii) Each school may select the evidence-based practices and programs, or emerging
7451 best practices and programs, for preventing suicide that the school implements.

7452 (8) An LEA may not charge indirect costs to the program.

7453 Section 116. Section **58-1-112** is amended to read:

7454 **58-1-112. Data collection.**

7455 (1) As used in this section:

7456 (a) "Council" means the Utah Health Workforce Advisory Council created in Section
7457 ~~[26-69-201]~~ [26B-1-425](#).

7458 (b) "Information center" means the Utah Health Workforce Information Center created
7459 in Section ~~[26-69-301]~~ [26B-4-705](#).

7460 (2) (a) In accordance with Subsection ~~[26-69-301(2)(a)]~~ [26B-4-705\(2\)\(a\)](#), the
7461 department shall work with the information center to identify relevant data pertaining to a
7462 profession described in Subsection (3).

7463 (b) The data should focus on:

7464 (i) identifying workforce shortages;

7465 (ii) identifying labor market indicators;

7466 (iii) determining the educational background of a licensee; and

7467 (iv) determining whether Utah is retaining a stable health workforce.

7468 (c) After the council approves data to be collected, the department shall request the
7469 data from a licensee when a licensee applies for a license or renews the licensee's license.

7470 (d) The department shall send the obtained data to the information center.

7471 (e) A licensee may not be denied a license for failing to provide the data described in
7472 Subsection (2)(c) to the department.

7473 (3) (a) The department shall prioritize data collection for each profession licensed
7474 under:

7475 (i) Chapter 31b, Nurse Practice Act;

7476 (ii) Chapter 60, Mental Health Professional Practice Act;

7477 (iii) Chapter 61, Psychologist Licensing Act;

- 7478 (iv) Chapter 67, Utah Medical Practice Act;
- 7479 (v) Chapter 68, Utah Osteopathic Medical Practice Act;
- 7480 (vi) Chapter 69, Dentist and Dental Hygienist Practice Act; or
- 7481 (vii) Chapter 70a, Utah Physician Assistant Act.
- 7482 (b) After the department has collected data for each profession described in Subsection
- 7483 (3)(a), the department shall collect data for each profession licensed under:
- 7484 (i) Chapter 5a, Podiatric Physician Licensing Act;
- 7485 (ii) Chapter 17b, Pharmacy Practice Act;
- 7486 (iii) Chapter 24b, Physical Therapy Practice Act;
- 7487 (iv) Chapter 40, Recreational Therapy Practice Act;
- 7488 (v) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- 7489 (vi) Chapter 42a, Occupational Therapy Practice Act;
- 7490 (vii) Chapter 44a, Nurse Midwife Practice Act;
- 7491 (viii) Chapter 54, Radiologic Technologist, Radiologist Assistant, and Radiology
- 7492 Practical Technician Licensing Act; or
- 7493 (ix) Chapter 57, Respiratory Care Practices Act.
- 7494 (c) The department shall collect data in accordance with this section for any
- 7495 health-related occupation or profession that is regulated by the department and is not described
- 7496 in Subsection (3)(a) or (b) if:
- 7497 (i) funding is available;
- 7498 (ii) the council has identified a need for the data; and
- 7499 (iii) data has been collected for each profession described in Subsections (3)(a) and
- 7500 (3)(b).
- 7501 Section 117. Section **58-1-307** is amended to read:
- 7502 **58-1-307. Exemptions from licensure.**
- 7503 (1) Except as otherwise provided by statute or rule, the following individuals may
- 7504 engage in the practice of their occupation or profession, subject to the stated circumstances and
- 7505 limitations, without being licensed under this title:

7506 (a) an individual serving in the armed forces of the United States, the United States
7507 Public Health Service, the United States Department of Veterans Affairs, or other federal
7508 agencies while engaged in activities regulated under this chapter as a part of employment with
7509 that federal agency if the individual holds a valid license to practice a regulated occupation or
7510 profession issued by any other state or jurisdiction recognized by the division;

7511 (b) a student engaged in activities constituting the practice of a regulated occupation or
7512 profession while in training in a recognized school approved by the division to the extent the
7513 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
7514 part of the training program;

7515 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
7516 fellowship, apprenticeship, or on-the-job training program approved by the division while
7517 under the supervision of qualified individuals;

7518 (d) an individual residing in another state and licensed to practice a regulated
7519 occupation or profession in that state, who is called in for a consultation by an individual
7520 licensed in this state, and the services provided are limited to that consultation;

7521 (e) an individual who is invited by a recognized school, association, society, or other
7522 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
7523 regulated occupation or profession if the individual does not establish a place of business or
7524 regularly engage in the practice of the regulated occupation or profession in this state;

7525 (f) an individual licensed under the laws of this state, other than under this title, to
7526 practice or engage in an occupation or profession, while engaged in the lawful, professional,
7527 and competent practice of that occupation or profession;

7528 (g) an individual licensed in a health care profession in another state who performs that
7529 profession while attending to the immediate needs of a patient for a reasonable period during
7530 which the patient is being transported from outside of this state, into this state, or through this
7531 state;

7532 (h) an individual licensed in another state or country who is in this state temporarily to
7533 attend to the needs of an athletic team or group, except that the practitioner may only attend to

7534 the needs of the athletic team or group, including all individuals who travel with the team or
7535 group in any capacity except as a spectator;

7536 (i) an individual licensed and in good standing in another state, who is in this state:

7537 (i) temporarily, under the invitation and control of a sponsoring entity;

7538 (ii) for a reason associated with a special purpose event, based upon needs that may
7539 exceed the ability of this state to address through its licensees, as determined by the division;

7540 and

7541 (iii) for a limited period of time not to exceed the duration of that event, together with
7542 any necessary preparatory and conclusionary periods; and

7543 (j) the spouse of an individual serving in the armed forces of the United States while
7544 the individual is stationed within this state, provided:

7545 (i) the spouse holds a valid license to practice a regulated occupation or profession
7546 issued by any other state or jurisdiction recognized by the division; and

7547 (ii) the license is current and the spouse is in good standing in the state of licensure.

7548 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
7549 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
7550 practitioner derives authority to practice.

7551 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
7552 exempt status, denial of license, or other disciplinary proceedings.

7553 (3) An individual who is licensed under a specific chapter of this title to practice or
7554 engage in an occupation or profession may engage in the lawful, professional, and competent
7555 practice of that occupation or profession without additional licensure under other chapters of
7556 this title, except as otherwise provided by this title.

7557 (4) Upon the declaration of a national, state, or local emergency, a public health
7558 emergency as defined in Section [~~26-23b-102~~] 26B-7-301, or a declaration by the president of
7559 the United States or other federal official requesting public health-related activities, the
7560 division in collaboration with the relevant board may:

7561 (a) suspend the requirements for permanent or temporary licensure of individuals who

7562 are licensed in another state for the duration of the emergency while engaged in the scope of
7563 practice for which they are licensed in the other state;

7564 (b) modify, under the circumstances described in this Subsection (4) and Subsection
7565 (5), the scope of practice restrictions under this title for individuals who are licensed under this
7566 title as:

7567 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
7568 Osteopathic Medical Practice Act;

7569 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure
7570 Compact - Revised;

7571 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

7572 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
7573 Pharmacy Practice Act;

7574 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

7575 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
7576 Practice Act; and

7577 (vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

7578 (c) suspend the requirements for licensure under this title and modify the scope of
7579 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
7580 services personnel or paramedics required to be licensed under Section ~~[26-8a-302]~~ 26B-4-116;

7581 (d) suspend requirements in Subsections ~~58-17b-620~~(3) through (6) which require
7582 certain prescriptive procedures;

7583 (e) exempt or modify the requirement for licensure of an individual who is activated as
7584 a member of a medical reserve corps during a time of emergency as provided in Section
7585 26A-1-126;

7586 (f) exempt or modify the requirement for licensure of an individual who is registered as
7587 a volunteer health practitioner as provided in [~~Title 26, Chapter 49, Uniform Emergency~~
7588 ~~Volunteer Health Practitioners Act]~~ Title 26B, Chapter 4, Part 8, Uniform Emergency
7589 Volunteer Health Practitioners Act; and

7590 (g) in accordance with rules made by the division in accordance with Title 63G,
7591 Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for
7592 licensure of an individual engaged in one or more of the construction trades described in
7593 Chapter 55, Utah Construction Trades Licensing Act.

7594 (5) Individuals exempt under Subsection (4)(c) and individuals operating under
7595 modified scope of practice provisions under Subsection (4)(b):

7596 (a) are exempt from licensure or subject to modified scope of practice for the duration
7597 of the emergency;

7598 (b) must be engaged in the distribution of medicines or medical devices in response to
7599 the emergency or declaration; and

7600 (c) must be employed by or volunteering for:

7601 (i) a local or state department of health; or

7602 (ii) a host entity as defined in Section [~~26-49-102~~] [26B-4-801](#).

7603 (6) In accordance with the protocols established under Subsection (8), upon the
7604 declaration of a national, state, or local emergency, the Department of Health and Human
7605 Services or a local health department shall coordinate with public safety authorities as defined
7606 in Subsection [~~26-23b-110(1)~~] [26B-7-323\(1\)](#) and may:

7607 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
7608 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
7609 consequence of, the emergency; or

7610 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
7611 a controlled substance:

7612 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
7613 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
7614 is exhausted; or

7615 (ii) for dispensing or direct administration to treat the disease or condition that gave
7616 rise to, or was a consequence of, the emergency by:

7617 (A) a pharmacy;

- 7618 (B) a prescribing practitioner;
- 7619 (C) a licensed health care facility;
- 7620 (D) a federally qualified community health clinic; or
- 7621 (E) a governmental entity for use by a community more than 50 miles from a person
- 7622 described in Subsections (6)(b)(ii)(A) through (D).

7623 (7) In accordance with protocols established under Subsection (8), upon the declaration
7624 of a national, state, or local emergency, the Department of Health and Human Services shall
7625 coordinate the distribution of medications:

- 7626 (a) received from the strategic national stockpile to local health departments; and
- 7627 (b) from local health departments to emergency personnel within the local health
- 7628 departments' geographic region.

7629 (8) The Department of Health and Human Services shall establish by rule, made in
7630 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for
7631 administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other
7632 prescription medication that is not a controlled substance in the event of a declaration of a
7633 national, state, or local emergency. The protocol shall establish procedures for the Department
7634 of Health and Human Services or a local health department to:

- 7635 (a) coordinate the distribution of:
 - 7636 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
 - 7637 controlled substance received by the Department of Health and Human Services from the
 - 7638 strategic national stockpile to local health departments; and
 - 7639 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
 - 7640 medication received by a local health department to emergency personnel within the local
 - 7641 health department's geographic region;
 - 7642 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
 - 7643 an antibiotic, or other prescription medication that is not a controlled substance to the contact
 - 7644 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
 - 7645 that of the physician's or physician assistant's patient; and

7646 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
7647 an antibiotic, or other non-controlled prescription medication to an individual who:

7648 (i) is working in a triage situation;

7649 (ii) is receiving preventative or medical treatment in a triage situation;

7650 (iii) does not have coverage for the prescription in the individual's health insurance
7651 plan;

7652 (iv) is involved in the delivery of medical or other emergency services in response to
7653 the declared national, state, or local emergency; or

7654 (v) otherwise has a direct impact on public health.

7655 (9) The Department of Health and Human Services shall give notice to the division
7656 upon implementation of the protocol established under Subsection (8).

7657 Section 118. Section **58-1-312** is amended to read:

7658 **58-1-312. Organ donation notification.**

7659 (1) As used in this section:

7660 (a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] [26B-8-301](#).

7661 (b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~]
7662 [26B-8-301](#).

7663 (2) At the same time the division issues a new license to a licensee in accordance with
7664 Subsection [58-1-301](#)(4), and at the same time the division notifies a licensee that the licensee's
7665 license is due for renewal in accordance with Subsection [58-1-308](#)(3)(a), the division shall
7666 distribute to the licensee, by email using the most recent email address furnished to the division
7667 by the licensee, a message notifying the licensee of the option to register as a donor and
7668 providing the licensee an Internet link to a website for a donor registry established under
7669 Section [~~26-28-120~~] [26B-8-319](#).

7670 Section 119. Section **58-1-405** is amended to read:

7671 **58-1-405. Provisions of volunteer health or veterinary services -- Division**
7672 **authority.**

7673 In accordance with Section [~~26-49-205~~] [26B-4-807](#), the division may pursue actions

7674 against a volunteer health practitioner operating under [~~Title 26, Chapter 49, Uniform~~
7675 ~~Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform
7676 Emergency Volunteer Health Practitioners Act.

7677 Section 120. Section **58-1-501.5** is amended to read:

7678 **58-1-501.5. Anatomic pathology services -- Billing violations.**

7679 (1) As used in this section, the following definitions apply:

7680 (a) (i) "Anatomic pathology services" including "technical or professional component
7681 of anatomic pathology services" means:

7682 (A) histopathology or surgical pathology, meaning the gross examination of, histologic
7683 processing of, or microscopic examination of human organ tissue performed by a physician or
7684 under the supervision of a physician;

7685 (B) cytopathology, meaning the examination of human cells, from fluids, aspirates,
7686 washings, brushings, or smears, including the pap test examination performed by a physician or
7687 under the supervision of a physician;

7688 (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates
7689 and biopsies performed by a physician or under the supervision of a physician and peripheral
7690 human blood smears when the attending or treating physician or other practitioner of the
7691 healing arts or a technologist requests that a blood smear be reviewed by a pathologist;

7692 (D) subcellular pathology and molecular pathology; and

7693 (E) blood bank services performed by a pathologist.

7694 (ii) "Anatomic pathology services" including "technical or professional component of
7695 anatomic pathology services" does not include the initial collection or packaging of a sample
7696 for transport.

7697 (b) "Clinical laboratory" or "laboratory" means a facility for the biological,
7698 microbiological, serological, chemical, immunohematological, hematological, biophysical,
7699 cytological, pathological, or other examination of materials derived from the human body for
7700 the purpose of providing information for the diagnosis, prevention, or treatment of any disease
7701 or impairment of human beings or the assessment of the health of human beings.

- 7702 (c) "Health care facility" has the meaning provided in Section [~~26-21-2~~] [26B-2-201](#).
- 7703 (d) "Health care provider" includes:
- 7704 (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice
- 7705 Act;
- 7706 (ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
- 7707 Act;
- 7708 (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;
- 7709 (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;
- 7710 (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;
- 7711 (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic
- 7712 Medical Practice Act;
- 7713 (vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing
- 7714 Act;
- 7715 (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act;
- 7716 and
- 7717 (ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.
- 7718 (e) "Insurer" includes:
- 7719 (i) any entity offering accident and health insurance as defined in Section [31A-1-301](#);
- 7720 (ii) workers' compensation benefits;
- 7721 (iii) a health maintenance organization; or
- 7722 (iv) any self-insurance, as defined in Section [31A-1-301](#), that offers health care
- 7723 insurance or benefits.
- 7724 (2) (a) A health care provider who orders anatomic pathology services for a patient
- 7725 from an independent physician or laboratory may not directly or indirectly mark up, charge a
- 7726 commission, or make a profit on the anatomic pathology service provided by the independent
- 7727 physician or laboratory.
- 7728 (b) Nothing in Subsection (2)(a):
- 7729 (i) restricts the ability of a health care provider, who has not performed or supervised

7730 either the technical or professional component of the anatomic pathology service, to obtain
7731 payment for services related solely to the collection and packaging of a sample and
7732 administrative billing costs; or

7733 (ii) restricts the ability of the lab function in the Department of Health and Human
7734 Services to bill for services.

7735 (3) A health care provider when billing a patient directly for anatomic pathology
7736 services provided by an independent physician or laboratory shall furnish an itemized bill
7737 which conforms with the billing practices of the American Medical Association that
7738 conspicuously discloses the charge for each anatomic pathology service, physician or
7739 laboratory name, and address for each anatomic pathology service rendered to the patient by the
7740 physician or laboratory that performed the anatomic pathology service.

7741 (4) The disclosure to be made under Subsection (3) shall not be required when the
7742 anatomic pathology service is being ordered by a hospital, a laboratory performing either the
7743 professional or technical component of the service, or a physician performing either the
7744 professional or technical component of the service, a public health clinic, or a state or federal
7745 agency.

7746 (5) Failure to comply with the requirements of this section shall be considered to be
7747 unprofessional conduct.

7748 Section 121. Section **58-1-501.7** is amended to read:

7749 **58-1-501.7. Standards of conduct for prescription drug education -- Academic**
7750 **and commercial detailing.**

7751 (1) For purposes of this section:

7752 (a) "Academic detailing":

7753 (i) means a health care provider who is licensed under this title to prescribe or dispense
7754 a prescription drug and employed by someone other than a pharmaceutical manufacturer:

7755 (A) for the purpose of countering information provided in commercial detailing; and

7756 (B) to disseminate educational information about prescription drugs to other health
7757 care providers in an effort to better align clinical practice with scientific research; and

7758 (ii) does not include a health care provider who:

7759 (A) is disseminating educational information about a prescription drug as part of
7760 teaching or supervising students or graduate medical education students at an institution of
7761 higher education or through a medical residency program;

7762 (B) is disseminating educational information about a prescription drug to a patient or a
7763 patient's representative; or

7764 (C) is acting within the scope of practice for the health care provider regarding the
7765 prescribing or dispensing of a prescription drug.

7766 (b) "Commercial detailing" means an educational practice employed by a
7767 pharmaceutical manufacturer in which clinical information and evidence about a prescription
7768 drug is shared with health care professionals.

7769 (c) "Manufacture" is as defined in Section [58-37-2](#).

7770 (d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

7771 (2) (a) Except as provided in Subsection (3), the provisions of this section apply to an
7772 academic detailer beginning July 1, 2013.

7773 (b) An academic detailer and a commercial detailer who educate another health care
7774 provider about prescription drugs through written or oral educational material is subject to
7775 federal regulations regarding:

7776 (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

7777 (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

7778 (iii) the federal Office of the Inspector General's Compliance Program Guidance for
7779 Pharmaceutical Manufacturers issued in April 2003, as amended.

7780 (c) A person who is injured by a violation of this section has a private right of action
7781 against a person engaged in academic detailing, if:

7782 (i) the actions of the person engaged in academic detailing, that are a violation of this
7783 section, are:

7784 (A) the result of gross negligence by the person; or

7785 (B) willful and wanton behavior by the person; and

7786 (ii) the damages to the person are reasonable, foreseeable, and proximately caused by
7787 the violations of this section.

7788 (3) (a) For purposes of this Subsection, "accident and health insurance":

7789 (i) means the same as that term is defined in Section [31A-1-301](#); and

7790 (ii) includes a self-funded health benefit plan and an administrator for a self-funded
7791 health benefit plan.

7792 (b) This section does not apply to a person who engages in academic detailing if that
7793 person is engaged in academic detailing on behalf of:

7794 (i) a person who provides accident and health insurance, including when the person
7795 who provides accident and health insurance contracts with or offers:

7796 (A) the state Medicaid program, including the Primary Care Network within the state's
7797 Medicaid program;

7798 (B) the Children's Health Insurance Program created in Section [~~26-40-103~~]
7799 [26B-3-902](#);

7800 (C) a Medicare plan; or

7801 (D) a Medicare supplement plan;

7802 (ii) a hospital as defined in Section [~~26-21-2~~] [26B-2-201](#);

7803 (iii) any class of pharmacy as defined in Section [58-17b-102](#), including any affiliated
7804 pharmacies;

7805 (iv) an integrated health system as defined in Section [13-5b-102](#); or

7806 (v) a medical clinic.

7807 (c) This section does not apply to communicating or disseminating information about a
7808 prescription drug for the purpose of conducting research using prescription drugs at a health
7809 care facility as defined in Section [~~26-21-2~~] [26B-2-201](#), or a medical clinic.

7810 Section 122. Section **58-1-509** is amended to read:

7811 **58-1-509. Patient consent for certain medical examinations.**

7812 (1) As used in this section:

7813 (a) "Health care provider" means:

7814 (i) an individual who is:
7815 (A) a healthcare provider as defined in Section [78B-3-403](#); and
7816 (B) licensed under this title;
7817 (ii) emergency medical service personnel as defined in Section [~~26-8a-102~~] [26B-4-101](#);
7818 or
7819 (iii) an individual described in Subsection [58-1-307\(1\)\(b\)](#) or (c).
7820 (b) "Patient examination" means a medical examination that requires contact with the
7821 patient's sexual organs.
7822 (2) A health care provider may not perform a patient examination on an anesthetized or
7823 unconscious patient unless:
7824 (a) the health care provider obtains consent from the patient or the patient's
7825 representative in accordance with Subsection (3);
7826 (b) a court orders performance of the patient examination for the collection of
7827 evidence;
7828 (c) the performance of the patient examination is within the scope of care for a
7829 procedure or diagnostic examination scheduled to be performed on the patient; or
7830 (d) the patient examination is immediately necessary for diagnosis or treatment of the
7831 patient.
7832 (3) To obtain consent to perform a patient examination on an anesthetized or
7833 unconscious patient, before performing the patient examination, the health care provider shall:
7834 (a) provide the patient or the patient's representative with a written or electronic
7835 document that:
7836 (i) is provided separately from any other notice or agreement;
7837 (ii) contains the following heading at the top of the document in not smaller than
7838 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";
7839 (iii) specifies the nature and purpose of the patient examination;
7840 (iv) names one or more primary health care providers whom the patient or the patient's
7841 representative may authorize to perform the patient examination;

7842 (v) states whether there may be a student or resident that the patient or the patient's
7843 representative authorizes to:

7844 (A) perform an additional patient examination; or

7845 (B) observe or otherwise be present at the patient examination, either in person or
7846 through electronic means; and

7847 (vi) provides the patient or the patient's representative with a series of check boxes that
7848 allow the patient or the patient's representative to:

7849 (A) consent to the patient examination for diagnosis or treatment and an additional
7850 patient examination performed by a student or resident for an educational or training purpose;

7851 (B) consent to the patient examination only for diagnosis or treatment; or

7852 (C) refuse to consent to the patient examination;

7853 (b) obtain the signature of the patient or the patient's representative on the written or
7854 electronic document while witnessed by a third party; and

7855 (c) sign the written or electronic document.

7856 Section 123. Section **58-4a-102** is amended to read:

7857 **58-4a-102. Definitions.**

7858 As used in this chapter:

7859 (1) "Diversion agreement" means a written agreement entered into by a licensee and
7860 the division that describes the requirements of the licensee's monitoring regimen and that was
7861 entered into before May 12, 2020.

7862 (2) "Licensee" means an individual licensed to practice under:

7863 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

7864 (b) Title 58, Chapter 17b, Pharmacy Practice Act;

7865 (c) Title 58, Chapter 28, Veterinary Practice Act;

7866 (d) Title 58, Chapter 31b, Nurse Practice Act;

7867 (e) Title 58, Chapter 67, Utah Medical Practice Act;

7868 (f) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

7869 (g) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or

- 7870 (h) Title 58, Chapter 70a, Utah Physician Assistant Act.
- 7871 (3) "Program" means the Utah Professionals Health Program.
- 7872 (4) "Program contract" means a written agreement entered into by a licensee and the
7873 division that allows the licensee to participate in the program.
- 7874 (5) "Substance use disorder" means the same as that term is defined in Section
7875 [~~62A-15-1202~~] [26B-5-501](#).
- 7876 Section 124. Section **58-5a-102** is amended to read:
- 7877 **58-5a-102. Definitions.**
- 7878 In addition to the definitions under Section [58-1-102](#), as used in this chapter:
- 7879 (1) "Board" means the Podiatric Physician Board created in Section [58-5a-201](#).
- 7880 (2) "Indirect supervision" means the same as that term is defined by the division by
7881 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 7882 (3) "Medical assistant" means an unlicensed individual working under the indirect
7883 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the
7884 licensed podiatric physician in accordance with the standards and ethics of the podiatry
7885 profession.
- 7886 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the
7887 human foot and ankle and their manifestations of systemic conditions by all appropriate and
7888 lawful means, subject to Section [58-5a-103](#).
- 7889 (5) "Unlawful conduct" includes:
- 7890 (a) the conduct that constitutes unlawful conduct under Section [58-1-501](#); and
- 7891 (b) for an individual who is not licensed under this chapter:
- 7892 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,
7893 foot specialist, or D.P.M.; or
- 7894 (ii) implying or representing that the individual is qualified to practice podiatry.
- 7895 (6) (a) "Unprofessional conduct" includes, for an individual licensed under this
7896 chapter:
- 7897 (i) the conduct that constitutes unprofessional conduct under Section [58-1-501](#);

7898 (ii) communicating to a third party, without the consent of the patient, information the
7899 individual acquires in treating the patient, except as necessary for professional consultation
7900 regarding treatment of the patient;

7901 (iii) allowing the individual's name or license to be used by an individual who is not
7902 licensed to practice podiatry under this chapter;

7903 (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any
7904 unlicensed individual to practice podiatry;

7905 (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs
7906 the individual's ability to practice podiatry;

7907 (vi) unlawfully prescribing, selling, or giving away any prescription drug, including
7908 controlled substances, as defined in Section 58-37-2;

7909 (vii) gross incompetency in the practice of podiatry;

7910 (viii) willfully and intentionally making a false statement or entry in hospital records,
7911 medical records, or reports;

7912 (ix) willfully making a false statement in reports or claim forms to governmental
7913 agencies or insurance companies with the intent to secure payment not rightfully due;

7914 (x) willfully using false or fraudulent advertising;

7915 (xi) conduct the division defines as unprofessional conduct by rule made in accordance
7916 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

7917 (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

7918 (A) a wrongful or negligent act or omission of an individual licensed under this chapter
7919 or an individual under the direction or control of an individual licensed under this chapter; or

7920 (B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection 58-1-501(1);

7921 or

7922 (xiii) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]

7923 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

7924 (b) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter~~

7925 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and

7926 Medical Cannabis, when registered as a qualified medical provider or acting as a limited
7927 medical provider, as those terms are defined in Section [~~26-61a-102~~] 26B-4-201,
7928 recommending the use of medical cannabis within the scope of a practice of podiatry.

7929 Section 125. Section **58-5a-103** is amended to read:

7930 **58-5a-103. Scope of practice.**

7931 (1) Subject to the provisions of this section, an individual licensed as a podiatric
7932 physician under this chapter may perform a surgical procedure on a bone of the foot or ankle.

7933 (2) Except as provided in Subsections (3) and (4), an individual licensed as a podiatric
7934 physician under this chapter may not perform:

7935 (a) an ankle fusion;

7936 (b) a massive ankle reconstruction; or

7937 (c) a reduction of a trimalleolar ankle fracture.

7938 (3) An individual licensed as a podiatric physician under this chapter who meets the
7939 requirements described in Subsection (4) may only:

7940 (a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle
7941 joint;

7942 (b) treat a foot or ankle condition using hardware, including screws, plates, staples,
7943 pins, and wires, if at least one portion of the hardware system is attached to a bony structure at
7944 or below the ankle mortise; and

7945 (c) place hardware for the treatment of soft tissues in the foot or ankle no more
7946 proximal than the distal 10 centimeters of the tibia.

7947 (4) Subject to Subsection (3), an individual licensed as a podiatric physician under this
7948 chapter may only perform a procedure described in Subsection (2) if the individual:

7949 (a) (i) graduated on or after June 1, 2006, from a three-year residency program in
7950 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on
7951 Podiatric Medical Education; and

7952 (ii) is board certified in reconstructive rearfoot and ankle surgery by the American
7953 Board of Foot and Ankle Surgery;

7954 (b) (i) graduated on or after June 1, 2006, from a three-year residency program in
7955 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on
7956 Podiatric Medical Education;

7957 (ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board
7958 of Foot and Ankle Surgery; and

7959 (iii) provides the division documentation that the podiatric physician has completed
7960 training or experience, which the division determines is acceptable, in standard or advanced
7961 rearfoot and ankle procedures; or

7962 (c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine
7963 and surgery that was at least two years in length and that was accredited, at the time of
7964 graduation, by the Council on Podiatric Medical Education;

7965 (ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American
7966 Board of Foot and Ankle Surgery;

7967 (B) if the residency described in Subsection (4)(c)(i) is a PSR-24 24-month podiatric
7968 surgical residency, provides proof that the individual completed the residency, to a hospital that
7969 is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot
7970 and ankle surgery; or

7971 (C) in addition to the residency described in Subsection (4)(c)(i), has completed a
7972 fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical
7973 Education at the time of completion; and

7974 (iii) provides the division documentation that the podiatric physician has completed
7975 training and experience, which the division determines is acceptable, in standard or advanced
7976 rearfoot and ankle procedures.

7977 (5) An individual licensed as a podiatric physician under this chapter may not perform
7978 an amputation proximal to Chopart's joint.

7979 (6) An individual licensed as a podiatric physician under this chapter may not perform
7980 a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle,
7981 or on a structure related to the foot or ankle above the ankle, unless the individual performs the

7982 surgical treatment:

7983 (a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as
7984 defined in Section [~~26-21-2~~] [26B-2-201](#); and

7985 (b) subject to review by a quality care review body that includes qualified, licensed
7986 physicians and surgeons.

7987 Section 126. Section **58-9-610** is amended to read:

7988 **58-9-610. Cremation procedures.**

7989 (1) A funeral service establishment may not cremate human remains until the funeral
7990 service establishment:

7991 (a) completes and files a death certificate with the office of vital statistics and the
7992 county health department as indicated on the regular medical certificate of death or the
7993 coroner's certificate; and

7994 (b) complies with the provisions of Section [~~26-4-29~~] [26B-8-230](#).

7995 (2) (a) A funeral service establishment may not cremate human remains with a
7996 pacemaker or other battery-powered, potentially hazardous implant in place.

7997 (b) (i) An authorizing agent for the cremation of human remains is responsible for
7998 informing the funeral service establishment in writing on the cremation authorization form
7999 about the presence of a pacemaker or other battery-powered, potentially hazardous implant in
8000 the human remains to be cremated.

8001 (ii) (A) Except as provided in Subsection (2)(b)(ii)(B), the authorizing agent is
8002 responsible to ensure that a pacemaker or other battery-powered, potentially hazardous implant
8003 is removed prior to cremation.

8004 (B) If the authorizing agent informs the funeral service establishment of the presence of
8005 a pacemaker or other battery-powered, potentially hazardous implant under Subsection
8006 (2)(b)(i), and the funeral service establishment fails to have the pacemaker or other
8007 battery-powered, potentially hazardous implant removed prior to cremation, then the funeral
8008 service establishment is liable for all resulting damages.

8009 (3) Only authorized persons are permitted in the crematory while human remains are in

8010 the crematory area awaiting cremation, being cremated, or being removed from the cremation
8011 chamber.

8012 (4) (a) Simultaneous cremation of the human remains of more than one person within
8013 the same cremation chamber or processor is not allowed, unless the funeral service
8014 establishment has received specific written authorization to do so from the authorizing agent of
8015 each person to be cremated.

8016 (b) The written authorization, described in Subsection (4)(a), exempts the funeral
8017 license establishment from liability for co-mingling of the cremated remains during the
8018 cremation process.

8019 (5) A funeral service establishment shall:

8020 (a) verify the identification of human remains as indicated on a cremation container
8021 immediately before placing the human remains in the cremation chamber;

8022 (b) attach a metal identification tag to the cremation container;

8023 (c) remove the identification tag from the cremation container; and

8024 (d) place the identification tag near the cremation chamber control where the
8025 identification tag shall remain until the cremation process is complete.

8026 (6) Upon completion of a cremation, the funeral service establishment shall:

8027 (a) in so far as is possible, remove all of the recoverable residue of the cremation
8028 process from the cremation chamber;

8029 (b) separate all other residue from the cremation process from remaining bone
8030 fragments, in so far as possible, and process the bone fragments so as to reduce them to
8031 unidentifiable particles; and

8032 (c) remove anything other than the unidentifiable bone particles from the cremated
8033 residuals, as far as is possible, and dispose of that material.

8034 (7) (a) A funeral service establishment shall pack cremated remains, including the
8035 identification tag described in Subsection (5), in a temporary container or urn ordered by the
8036 authorizing agent.

8037 (b) The container or urn shall be packed in clean packing materials and not be

8038 contaminated with any other object, unless otherwise directed by the authorizing agent.

8039 (c) If the cremated remains cannot fit within the designated temporary container or urn,
8040 the funeral service establishment shall:

8041 (i) return the excess to the authorizing agent or the agent's representative in a separate
8042 container; and

8043 (ii) mark both containers or urns on the outside with the name of the deceased person
8044 and an indication that the cremated remains of the named decedent are in both containers or
8045 urns.

8046 (8) (a) If the cremated remains are to be shipped, then the funeral services
8047 establishment shall pack the designated temporary container or urn in a suitable, sturdy
8048 container.

8049 (b) The funeral service establishment shall have the remains shipped only by a method
8050 that:

8051 (i) has an available internal tracing system; and

8052 (ii) provides a receipt signed by the person accepting delivery.

8053 Section 127. Section **58-9-616** is amended to read:

8054 **58-9-616. Procedure for alkaline hydrolysis.**

8055 (1) A funeral service establishment may not perform alkaline hydrolysis on human
8056 remains until the funeral service establishment:

8057 (a) completes and files a death certificate with the Office of Vital Records and
8058 Statistics and the county health department as indicated on the regular medical certificate of
8059 death or the coroner's certificate; and

8060 (b) complies with the provisions of Section [~~26-4-29~~] [26B-8-230](#).

8061 (2) While human remains are in the area where alkaline hydrolysis takes place, both
8062 before and during the alkaline hydrolysis process and while being removed from the alkaline
8063 hydrolysis chamber, only authorized persons are permitted in the area.

8064 (3) Simultaneous alkaline hydrolysis of the human remains of more than one person
8065 within the same alkaline hydrolysis chamber is not allowed.

- 8066 (4) A funeral service establishment shall:
- 8067 (a) verify the identification of human remains as indicated on an alkaline hydrolysis
- 8068 container immediately before performing alkaline hydrolysis;
- 8069 (b) attach an identification tag to the alkaline hydrolysis container;
- 8070 (c) remove the identification tag from the alkaline hydrolysis container; and
- 8071 (d) place the identification tag near the alkaline hydrolysis chamber where the
- 8072 identification tag shall remain until the alkaline hydrolysis process is complete.
- 8073 (5) Upon completion of the alkaline hydrolysis process, the funeral service
- 8074 establishment shall:
- 8075 (a) dispose of liquid remains in accordance with state and local requirements;
- 8076 (b) to the extent possible, remove all of the recoverable residue of the remains of the
- 8077 alkaline hydrolysis process from the alkaline hydrolysis chamber;
- 8078 (c) separate all other residue from the alkaline hydrolysis process from remaining bone
- 8079 fragments, to the extent possible, and process the bone fragments so as to reduce them to
- 8080 unidentifiable particles; and
- 8081 (d) remove anything other than the unidentifiable bone particles from the remains of
- 8082 the alkaline hydrolysis process, to the extent possible, and dispose of that material.
- 8083 (6) (a) A funeral service establishment shall pack the remains of the alkaline hydrolysis
- 8084 process, which consist of the unidentifiable bone particles and the identification tag described
- 8085 in Subsection (4), in an urn or temporary container ordered by the authorizing agent.
- 8086 (b) The urn or temporary container shall be packed in clean packing materials and not
- 8087 be contaminated with any other object, unless otherwise directed by the authorizing agent.
- 8088 (c) If the remains of the alkaline hydrolysis process cannot fit within the designated urn
- 8089 or temporary container, the funeral service establishment shall:
- 8090 (i) return the excess remains to the authorizing agent or the agent's representative in a
- 8091 separate urn or temporary container; and
- 8092 (ii) mark both urns or temporary containers on the outside with the name of the
- 8093 decedent and an indication that the remains of the named decedent are in both urns or

8094 temporary containers.

8095 (7) (a) If the remains are to be shipped, the funeral service establishment shall pack the
8096 designated temporary container or urn in a suitable, sturdy container.

8097 (b) The funeral service establishment shall have the remains shipped only by a method
8098 that:

8099 (i) has an available tracking system; and

8100 (ii) provides a receipt signed by the person accepting delivery.

8101 Section 128. Section **58-11a-501** is amended to read:

8102 **58-11a-501. Unprofessional conduct.**

8103 Unprofessional conduct includes:

8104 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;

8105 (2) failing as a licensed school to comply with the standards of accreditation applicable
8106 to such schools;

8107 (3) failing as a licensed school to provide adequate instruction to enrolled students;

8108 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

8109 (5) failing as an instructor to provide direct supervision to students who are providing
8110 services to an individual under the instructor's supervision;

8111 (6) failing as an apprentice supervisor to comply with division rules relating to
8112 apprenticeship programs under this chapter;

8113 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
8114 unsanitary condition;

8115 (8) failing to comply with [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and
8116 Human Services Code;

8117 (9) failing to display licenses or certificates as required under Section [58-11a-305](#);

8118 (10) failing to comply with physical facility requirements established by rule;

8119 (11) failing to maintain mechanical or electrical equipment in safe operating condition;

8120 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
8121 showers, or saunas;

- 8122 (13) prescribing or administering prescription drugs;
- 8123 (14) failing to comply with all applicable state and local health or sanitation laws;
- 8124 (15) engaging in any act or practice in a professional capacity that is outside the
- 8125 applicable scope of practice;
- 8126 (16) engaging in any act or practice in a professional capacity which the licensee is not
- 8127 competent to perform through education or training;
- 8128 (17) in connection with the use of a chemical exfoliant, unless under the supervision of
- 8129 a licensed health care practitioner acting within the scope of his or her license:
- 8130 (a) using any acid, concentration of an acid, or combination of treatments which
- 8131 violates the standards established by rule;
- 8132 (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or
- 8133 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;
- 8134 (18) in connection with the sanding of the skin, unless under the supervision of a
- 8135 licensed health care practitioner acting within the scope of his or her license, removing any
- 8136 layer of skin deeper than the stratum corneum of the epidermis;
- 8137 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or
- 8138 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed
- 8139 under this chapter from using a nonprescriptive laser device; or
- 8140 (20) failing to comply with a judgment order from a court of competent jurisdiction
- 8141 resulting from the failure to pay outstanding tuition or education costs incurred to comply with
- 8142 this chapter.

8143 Section 129. Section **58-13-2** is amended to read:

8144 **58-13-2. Emergency care rendered by licensee.**

8145 (1) A person licensed under Title 58, Occupations and Professions, to practice as any

8146 of the following health care professionals, who is under no legal duty to respond, and who in

8147 good faith renders emergency care at the scene of an emergency gratuitously and in good faith,

8148 is not liable for any civil damages as a result of any acts or omissions by the person in

8149 rendering the emergency care:

- 8150 (a) osteopathic physician;
- 8151 (b) physician and surgeon;
- 8152 (c) naturopathic physician;
- 8153 (d) dentist or dental hygienist;
- 8154 (e) chiropractic physician;
- 8155 (f) physician assistant;
- 8156 (g) optometrist;
- 8157 (h) nurse licensed under Section [58-31b-301](#) or [58-31d-102](#);
- 8158 (i) podiatrist;
- 8159 (j) certified nurse midwife;
- 8160 (k) respiratory care practitioner;
- 8161 (l) pharmacist, pharmacy technician, and pharmacy intern;
- 8162 (m) direct-entry midwife licensed under Section [58-77-301](#);
- 8163 (n) veterinarian; or
- 8164 (o) acupuncturist licensed under Chapter 72, Acupuncture Licensing Act.
- 8165 (2) This Subsection (2) applies to a health care professional:
- 8166 (a) (i) described in Subsection (1); and
- 8167 (ii) who is under no legal duty to respond to the circumstances described in Subsection
- 8168 (3);
- 8169 (b) who is:
- 8170 (i) (A) activated as a member of a medical reserve corps as described in Section
- 8171 [26A-1-126](#) during the time of an emergency or declaration for public health related activities as
- 8172 provided in Subsection [26A-1-126\(2\)](#); or
- 8173 (B) participating in training to prepare the medical reserve corps to respond to a
- 8174 declaration of an emergency or request for public health related activities pursuant to
- 8175 Subsection [26A-1-126\(2\)](#);
- 8176 (ii) acting within the scope of:
- 8177 (A) the health care professional's license; or

8178 (B) practice as modified under Subsection [58-1-307\(4\)](#) or Section [26A-1-126](#); and

8179 (iii) acting in good faith without compensation or remuneration as defined in

8180 Subsection [58-13-3\(2\)](#); or

8181 (c) who is acting as a volunteer health practitioner under [~~Title 26, Chapter 49,~~

8182 ~~Uniform Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform

8183 Emergency Volunteer Health Practitioners Act.

8184 (3) A health care professional described in Subsection (2) is not liable for any civil
8185 damages as a result of any acts or omissions by the health care professional in rendering care as
8186 a result of:

8187 (a) implementation of measures to control the causes of epidemic and communicable
8188 diseases and other conditions significantly affecting the public health or necessary to protect
8189 the public health as set out in Title 26A, Chapter 1, Local Health Departments;

8190 (b) investigating and controlling suspected bioterrorism and disease as set out in [~~Title~~
8191 ~~26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4,
8192 Treatment, Isolation, and Quarantine Procedures for Communicable Diseases; and

8193 (c) responding to a national, state, or local emergency, a public health emergency as
8194 defined in Section [~~26-23b-102~~] [26B-7-301](#), or a declaration by the President of the United
8195 States or other federal official requesting public health-related activities.

8196 (4) The immunity in Subsection (3) is in addition to any immunity or protection in state
8197 or federal law that may apply.

8198 (5) For purposes of Subsection (2)(b)(iii) remuneration does not include:

8199 (a) food supplied to the volunteer;

8200 (b) clothing supplied to the volunteer to help identify the volunteer during the time of
8201 the emergency; or

8202 (c) other similar support for the volunteer.

8203 Section 130. Section **58-13-2.6** is amended to read:

8204 **58-13-2.6. Emergency care rendered by a person or health care facility.**

8205 (1) For purposes of this section:

8206 (a) "Emergency" means an unexpected occurrence involving injury, the threat of injury,
8207 or illness to a person or the public due to:

- 8208 (i) a natural disaster;
- 8209 (ii) bioterrorism;
- 8210 (iii) an act of terrorism;
- 8211 (iv) a pandemic; or
- 8212 (v) other event of similar nature.

8213 (b) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or
8214 attempt to mitigate the effects of an emergency.

8215 (c) "Person" [is] means the same as that term is defined in Subsection [26-21-2(18)]
8216 26B-2-201(18).

8217 (2) (a) A person who, in good faith, assists governmental agencies or political
8218 subdivisions with the activities described in Subsection (2)(b) is not liable for civil damages or
8219 penalties as a result of any act or omission unless the person rendering the assistance:

- 8220 (i) is grossly negligent;
- 8221 (ii) caused the emergency; or
- 8222 (iii) has engaged in criminal conduct.

8223 (b) The following activities are protected from liability in accordance with Subsection
8224 (2)(a):

8225 (i) implementing measures to control the causes of epidemic, pandemic, communicable
8226 diseases, or other conditions significantly affecting public health, as necessary to protect the
8227 public health in accordance with Title 26A, Chapter 1, Local Health Departments;

8228 (ii) investigating, controlling, and treating suspected bioterrorism or disease in
8229 accordance with [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title
8230 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable
8231 Diseases;

8232 (iii) responding to:

8233 (A) a national, state, or local emergency;

8234 (B) a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301; or

8235 (C) a declaration by the President of the United States or other federal official

8236 requesting public health related activities; and

8237 (iv) providing a facility for use by a governmental agency or political subdivision to

8238 distribute pharmaceuticals or administer vaccines to the public.

8239 (c) Subsection (2)(a) applies to a person even if that person has:

8240 (i) a duty to respond; or

8241 (ii) an expectation of payment or remuneration.

8242 (3) The immunity in Subsection (2) is in addition to any immunity protections that may

8243 apply in state or federal law.

8244 Section 131. Section **58-13-3** is amended to read:

8245 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

8246 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care

8247 and preventive health care because they lack health insurance or because of financial

8248 difficulties or cost.

8249 (ii) The Legislature also finds that many physicians, charity health care facilities, and

8250 other health care professionals in this state would be willing to volunteer medical and allied

8251 services without compensation if they were not subject to the high exposure of liability

8252 connected with providing these services.

8253 (b) The Legislature therefore declares that its intention in enacting this section is to

8254 encourage the provision of uncompensated volunteer charity health care in exchange for a

8255 limitation on liability for the health care facilities and health care professionals who provide

8256 those volunteer services.

8257 (2) As used in this section:

8258 (a) "Continuing education requirement" means the requirement for hours of continuing

8259 education, established by the division, with which a health care professional must comply to

8260 renew the health care professional's license under the applicable chapter described in

8261 Subsection (2)(c).

8262 (b) "Health care facility" means any clinic or hospital, church, or organization whose
8263 primary purpose is to sponsor, promote, or organize uncompensated health care services for
8264 people unable to pay for health care services.

8265 (c) "Health care professional" means a person licensed under:

8266 (i) Chapter 5a, Podiatric Physician Licensing Act;

8267 (ii) Chapter 16a, Utah Optometry Practice Act;

8268 (iii) Chapter 17b, Pharmacy Practice Act;

8269 (iv) Chapter 24b, Physical Therapy Practice Act;

8270 (v) Chapter 31b, Nurse Practice Act;

8271 (vi) Chapter 40, Recreational Therapy Practice Act;

8272 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

8273 (viii) Chapter 42a, Occupational Therapy Practice Act;

8274 (ix) Chapter 44a, Nurse Midwife Practice Act;

8275 (x) Chapter 49, Dietitian Certification Act;

8276 (xi) Chapter 60, Mental Health Professional Practice Act;

8277 (xii) Chapter 67, Utah Medical Practice Act;

8278 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;

8279 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;

8280 (xv) Chapter 70a, Utah Physician Assistant Act;

8281 (xvi) Chapter 71, Naturopathic Physician Practice Act;

8282 (xvii) Chapter 72, Acupuncture Licensing Act; and

8283 (xviii) Chapter 73, Chiropractic Physician Practice Act.

8284 (d) "Remuneration or compensation":

8285 (i) (A) means direct or indirect receipt of any payment by a health care professional or
8286 health care facility on behalf of the patient, including payment or reimbursement under
8287 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
8288 patient; and

8289 (B) compensation, salary, or reimbursement to the health care professional from any

8290 source for the health care professional's services or time in volunteering to provide
8291 uncompensated health care; and
8292 (ii) does not mean:
8293 (A) any grant or donation to the health care facility used to offset direct costs
8294 associated with providing the uncompensated health care such as:
8295 (I) medical supplies;
8296 (II) drugs; or
8297 (III) a charitable donation that is restricted for charitable services at the health care
8298 facility; or
8299 (B) incidental reimbursements to the volunteer such as:
8300 (I) food supplied to the volunteer;
8301 (II) clothing supplied to the volunteer to help identify the volunteer during the time of
8302 volunteer services;
8303 (III) mileage reimbursement to the volunteer; or
8304 (IV) other similar support to the volunteer.
8305 (3) A health care professional who provides health care treatment at or on behalf of a
8306 health care facility is not liable in a medical malpractice action if:
8307 (a) the treatment was within the scope of the health care professional's license under
8308 this title;
8309 (b) neither the health care professional nor the health care facility received
8310 compensation or remuneration for the treatment;
8311 (c) the acts or omissions of the health care professional were not grossly negligent or
8312 willful and wanton; and
8313 (d) prior to rendering services:
8314 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
8315 patient's parent or legal guardian, that the health care professional is providing the services
8316 without receiving remuneration or compensation; and
8317 (ii) the patient consented in writing to waive any right to sue for professional

8318 negligence except for acts or omissions which are grossly negligent or are willful and wanton.

8319 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
8320 care is not liable in a medical malpractice action for acts and omissions if:

8321 (a) the health care facility meets the requirements in Subsection (3)(b);

8322 (b) the acts and omissions of the health care facility were not grossly negligent or
8323 willful and wanton; and

8324 (c) the health care facility has posted, in a conspicuous place, a notice that in
8325 accordance with this section the health care facility is not liable for any civil damages for acts
8326 or omissions except for those acts or omissions that are grossly negligent or are willful and
8327 wanton.

8328 (5) A health care professional who provides health care treatment at a federally
8329 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an
8330 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health
8331 Care Improvement Act, is not liable in a medical malpractice action if:

8332 (a) the treatment was within the scope of the health care professional's license under
8333 this title;

8334 (b) the health care professional:

8335 (i) does not receive compensation or remuneration for treatment provided to any
8336 patient that the provider treats at the federally qualified health center, the Indian health clinic,
8337 or the Urban Indian Health Center; and

8338 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the
8339 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban
8340 Indian Health Center;

8341 (c) the acts or omissions of the health care professional were not grossly negligent or
8342 willful and wanton; and

8343 (d) prior to rendering services:

8344 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
8345 patient's parent or legal guardian, that the health care professional is providing the services

8346 without receiving remuneration or compensation; and

8347 (ii) the patient consented in writing to waive any right to sue for professional
8348 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

8349 (6) Immunity from liability under this section does not extend to the use of general
8350 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
8351 licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title
8352 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

8353 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare
8354 professional on or after May 13, 2014.

8355 (8) A health care professional:

8356 (a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care
8357 professional's continuing education requirement with hours the health care professional spends
8358 providing health care treatment described in Subsection (3) or (5); and

8359 (b) subject to Subsection (8)(a), earns one hour of the health care professional's
8360 continuing education requirement for every four documented hours of volunteer health care
8361 treatment.

8362 Section 132. Section **58-13-5** is amended to read:

8363 **58-13-5. Information relating to adequacy and quality of medical care --**
8364 **Immunity from liability.**

8365 (1) As used in this section, "health care provider" has the same meaning as defined in
8366 Section [78B-3-403](#).

8367 (2) (a) The division, and the boards within the division that act regarding the health
8368 care providers defined in this section, shall adopt rules to establish procedures to obtain
8369 information concerning the quality and adequacy of health care rendered to patients by those
8370 health care providers.

8371 (b) It is the duty of an individual licensed under Title 58, Occupations and Professions,
8372 as a health care provider to furnish information known to him with respect to health care
8373 rendered to patients by any health care provider licensed under Title 58, Occupations and

8374 Professions, as the division or a board may request during the course of the performance of its
8375 duties.

8376 (3) A health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#) which employs,
8377 grants privileges to, or otherwise permits a licensed health care provider to engage in licensed
8378 practice within the health care facility, and any professional society of licensed health care
8379 providers, shall report any of the following events in writing to the division within 60 days
8380 after the event occurs regarding the licensed health care provider:

8381 (a) terminating employment of an employee for cause related to the employee's practice
8382 as a licensed health care provider;

8383 (b) terminating or restricting privileges for cause to engage in any act or practice
8384 related to practice as a licensed health care provider;

8385 (c) terminating, suspending, or restricting membership or privileges associated with
8386 membership in a professional association for acts of unprofessional, unlawful, incompetent, or
8387 negligent conduct related to practice as a licensed health care provider;

8388 (d) subjecting a licensed health care provider to disciplinary action for a period of more
8389 than 30 days;

8390 (e) a finding that a licensed health care provider has violated professional standards or
8391 ethics;

8392 (f) a finding of incompetence in practice as a licensed health care provider;

8393 (g) a finding of acts of moral turpitude by a licensed health care provider; or

8394 (h) a finding that a licensed health care provider is engaged in abuse of alcohol or
8395 drugs.

8396 (4) This section does not prohibit any action by a health care facility, or professional
8397 society comprised primarily of licensed health care providers to suspend, restrict, or revoke the
8398 employment, privileges, or membership of a health care provider.

8399 (5) The data and information obtained in accordance with this section is classified as a
8400 "protected" record under Title 63G, Chapter 2, Government Records Access and Management
8401 Act.

8402 (6) (a) Any person or organization furnishing information in accordance with this
8403 section in response to the request of the division or a board, or voluntarily, is immune from
8404 liability with respect to information provided in good faith and without malice, which good
8405 faith and lack of malice is presumed to exist absent clear and convincing evidence to the
8406 contrary.

8407 (b) The members of the board are immune from liability for any decisions made or
8408 actions taken in response to information acquired by the board if those decisions or actions are
8409 made in good faith and without malice, which good faith and lack of malice is presumed to
8410 exist absent clear and convincing evidence to the contrary.

8411 (7) An individual who is a member of a hospital administration, board, committee,
8412 department, medical staff, or professional organization of health care providers, and any
8413 hospital, other health care entity, or professional organization conducting or sponsoring the
8414 review, is immune from liability arising from participation in a review of a health care
8415 provider's professional ethics, medical competence, moral turpitude, or substance abuse.

8416 (8) This section does not exempt a person licensed under Title 58, Occupations and
8417 Professions, from complying with any reporting requirements established under state or federal
8418 law.

8419 Section 133. Section **58-15-303** is amended to read:

8420 **58-15-303. Exemptions to chapter.**

8421 (1) In addition to the exemptions described in Section [58-1-307](#), this chapter does not
8422 apply to:

8423 (a) a facility of a recognized church or denomination that cares for the sick and
8424 suffering by mental or spiritual means if no drug or material remedy is used in the care
8425 provided; or

8426 (b) the superintendent of the Utah State Developmental Center described in Section
8427 [\[62A-5-201\]](#) [26B-6-502](#).

8428 (2) Any facility or person exempted under this section shall comply with each statute
8429 and rule on sanitation and life safety.

8430 Section 134. Section **58-17b-102** is amended to read:

8431 **58-17b-102. Definitions.**

8432 In addition to the definitions in Section **58-1-102**, as used in this chapter:

8433 (1) "Administering" means:

8434 (a) the direct application of a prescription drug or device, whether by injection,
8435 inhalation, ingestion, or by any other means, to the body of a human patient or research subject
8436 by another person; or

8437 (b) the placement by a veterinarian with the owner or caretaker of an animal or group
8438 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other
8439 means directed to the body of the animal by the owner or caretaker in accordance with written
8440 or verbal directions of the veterinarian.

8441 (2) "Adulterated drug or device" means a drug or device considered adulterated under
8442 21 U.S.C. Sec. 351 (2003).

8443 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for
8444 the purpose of analysis.

8445 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
8446 used as standards and controls in performing drug monitoring or drug screening analysis if the
8447 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid
8448 components, organic solvents, or inorganic buffers at a concentration not exceeding one
8449 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
8450 use.

8451 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by
8452 the use of prescription drugs.

8453 (5) "Automated pharmacy systems" includes mechanical systems which perform
8454 operations or activities, other than compounding or administration, relative to the storage,
8455 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
8456 all transaction information.

8457 (6) "Beyond use date" means the date determined by a pharmacist and placed on a

8458 prescription label at the time of dispensing that indicates to the patient or caregiver a time
8459 beyond which the contents of the prescription are not recommended to be used.

8460 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
8461 in Section [58-17b-201](#).

8462 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically
8463 underserved area, used for the storage and dispensing of prescription drugs, which is dependent
8464 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
8465 approved by the division as the parent pharmacy.

8466 (9) "Centralized prescription processing" means the processing by a pharmacy of a
8467 request from another pharmacy to fill or refill a prescription drug order or to perform
8468 processing functions such as dispensing, drug utilization review, claims adjudication, refill
8469 authorizations, and therapeutic interventions.

8470 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a
8471 retail pharmacy to compound or dispense a drug or dispense a device to the public under a
8472 prescription order.

8473 (11) "Class B pharmacy":

8474 (a) means a pharmacy located in Utah:

8475 (i) that is authorized to provide pharmaceutical care for patients in an institutional
8476 setting; and

8477 (ii) whose primary purpose is to provide a physical environment for patients to obtain
8478 health care services; and

8479 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

8480 (ii) pharmaceutical administration and sterile product preparation facilities.

8481 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture,
8482 production, wholesale, or distribution of drugs or devices in Utah.

8483 (13) "Class D pharmacy" means a nonresident pharmacy.

8484 (14) "Class E pharmacy" means all other pharmacies.

8485 (15) (a) "Closed-door pharmacy" means a pharmacy that:

8486 (i) provides pharmaceutical care to a defined and exclusive group of patients who have
8487 access to the services of the pharmacy because they are treated by or have an affiliation with a
8488 specific entity, including a health maintenance organization or an infusion company; or

8489 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in
8490 retail customers.

8491 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods
8492 to the general public, or the office of a practitioner.

8493 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
8494 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or
8495 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
8496 care functions authorized by the practitioner or practitioners under certain specified conditions
8497 or limitations.

8498 (17) "Collaborative pharmacy practice agreement" means a written and signed
8499 agreement between one or more pharmacists and one or more practitioners that provides for
8500 collaborative pharmacy practice for the purpose of drug therapy management of patients and
8501 prevention of disease of human subjects.

8502 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or
8503 labeling of a limited quantity drug, sterile product, or device:

8504 (i) as the result of a practitioner's prescription order or initiative based on the
8505 practitioner, patient, or pharmacist relationship in the course of professional practice;

8506 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and
8507 not for sale or dispensing; or

8508 (iii) in anticipation of prescription drug orders based on routine, regularly observed
8509 prescribing patterns.

8510 (b) "Compounding" does not include:

8511 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to
8512 another pharmacist or pharmaceutical facility;

8513 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a

8514 dosage form which is regularly and commonly available from a manufacturer in quantities and
8515 strengths prescribed by a practitioner; or

8516 (iii) the preparation of a prescription drug, sterile product, or device which has been
8517 withdrawn from the market for safety reasons.

8518 (19) "Confidential information" has the same meaning as "protected health
8519 information" under the Standards for Privacy of Individually Identifiable Health Information,
8520 45 C.F.R. Parts 160 and 164.

8521 (20) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

8522 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
8523 417, Sec. 3a(ff) which is incorporated by reference.

8524 (22) "Dispense" means the interpretation, evaluation, and implementation of a
8525 prescription drug order or device or nonprescription drug or device under a lawful order of a
8526 practitioner in a suitable container appropriately labeled for subsequent administration to or use
8527 by a patient, research subject, or an animal.

8528 (23) "Dispensing medical practitioner" means an individual who is:

8529 (a) currently licensed as:

8530 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

8531 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
8532 Practice Act;

8533 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

8534 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

8535 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist
8536 is acting within the scope of practice for an optometrist; and

8537 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
8538 of a dispensing medical practitioner.

8539 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
8540 located within a licensed dispensing medical practitioner's place of practice.

8541 (25) "Distribute" means to deliver a drug or device other than by administering or

8542 dispensing.

8543 (26) (a) "Drug" means:

8544 (i) a substance recognized in the official United States Pharmacopoeia, official
8545 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
8546 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
8547 prevention of disease in humans or animals;

8548 (ii) a substance that is required by any applicable federal or state law or rule to be
8549 dispensed by prescription only or is restricted to administration by practitioners only;

8550 (iii) a substance other than food intended to affect the structure or any function of the
8551 body of humans or other animals; and

8552 (iv) substances intended for use as a component of any substance specified in
8553 Subsections (26)(a)(i), (ii), (iii), and (iv).

8554 (b) "Drug" does not include dietary supplements.

8555 (27) "Drug regimen review" includes the following activities:

8556 (a) evaluation of the prescription drug order and patient record for:

8557 (i) known allergies;

8558 (ii) rational therapy-contraindications;

8559 (iii) reasonable dose and route of administration; and

8560 (iv) reasonable directions for use;

8561 (b) evaluation of the prescription drug order and patient record for duplication of
8562 therapy;

8563 (c) evaluation of the prescription drug order and patient record for the following
8564 interactions:

8565 (i) drug-drug;

8566 (ii) drug-food;

8567 (iii) drug-disease; and

8568 (iv) adverse drug reactions; and

8569 (d) evaluation of the prescription drug order and patient record for proper utilization,

8570 including over- or under-utilization, and optimum therapeutic outcomes.

8571 (28) "Drug sample" means a prescription drug packaged in small quantities consistent
8572 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to
8573 be sold, and is intended to be provided to practitioners for the immediate needs of patients for
8574 trial purposes or to provide the drug to the patient until a prescription can be filled by the
8575 patient.

8576 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound,
8577 symbol, or process attached to or logically associated with a record and executed or adopted by
8578 a person with the intent to sign the record.

8579 (30) "Electronic transmission" means transmission of information in electronic form or
8580 the transmission of the exact visual image of a document by way of electronic equipment.

8581 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
8582 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
8583 and Human Services under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~
8584 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

8585 (32) "Legend drug" has the same meaning as prescription drug.

8586 (33) "Licensed pharmacy technician" means an individual licensed with the division,
8587 that may, under the supervision of a pharmacist, perform the activities involved in the
8588 technician practice of pharmacy.

8589 (34) "Manufacturer" means a person or business physically located in Utah licensed to
8590 be engaged in the manufacturing of drugs or devices.

8591 (35) (a) "Manufacturing" means:

8592 (i) the production, preparation, propagation, conversion, or processing of a drug or
8593 device, either directly or indirectly, by extraction from substances of natural origin or
8594 independently by means of chemical or biological synthesis, or by a combination of extraction
8595 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling
8596 or relabeling of its container; and

8597 (ii) the promotion and marketing of such drugs or devices.

8598 (b) "Manufacturing" includes the preparation and promotion of commercially available
8599 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

8600 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
8601 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
8602 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
8603 analysis.

8604 (36) "Medical order" means a lawful order of a practitioner which may include a
8605 prescription drug order.

8606 (37) "Medication profile" or "profile" means a record system maintained as to drugs or
8607 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze
8608 the profile to provide pharmaceutical care.

8609 (38) "Misbranded drug or device" means a drug or device considered misbranded under
8610 21 U.S.C. Sec. 352 (2003).

8611 (39) (a) "Nonprescription drug" means a drug which:

8612 (i) may be sold without a prescription; and

8613 (ii) is labeled for use by the consumer in accordance with federal law.

8614 (b) "Nonprescription drug" includes homeopathic remedies.

8615 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
8616 person in Utah.

8617 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

8618 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located
8619 outside the state that is licensed and in good standing in another state, that:

8620 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
8621 this state pursuant to a lawfully issued prescription;

8622 (b) provides information to a patient in this state on drugs or devices which may
8623 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
8624 or

8625 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic

8626 effects of drugs.

8627 (43) "Patient counseling" means the written and oral communication by the pharmacist
8628 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
8629 drugs, devices, and dietary supplements.

8630 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in
8631 which:

8632 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
8633 the facility or agency for administration to patients of that facility or agency;

8634 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
8635 or pharmacy intern with whom the facility has established a prescription drug supervising
8636 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
8637 or agency staff as required, and oversees drug control, accounting, and destruction; and

8638 (c) prescription drugs are professionally administered in accordance with the order of a
8639 practitioner by an employee or agent of the facility or agency.

8640 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
8641 prescribing practitioner, and in accordance with division rule:

8642 (i) designing, implementing, and monitoring a therapeutic drug plan intended to
8643 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing
8644 the patient's disease;

8645 (ii) eliminating or reducing a patient's symptoms; or

8646 (iii) arresting or slowing a disease process.

8647 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a
8648 prescribing practitioner.

8649 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,
8650 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this
8651 state.

8652 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
8653 engaged in the business of wholesale vending or selling of a prescription drug or device to

8654 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
8655 has not produced, manufactured, compounded, or dispensed.

8656 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
8657 facility carrying out the following business activities:

8658 (i) intracompany sales;

8659 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
8660 purchase, or trade a prescription drug or device, if the activity is carried out between one or
8661 more of the following entities under common ownership or common administrative control, as
8662 defined by division rule:

8663 (A) hospitals;

8664 (B) pharmacies;

8665 (C) chain pharmacy warehouses, as defined by division rule; or

8666 (D) other health care entities, as defined by division rule;

8667 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
8668 purchase, or trade a prescription drug or device, for emergency medical reasons, including
8669 supplying another pharmaceutical facility with a limited quantity of a drug, if:

8670 (A) the facility is unable to obtain the drug through a normal distribution channel in
8671 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
8672 obtaining the drug; and

8673 (B) the quantity of the drug does not exceed an amount reasonably required for
8674 immediate dispensing to eliminate the risk of harm;

8675 (iv) the distribution of a prescription drug or device as a sample by representatives of a
8676 manufacturer; and

8677 (v) the distribution of prescription drugs, if:

8678 (A) the facility's total distribution-related sales of prescription drugs does not exceed
8679 5% of the facility's total prescription drug sales; and

8680 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

8681 (48) "Pharmacist" means an individual licensed by this state to engage in the practice

8682 of pharmacy.

8683 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
8684 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
8685 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
8686 in full and actual charge of the pharmacy and all personnel.

8687 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
8688 more years of licensed experience. The preceptor serves as a teacher, example of professional
8689 conduct, and supervisor of interns in the professional practice of pharmacy.

8690 (51) "Pharmacy" means any place where:

8691 (a) drugs are dispensed;

8692 (b) pharmaceutical care is provided;

8693 (c) drugs are processed or handled for eventual use by a patient; or

8694 (d) drugs are used for the purpose of analysis or research.

8695 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
8696 provides a pharmacy benefits management service as defined in Section [31A-46-102](#) on behalf
8697 of a self-insured employer, insurance company, health maintenance organization, or other plan
8698 sponsor, as defined by rule.

8699 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice
8700 as a pharmacy intern.

8701 (54) "Pharmacy technician training program" means an approved technician training
8702 program providing education for pharmacy technicians.

8703 (55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,
8704 specifically relating to the dispensing of a prescription drug in accordance with Part 8,
8705 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
8706 division rule adopted after consultation with the Board of pharmacy and the governing boards
8707 of the practitioners described in Subsection (23)(a).

8708 (b) "Practice as a dispensing medical practitioner" does not include:

8709 (i) using a vending type of dispenser as defined by the division by administrative rule;

8710 or

8711 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as
8712 defined in Section 58-37-2.

8713 (56) "Practice as a licensed pharmacy technician" means engaging in practice as a
8714 pharmacy technician under the general supervision of a licensed pharmacist and in accordance
8715 with a scope of practice defined by division rule made in collaboration with the board.

8716 (57) "Practice of pharmacy" includes the following:

8717 (a) providing pharmaceutical care;

8718 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
8719 practice agreement;

8720 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
8721 distribution of prescription drugs or devices, provided that the administration of a prescription
8722 drug or device is:

8723 (i) pursuant to a lawful order of a practitioner when one is required by law; and

8724 (ii) in accordance with written guidelines or protocols:

8725 (A) established by the licensed facility in which the prescription drug or device is to be
8726 administered on an inpatient basis; or

8727 (B) approved by the division, in collaboration with the board and, when appropriate,
8728 the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device
8729 is to be administered on an outpatient basis solely by a licensed pharmacist;

8730 (d) participating in drug utilization review;

8731 (e) ensuring proper and safe storage of drugs and devices;

8732 (f) maintaining records of drugs and devices in accordance with state and federal law
8733 and the standards and ethics of the profession;

8734 (g) providing information on drugs or devices, which may include advice relating to
8735 therapeutic values, potential hazards, and uses;

8736 (h) providing drug product equivalents;

8737 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy

- 8738 technicians;
- 8739 (j) providing patient counseling, including adverse and therapeutic effects of drugs;
- 8740 (k) providing emergency refills as defined by rule;
- 8741 (l) telepharmacy;
- 8742 (m) formulary management intervention;
- 8743 (n) prescribing and dispensing a self-administered hormonal contraceptive in
- 8744 accordance with [~~Title 26, Chapter 64, Family Planning Access Act~~] Title 26B, Chapter 4, Part
- 8745 5, Treatment Access; and
- 8746 (o) issuing a prescription in accordance with Section [58-17b-627](#).
- 8747 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of
- 8748 telecommunications and information technologies.
- 8749 (59) "Practice of telepharmacy across state lines" means the practice of pharmacy
- 8750 through the use of telecommunications and information technologies that occurs when the
- 8751 patient is physically located within one jurisdiction and the pharmacist is located in another
- 8752 jurisdiction.
- 8753 (60) "Practitioner" means an individual currently licensed, registered, or otherwise
- 8754 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
- 8755 professional practice.
- 8756 (61) "Prescribe" means to issue a prescription:
- 8757 (a) orally or in writing; or
- 8758 (b) by telephone, facsimile transmission, computer, or other electronic means of
- 8759 communication as defined by division rule.
- 8760 (62) "Prescription" means an order issued:
- 8761 (a) by a licensed practitioner in the course of that practitioner's professional practice or
- 8762 by collaborative pharmacy practice agreement; and
- 8763 (b) for a controlled substance or other prescription drug or device for use by a patient
- 8764 or an animal.
- 8765 (63) "Prescription device" means an instrument, apparatus, implement, machine,

8766 contrivance, implant, in vitro reagent, or other similar or related article, and any component
8767 part or accessory, which is required under federal or state law to be prescribed by a practitioner
8768 and dispensed by or through a person or entity licensed under this chapter or exempt from
8769 licensure under this chapter.

8770 (64) "Prescription drug" means a drug that is required by federal or state law or rule to
8771 be dispensed only by prescription or is restricted to administration only by practitioners.

8772 (65) "Repackage":

8773 (a) means changing the container, wrapper, or labeling to further the distribution of a
8774 prescription drug; and

8775 (b) does not include:

8776 (i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the
8777 product to a patient; or

8778 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8,
8779 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for
8780 dispensing a product to a patient.

8781 (66) "Research using pharmaceuticals" means research:

8782 (a) conducted in a research facility, as defined by division rule, that is associated with a
8783 university or college in the state accredited by the Northwest Commission on Colleges and
8784 Universities;

8785 (b) requiring the use of a controlled substance, prescription drug, or prescription
8786 device;

8787 (c) that uses the controlled substance, prescription drug, or prescription device in
8788 accordance with standard research protocols and techniques, including, if required, those
8789 approved by an institutional review committee; and

8790 (d) that includes any documentation required for the conduct of the research and the
8791 handling of the controlled substance, prescription drug, or prescription device.

8792 (67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs
8793 and devices to the general public.

8794 (68) (a) "Self-administered hormonal contraceptive" means a self-administered
8795 hormonal contraceptive that is approved by the United States Food and Drug Administration to
8796 prevent pregnancy.

8797 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
8798 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

8799 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
8800 induce an abortion, as that term is defined in Section 76-7-301.

8801 (69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
8802 with this chapter.

8803 (70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
8804 the pharmacy during a given day or shift.

8805 (71) "Supportive personnel" means unlicensed individuals who:

8806 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
8807 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
8808 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
8809 those duties may be further defined by division rule adopted in collaboration with the board;
8810 and

8811 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
8812 collaboration with the board.

8813 (72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
8814 and 58-17b-501.

8815 (73) "Unprofessional conduct" means the same as that term is defined in Sections
8816 58-1-501 and 58-17b-502 and may be further defined by rule.

8817 (74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
8818 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
8819 for animals.

8820 Section 135. Section 58-17b-302 is amended to read:

8821 **58-17b-302. License required -- License classifications for pharmacy facilities.**

- 8822 (1) A license is required to act as a pharmacy, except:
- 8823 (a) as specifically exempted from licensure under Section 58-1-307;
- 8824 (b) for the operation of a medical cannabis pharmacy under [~~Title 26, Chapter 61a;~~
8825 ~~Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
8826 Cannabis; and
- 8827 (c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing
8828 Practice.
- 8829 (2) The division shall issue a pharmacy license to a facility that qualifies under this
8830 chapter in the classification of a:
- 8831 (a) class A pharmacy;
- 8832 (b) class B pharmacy;
- 8833 (c) class C pharmacy;
- 8834 (d) class D pharmacy;
- 8835 (e) class E pharmacy; or
- 8836 (f) dispensing medical practitioner clinic pharmacy.
- 8837 (3) (a) Each place of business shall require a separate license.
- 8838 (b) If multiple pharmacies exist at the same address, a separate license shall be required
8839 for each pharmacy.
- 8840 (4) (a) The division may further define or supplement the classifications of pharmacies.
- 8841 (b) The division may impose restrictions upon classifications to protect the public
8842 health, safety, and welfare.
- 8843 (5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by
8844 rule.
- 8845 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,
8846 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities
8847 of the pharmacy, regardless of the form of the business organization.
- 8848 Section 136. Section 58-17b-309 is amended to read:
- 8849 **58-17b-309. Exemptions from licensure.**

8850 In addition to the exemptions from licensure in Section [58-1-307](#), the following
8851 individuals may engage in the acts or practices described in this section without being licensed
8852 under this chapter:

8853 (1) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);

8854 (2) an animal shelter that:

8855 (a) under the indirect supervision of a veterinarian, stores, handles, or administers a
8856 drug used for euthanising an animal; and

8857 (b) under the indirect supervision of a veterinarian who is under contract with the
8858 animal shelter, stores, handles, or administers a rabies vaccine;

8859 (3) an overdose outreach provider, as defined in Section [~~26-55-102~~] [26B-4-501](#), that
8860 obtains, stores, or furnishes an opiate antagonist in accordance with [~~Title 26, Chapter 55;~~
8861 ~~Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access; and

8862 (4) a dispensing practitioner, as defined in Section [58-88-201](#), dispensing a drug under
8863 Chapter 88, Part 2, Dispensing Practice.

8864 Section 137. Section **58-17b-309.7** is amended to read:

8865 **58-17b-309.7. Opioid treatment program.**

8866 (1) As used in this section:

8867 (a) "Covered provider" means an individual who is licensed to engage in:

8868 (i) the practice of advanced practice registered nursing as defined in Section
8869 [58-31b-102](#);

8870 (ii) the practice of registered nursing as defined in Section [58-31b-102](#); or

8871 (iii) practice as a physician assistant as defined in Section [58-70a-102](#).

8872 (b) "Opioid treatment program" means a program or practitioner that is:

8873 (i) engaged in dispensing an opiate medication assisted treatment for opioid use
8874 disorder;

8875 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

8876 (iii) licensed by the Office of Licensing within the Department of Health and Human
8877 Services created in Section [~~62A-2-103~~] [26B-2-103](#); and

8878 (iv) certified by the federal Substance Abuse and Mental Health Services
8879 Administration in accordance with 42 C.F.R. 8.11.

8880 (2) A covered provider may dispense opiate medication assisted treatment at an opioid
8881 treatment program if the covered provider:

8882 (a) is operating under the direction of a pharmacist;

8883 (b) dispenses the opiate medication assisted treatment under the direction of a
8884 pharmacist; and

8885 (c) acts in accordance with division rule made under Subsection (3).

8886 (3) The division shall, in consultation with practitioners who work in an opioid
8887 treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
8888 Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate
8889 medication assisted treatment to a patient in an opioid treatment program under this section.

8890 Section 138. Section **58-17b-501** is amended to read:

8891 **58-17b-501. Unlawful conduct.**

8892 "Unlawful conduct" includes:

8893 (1) knowingly preventing or refusing to permit an authorized agent of the division to
8894 conduct an inspection pursuant to Section [58-17b-103](#);

8895 (2) failing to deliver the license, permit, or certificate to the division upon demand, if it
8896 has been revoked, suspended, or refused;

8897 (3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy
8898 technician," or a term having similar meaning, except by a person licensed as a pharmacist,
8899 pharmacy intern, or pharmacy technician; or

8900 (b) conducting or transacting business under a name that contains, as part of that name,
8901 the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop,"
8902 "apothecary," "prescriptions," or a term having a similar meaning, or in any manner
8903 advertising, otherwise describing, or referring to the place of the conducted business or
8904 profession, unless the place is a pharmacy issued a license by the division, except an
8905 establishment selling nonprescription drugs and supplies may display signs bearing the words

8906 "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a
8907 pharmacy or drugstore by reason of the display;

8908 (4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears,
8909 or the package bears or originally did bear, the inscription "sample," "not for resale," "for
8910 investigational or experimental use only," or other similar words, except when a cost is
8911 incurred in the bona fide acquisition of an investigational or experimental drug;

8912 (5) using to a person's own advantages or revealing to anyone other than the division,
8913 board, and its authorized representatives, or to the courts, when relevant to a judicial or
8914 administrative proceeding under this chapter, information acquired under authority of this
8915 chapter or concerning a method of process that is a trade secret;

8916 (6) procuring or attempting to procure a drug or to have someone else procure or
8917 attempt to procure a drug:

8918 (a) by fraud, deceit, misrepresentation, or subterfuge;

8919 (b) by forgery or alteration of a prescription or a written order;

8920 (c) by concealment of a material fact;

8921 (d) by use of a false statement in a prescription, chart, order, or report; or

8922 (e) by theft;

8923 (7) filling, refilling, or advertising the filling or refilling of prescriptions for a
8924 consumer or patient residing in this state if the person is not licensed:

8925 (a) under this chapter; or

8926 (b) in the state from which he is dispensing;

8927 (8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or
8928 authorized supportive personnel to engage in conduct in violation of this chapter;

8929 (9) being in possession of a prescription drug for an unlawful purpose;

8930 (10) dispensing a prescription drug to a person who does not have a prescription from a
8931 practitioner, except as permitted under[:] Title 26B, Chapter 4, Part 5, Treatment Access;

8932 [~~(a) Title 26, Chapter 55, Opiate Overdose Response Act; or~~]

8933 [~~(b) Title 26, Chapter 64, Family Planning Access Act;~~]

8934 (11) dispensing a prescription drug to a person who the person dispensing the drug
8935 knows or should know is attempting to obtain drugs by fraud or misrepresentation;

8936 (12) selling, dispensing, distributing, or otherwise trafficking in prescription drugs
8937 when not licensed to do so or when not exempted from licensure; and

8938 (13) a person using a prescription drug or controlled substance that was not lawfully
8939 prescribed for the person by a practitioner.

8940 Section 139. Section **58-17b-502** is amended to read:

8941 **58-17b-502. Unprofessional conduct.**

8942 (1) "Unprofessional conduct" includes:

8943 (a) willfully deceiving or attempting to deceive the division, the board, or their agents
8944 as to any relevant matter regarding compliance under this chapter;

8945 (b) except as provided in Subsection (2):

8946 (i) paying or offering rebates to practitioners or any other health care providers, or
8947 receiving or soliciting rebates from practitioners or any other health care provider; or

8948 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,
8949 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care
8950 provider, for the purpose of obtaining referrals;

8951 (c) misbranding or adulteration of any drug or device or the sale, distribution, or
8952 dispensing of any outdated, misbranded, or adulterated drug or device;

8953 (d) engaging in the sale or purchase of drugs or devices that are samples or packages
8954 bearing the inscription "sample" or "not for resale" or similar words or phrases;

8955 (e) except as provided in Section [58-17b-503](#), accepting back and redistributing any
8956 unused drug, or a part of it, after it has left the premises of a pharmacy;

8957 (f) an act in violation of this chapter committed by a person for any form of
8958 compensation if the act is incidental to the person's professional activities, including the
8959 activities of a pharmacist, pharmacy intern, or pharmacy technician;

8960 (g) violating:

8961 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

- 8962 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or
- 8963 (iii) rules or regulations adopted under either act;
- 8964 (h) requiring or permitting pharmacy interns or technicians to engage in activities
- 8965 outside the scope of practice for their respective license classifications, as defined in this
- 8966 chapter and division rules made in collaboration with the board, or beyond their scope of
- 8967 training and ability;
- 8968 (i) administering:
- 8969 (i) without appropriate training, as defined by rule;
- 8970 (ii) without a physician's order, when one is required by law; and
- 8971 (iii) in conflict with a practitioner's written guidelines or written protocol for
- 8972 administering;
- 8973 (j) disclosing confidential patient information in violation of the provisions of the
- 8974 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.
- 8975 1936, as amended, or other applicable law;
- 8976 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as
- 8977 the pharmacist-in-charge;
- 8978 (l) failing to report to the division any adverse action taken by another licensing
- 8979 jurisdiction, government agency, law enforcement agency, or court for conduct that in
- 8980 substance would be considered unprofessional conduct under this section;
- 8981 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage
- 8982 form which is regularly and commonly available from a manufacturer in quantities and
- 8983 strengths prescribed by a practitioner;
- 8984 (n) failing to act in accordance with [~~Title 26, Chapter 64, Family Planning Access~~
- 8985 ~~Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, when dispensing a self-administered
- 8986 hormonal contraceptive under a standing order;
- 8987 (o) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]
- 8988 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or
- 8989 (p) falsely making an entry in, or altering, a medical record with the intent to conceal:

8990 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
8991 or an individual under the direction or control of an individual licensed under this chapter; or

8992 (ii) conduct described in Subsections (1)(a) through (o) or Subsection [58-1-501\(1\)](#).

8993 (2) Subsection (1)(b) does not apply to:

8994 (a) giving or receiving a price discount based on purchase volume;

8995 (b) passing along a pharmaceutical manufacturer's rebate; or

8996 (c) providing compensation for services to a veterinarian.

8997 (3) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter~~

8998 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and

8999 Medical Cannabis:

9000 (a) when registered as a pharmacy medical provider, as that term is defined in Section
9001 [~~26-61a-102~~] [26B-4-201](#), providing pharmacy medical provider services in a medical cannabis
9002 pharmacy; or

9003 (b) when acting as a state central patient portal medical provider, as that term is defined
9004 in Section [~~26-61a-102~~] [26B-4-201](#), providing state central patient portal medical provider
9005 services.

9006 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in
9007 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
9008 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

9009 Section 140. Section **58-17b-503** is amended to read:

9010 **58-17b-503. Exception to unprofessional conduct.**

9011 (1) For purposes of this section:

9012 (a) "Licensed intermediate care facility for people with an intellectual disability" means
9013 an intermediate care facility for people with an intellectual disability that is licensed as a
9014 nursing care facility or a small health care facility under [~~Title 26, Chapter 21, Health Care~~
9015 ~~Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility
9016 Licensing and Inspection.

9017 (b) "Nursing care facility" means the same as that term is defined in Section [~~26-21-2~~]

9018 [26B-2-201](#).

9019 (c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package
9020 with identification that indicates the lot number and expiration date for the drug.

9021 (2) A pharmacist may accept and redistribute an unused drug, or part of it, after it has
9022 left the premises of the pharmacy:

9023 (a) in accordance with Part 9, Charitable Prescription Drug Recycling Act;

9024 (b) if:

9025 (i) the drug was prescribed to a patient in a nursing care facility, licensed intermediate
9026 care facility for people with an intellectual disability, or state prison facility, county jail, or state
9027 hospital;

9028 (ii) the drug was stored under the supervision of a licensed health care provider
9029 according to manufacturer recommendations;

9030 (iii) the drug is in a unit pack or in the manufacturer's sealed container;

9031 (iv) the drug was returned to the original dispensing pharmacy;

9032 (v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy
9033 intern; and

9034 (vi) accepting back and redistributing of the drug complies with federal Food and Drug
9035 Administration and Drug Enforcement Administration regulations; or

9036 (c) if:

9037 (i) the pharmacy has attempted to deliver the drug to a patient or a patient's agent via
9038 the United States Postal Service, a licensed common carrier, or supportive personnel;

9039 (ii) the drug is returned to the pharmacy by the same person or carrier that attempted to
9040 deliver the drug; and

9041 (iii) in accordance with United States Food and Drug Administration regulations and
9042 rules established by the division, a pharmacist at the pharmacy determines that the drug has not
9043 been adversely affected by the drug's attempted delivery and return.

9044 Section 141. Section **58-17b-507** is amended to read:

9045 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**

9046 **unlawful or unprofessional conduct.**

9047 (1) As used in this section:

9048 (a) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~]
9049 [26B-4-501](#).

9050 (b) "Opiate-related drug overdose event" means the same as that term is defined in
9051 Section [~~26-55-102~~] [26B-4-501](#).

9052 (2) A person licensed under this chapter that dispenses an opiate antagonist to an
9053 individual with a prescription for an opiate antagonist, to an overdose outreach provider with a
9054 prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in
9055 accordance with Subsection [~~26-55-105(2)~~] [26B-4-510\(2\)](#) is not liable for any civil damages
9056 resulting from the outcomes of the eventual administration of the opiate antagonist to an
9057 individual who another individual believes is experiencing an opiate-related drug overdose
9058 event.

9059 (3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response~~
9060 ~~Act~~] [Title 26B, Chapter 4, Part 5, Treatment Access](#), do not establish a duty or standard of care
9061 in the prescribing, dispensing, or administration of an opiate antagonist.

9062 (4) It is not unprofessional conduct or unlawful conduct for a licensee under this
9063 chapter to dispense an opiate antagonist to a person, including a person described in
9064 Subsections [~~26-55-107(1)(a)(i)(A)~~] [26B-4-512\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), on behalf of an
9065 individual if the person obtaining the opiate antagonist has a prescription for the opiate
9066 antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a
9067 standing prescription drug order issued in accordance with Subsection [~~26-55-105(2)~~]
9068 [26B-4-510\(2\)](#).

9069 (5) It is not unprofessional conduct or unlawful conduct for a licensee under this
9070 chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose
9071 outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued
9072 pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] [26B-4-509\(2\)\(a\)\(iii\)](#).

9073 Section 142. Section **58-17b-602** is amended to read:

9074 **58-17b-602. Prescription orders -- Information required -- Alteration -- Labels --**
9075 **Signatures -- Dispensing in pharmacies.**

9076 (1) Except as provided in Section 58-1-501.3, the minimum information that shall be
9077 included in a prescription order, and that may be defined by rule, is:

9078 (a) the prescriber's name, address, and telephone number, and, if the order is for a
9079 controlled substance, the patient's age and the prescriber's DEA number;

9080 (b) the patient's name and address or, in the case of an animal, the name of the owner
9081 and species of the animal;

9082 (c) the date of issuance;

9083 (d) the name of the medication or device prescribed and dispensing instructions, if
9084 necessary;

9085 (e) the directions, if appropriate, for the use of the prescription by the patient or animal
9086 and any refill, special labeling, or other instructions;

9087 (f) the prescriber's signature if the prescription order is written;

9088 (g) if the order is an electronically transmitted prescription order, the prescribing
9089 practitioner's electronic signature; and

9090 (h) if the order is a hard copy prescription order generated from electronic media, the
9091 prescribing practitioner's electronic or manual signature.

9092 (2) The requirement of Subsection (1)(a) does not apply to prescription orders
9093 dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the
9094 hospital staff and the prescription order is on file in the patient's medical record.

9095 (3) Unless it is for a Schedule II controlled substance, a prescription order may be
9096 dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if
9097 the oral prescription is promptly reduced to writing.

9098 (4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern
9099 may not dispense or compound any prescription of a practitioner if the prescription shows
9100 evidence of alteration, erasure, or addition by any person other than the person writing the
9101 prescription.

9102 (b) A pharmacist or pharmacy intern dispensing or compounding a prescription may
9103 alter or make additions to the prescription after receiving permission of the prescriber and may
9104 make entries or additions on the prescription required by law or necessitated in the
9105 compounding and dispensing procedures.

9106 (5) (a) Each drug dispensed shall have a label securely affixed to the container
9107 indicating the following minimum information:

9108 (i) the name, address, and telephone number of the pharmacy;

9109 (ii) the serial number of the prescription as assigned by the dispensing pharmacy;

9110 (iii) the filling date of the prescription or its last dispensing date;

9111 (iv) the name of the patient, or in the case of an animal, the name of the owner and
9112 species of the animal;

9113 (v) the name of the prescriber;

9114 (vi) the directions for use and cautionary statements, if any, which are contained in the
9115 prescription order or are needed;

9116 (vii) except as provided in Subsection (7), the trade, generic, or chemical name,
9117 amount dispensed and the strength of dosage form, but if multiple ingredient products with
9118 established proprietary or nonproprietary names are prescribed, those products' names may be
9119 used; and

9120 (viii) the beyond use date.

9121 (b) The requirements described in Subsections (5)(a)(i) through (vi) do not apply to a
9122 label on the container of a drug that a health care provider administers to a patient at:

9123 (i) a pharmaceutical administration facility; or

9124 (ii) a hospital licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and~~
9125 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

9126 (6) A hospital pharmacy that dispenses a prescription drug that is packaged in a
9127 multidose container to a hospital patient may provide the drug in the multidose container to the
9128 patient when the patient is discharged from the hospital if:

9129 (a) the pharmacy receives a discharge order for the patient; and

- 9130 (b) the pharmacy labels the drug with the:
- 9131 (i) patient's name;
- 9132 (ii) drug's name and strength;
- 9133 (iii) directions for use of the drug, if applicable; and
- 9134 (iv) pharmacy's name and phone number.

9135 (7) If the prescriber specifically indicates the name of the prescription product should
9136 not appear on the label, then any of the trade, generic, chemical, established proprietary, and
9137 established nonproprietary names and the strength of dosage form may not be included.

9138 (8) Prescribers are encouraged to include on prescription labels the information
9139 described in Section [58-17b-602.5](#) in accordance with the provisions of that section.

9140 (9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

- 9141 (a) in person at the pharmacy; or
- 9142 (b) via the United States Postal Service, a licensed common carrier, or supportive
9143 personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

- 9144 (i) delivered to the patient or patient's agent; or
- 9145 (ii) returned to the pharmacy.

9146 Section 143. Section **58-17b-606** is amended to read:

9147 **58-17b-606. Restrictive drug formulary prohibited.**

9148 (1) As used in this section:

9149 (a) "Generic form" means a prescription drug that is available in generic form and has
9150 an A rating in the United States Pharmacopeia and Drug Index.

9151 (b) "Legend drug" has the same meaning as prescription drug.

9152 (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for
9153 cosmetic purposes, that are prohibited by the Department of Health and Human Services from
9154 dispensation, but are approved by the Federal Food and Drug Administration.

9155 (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in
9156 his professional judgment and within the lawful scope of his practice, he considers appropriate
9157 for the diagnosis and treatment of his patient.

9158 (3) Except as provided in Subsection (4), the Department of Health and Human
9159 Services may not maintain a restrictive drug formulary that restricts a physician's ability to treat
9160 a patient with a legend drug that has been approved and designated as safe and effective by the
9161 Federal Food and Drug Administration, except for drugs for cosmetic purposes.

9162 (4) When a multisource legend drug is available in the generic form, the Department of
9163 Health and Human Services may only reimburse for the generic form of the drug unless the
9164 treating physician demonstrates to the Department of Health and Human Services a medical
9165 necessity for dispensing the nongeneric, brand-name legend drug.

9166 (5) The Department of Health and Human Services pharmacists may override the
9167 generic mandate provisions of Subsection (4) if a financial benefit will accrue to the state.

9168 (6) This section does not affect the state's ability to exercise the exclusion options
9169 available under the Federal Omnibus Budget Reconciliation Act of 1990.

9170 Section 144. Section **58-17b-620** is amended to read:

9171 **58-17b-620. Prescriptions issued within the public health system.**

9172 (1) As used in this section:

9173 (a) "Department of Health and Human Services" means the Department of Health and
9174 Human Services created in Section [26B-1-201](#).

9175 (b) "Health department" means either the Department of Health and Human Services or
9176 a local health department.

9177 (c) "Local health departments" mean the local health departments created in Title 26A,
9178 Chapter 1, Local Health Departments.

9179 (2) When it is necessary to treat a reportable disease or non-emergency condition that
9180 has a direct impact on public health, a health department may implement the prescription
9181 procedure described in Subsection (3) for a prescription drug that is not a controlled substance
9182 for use in:

9183 (a) a clinic; or

9184 (b) a remote or temporary off-site location, including a triage facility established in the
9185 community, that provides:

- 9186 (i) treatment for sexually transmitted infections;
- 9187 (ii) fluoride treatment;
- 9188 (iii) travel immunization;
- 9189 (iv) preventative treatment for an individual with latent tuberculosis infection;
- 9190 (v) preventative treatment for an individual at risk for an infectious disease that has a
- 9191 direct impact on public health when the treatment is indicated to prevent the spread of disease
- 9192 or to mitigate the seriousness of infection in the exposed individual; or
- 9193 (vi) other treatment as defined by the Department of Health and Human Services by
- 9194 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 9195 (3) In a circumstance described in Subsection (2), an individual with prescriptive
- 9196 authority may write a prescription for each contact, as defined in Section ~~[26-6-2]~~ [26B-7-201](#),
- 9197 of a patient of the individual with prescriptive authority without a face-to-face exam, if:
- 9198 (a) the individual with prescriptive authority is treating the patient for a reportable
- 9199 disease or non-emergency condition having a direct impact on public health; and
- 9200 (b) the contact's condition is the same as the patient of the individual with prescriptive
- 9201 authority.
- 9202 (4) The following prescription procedure shall be carried out in accordance with the
- 9203 requirements of Subsection (5) and may be used only in the circumstances described under
- 9204 Subsections (2) and (3):
- 9205 (a) a physician writes and signs a prescription for a prescription drug, other than a
- 9206 controlled substance, without the name and address of the patient and without the date the
- 9207 prescription is provided to the patient; and
- 9208 (b) the physician authorizes a registered nurse employed by the health department to
- 9209 complete the prescription written under this Subsection (4) by inserting the patient's name and
- 9210 address, and the date the prescription is provided to the patient, in accordance with the
- 9211 physician's standing written orders and a written health department protocol approved by the
- 9212 physician and the medical director of the state Department of Health and Human Services.
- 9213 (5) A physician assumes responsibility for all prescriptions issued under this section in

9214 the physician's name.

9215 (6) (a) All prescription forms to be used by a physician and health department in
9216 accordance with this section shall be serially numbered according to a numbering system
9217 assigned to that health department.

9218 (b) All prescriptions issued shall contain all information required under this chapter
9219 and rules adopted under this chapter.

9220 (7) Notwithstanding Sections [58-17b-302](#) and [58-17b-309](#), a nurse who is employed by
9221 a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug
9222 to treat a sexually transmitted infection if the drug is:

9223 (a) a prepackaged drug as defined in Section [58-17b-802](#);

9224 (b) dispensed under a prescription authorized by this section;

9225 (c) provided at a location that is described in Subsection (2)(a) or (b) and operated by
9226 the health department;

9227 (d) provided in accordance with a dispensing standard that is issued by a physician who
9228 is employed by the health department; and

9229 (e) if applicable, in accordance with requirements established by the division in
9230 collaboration with the board under Subsection (8).

9231 (8) The division may make rules in collaboration with the board and in accordance
9232 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific
9233 requirements regarding the dispensing of a drug under Subsection (7).

9234 Section 145. **Coordinating S.B. 207 with H.B. 72 -- Superseding amendment.**

9235 If this S.B. 207 and H.B. 72, Medical Cannabis Governance Revisions, both pass and
9236 become law, it is the intent of the Legislature that the amendments to Section [58-17b-302](#) in
9237 H.B. 72 supersede the amendments to Section [58-17b-302](#) in this bill when the Office of
9238 Legislative Research and General Counsel prepares the Utah Code database for publication on
9239 July 1, 2023.

9240 Section 146. **Revisor instructions.**

9241 The Legislature intends that the Office of Legislative Research and General Counsel, in

9242 preparing the Utah Code database for publication, not enroll this bill if any of the following
9243 bills do not pass:
9244 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
9245 and Recovery Services;
9246 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and
9247 Data;
9248 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and
9249 Repeals; or
9250 (d) S.B. 41, Health and Human Services Recodification - Prevention, Supports,
9251 Substance Use and Mental Health.