

## SB0035S02 compared with SB0035S01

~~text~~ shows text that was in SB0035S01 but was deleted in SB0035S02.

text shows text that was not in SB0035S01 but was inserted into SB0035S02.

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Senator Curtis S. Bramble proposes the following substitute bill:

### RECIPROCAL PROFESSIONAL LICENSING

#### AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: A. Cory Maloy

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#### LONG TITLE

##### General Description:

This bill addresses reciprocal professional licensing and certification by certain state agencies.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts the Interstate Teacher Mobility Compact;
- ▶ enacts the PA Licensure Compact;
- ▶ creates a process for the following state agencies to issue certain professional licenses and certificates by endorsement:

## **SB0035S02 compared with SB0035S01**

- the Department of Agriculture and Food;
  - the Pete Suazo Utah Athletic Commission within the Department of Cultural and Community Engagement;
  - the Department of Commerce;
  - the Department of Environmental Quality;
  - the Department of Health and Human Services;
  - the Utah State Office of Rehabilitation within the Department of Workforce Services;
  - the Labor Commission;
  - the State Board of Education; and
  - the Department of Transportation;
- ▶ provides administrative rulemaking authority; and
  - ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

#### **AMENDS:**

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

**58-1-302**, as last amended by Laws of Utah 2022, Chapter 415

**58-70a-302**, as last amended by Laws of Utah 2021, Chapter 312

#### **ENACTS:**

**4-1-112**, Utah Code Annotated 1953

**9-23-301.5**, Utah Code Annotated 1953

**13-1-17**, Utah Code Annotated 1953

**19-1-208**, Utah Code Annotated 1953

**26B-3-102**, Utah Code Annotated 1953

**35A-13-606.5**, Utah Code Annotated 1953

**40-2-403**, Utah Code Annotated 1953

**53E-6-205**, Utah Code Annotated 1953

**SB0035S02 compared with SB0035S01**

53E-6-1100, Utah Code Annotated 1953

53E-6-1101, Utah Code Annotated 1953

53E-6-1102, Utah Code Annotated 1953

53E-6-1103, Utah Code Annotated 1953

53E-6-1104, Utah Code Annotated 1953

53E-6-1105, Utah Code Annotated 1953

53E-6-1106, Utah Code Annotated 1953

53E-6-1107, Utah Code Annotated 1953

53E-6-1108, Utah Code Annotated 1953

53E-6-1109, Utah Code Annotated 1953

53E-6-1110, Utah Code Annotated 1953

53E-6-1111, Utah Code Annotated 1953

53E-6-1112, Utah Code Annotated 1953

58-70a-301.1, Utah Code Annotated 1953

58-70c-101, Utah Code Annotated 1953

58-70c-102, Utah Code Annotated 1953

58-70c-103, Utah Code Annotated 1953

58-70c-104, Utah Code Annotated 1953

58-70c-105, Utah Code Annotated 1953

58-70c-106, Utah Code Annotated 1953

58-70c-107, Utah Code Annotated 1953

58-70c-108, Utah Code Annotated 1953

58-70c-109, Utah Code Annotated 1953

58-70c-110, Utah Code Annotated 1953

58-70c-111, Utah Code Annotated 1953

58-70c-112, Utah Code Annotated 1953

58-70c-113, Utah Code Annotated 1953

58-70c-201, Utah Code Annotated 1953

72-9-602.5, Utah Code Annotated 1953

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

## SB0035S02 compared with SB0035S01

Section 1. Section **4-1-112** is enacted to read:

### **4-1-112. License by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

## **SB0035S02 compared with SB0035S01**

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

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

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 2. Section **9-23-301.5** is enacted to read:

### **9-23-301.5. License by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this chapter.

(2) Subject to Subsections (4) through (6), the commission shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the commission determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the commission may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the commission determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

## SB0035S02 compared with SB0035S01

(ii) the commission determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the commission determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The commission may refuse to issue a license to an applicant under this section if:

(a) the commission determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the commission issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the commission under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 3. Section **13-1-17** is enacted to read:

### **13-1-17. License by endorsement.**

(1) As used in this section:

(a) "License" means, except as provided in Subsection (1)(b), an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(b) "License" does not include an authorization that permits the holder to engage in the practice of a profession regulated by the Division of Real Estate under Title 61, Securities Division - Real Estate Division, or the Division of Professional Licensing under Title 58, Occupations and Professions.

## **SB0035S02 compared with SB0035S01**

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

## **SB0035S02 compared with SB0035S01**

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

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 4. Section **19-1-208** is enacted to read:

### **19-1-208. License by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a

## **SB0035S02 compared with SB0035S01**

jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

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

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 5. Section **26B-3-102** is enacted to read:

### **26B-3-102. License by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

## **SB0035S02 compared with SB0035S01**

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

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

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure

## **SB0035S02 compared with SB0035S01**

endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 6. Section **35A-13-606.5** is enacted to read:

### **35A-13-606.5. Certificate by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession described in Section 35A-13-605.

(2) Subject to Subsections (3) through (5), the director may issue a certificate described in Section 35A-13-605 to an applicant who has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(a) the director determines that the applicant's education, experience, and skills demonstrate competency in the profession for which certification is sought; or

(b) the director determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate.

(3) The director may refuse to issue a certificate to an applicant under this section if:

(a) the director determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(4) Before the director issues a certificate to an applicant under this section, the applicant shall:

(a) pay a fee determined by the director under Section 35A-13-606; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which certification is sought.

(5) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 7. Section **40-2-403** is enacted to read:

### **40-2-403. Certificate by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of an occupation described in Section 40-2-402.

(2) Subject to Subsections (4) through (6), the commission shall issue a certificate

## **SB0035S02 compared with SB0035S01**

described in Section 40-2-401 to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the commission determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the certificate;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the commission may issue a certificate described in Section 40-2-401 to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the commission determines that the applicant's education, experience, and skills demonstrate competency in the occupation for which certification is sought; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the commission determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the commission determines that the education or experience was substantially similar to the education or experience requirements for the certificate.

(4) The commission may refuse to issue a certificate to an applicant under this section if:

(a) the commission determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the commission issues a certificate to an applicant under this section, the

## SB0035S02 compared with SB0035S01

applicant shall:

(a) pay a fee determined by the commission under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the occupation for which certification is sought.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Section 8. Section **53E-6-205** is enacted to read:

### **53E-6-205. License by endorsement.**

(1) Subject to Subsections (3) through (6), the state board shall issue a license to an applicant who has been issued a certificate in another state, district, or territory of the United States if:

(a) the state board determines that the certificate encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the certificate; and

(c) the applicant's certificate is in good standing in the other state, district, or territory.

(2) Subject to Subsections (3) through (6), the state board may issue a license to an applicant who:

(a) has been issued a certificate in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the state board determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the certificate; or

(ii) the state board determines that the certification requirements of the other state, district, territory, or jurisdiction at the time the certificate was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been issued a certificate in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the state board determines that the education or experience was substantially

## SB0035S02 compared with SB0035S01

similar to the education or experience requirements for the license sought in this state.

(3) The state board may refuse to issue a license to an applicant under this section if:

(a) the state board determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's certificate.

(4) Before the state board issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the state board under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(5) The state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(6) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific ~~chapters~~ parts of this chapter.

Section 9. Section 53E-6-1100 is enacted to read:

### 53E-6-1100. Article I -- Purpose.

(1) The purpose of this compact is to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.

(2) This compact is intended to achieve the following objectives and should be interpreted accordingly. The member states hereby ratify the same intentions by subscribing hereto:

(a) create a streamline pathway to licensure mobility for teachers;

(b) support the relocation of eligible military spouses;

(c) facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the member states;

(d) enhance the power of state and district level education officials to hire qualified,

## **SB0035S02 compared with SB0035S01**

competent teachers by removing barriers to the employment of out-of-state teachers;

(e) support the retention of teachers in the profession by removing barriers to relicensure in a new state; and

(f) maintain state sovereignty in the regulation of the teaching profession.

Section 10. Section 53E-6-1101 is enacted to read:

### **53E-6-1101. Article II -- Definitions.**

(1) As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:

(a) "Active military member" means any person with full-time duty status in the uniformed service of the United States, including members of the National Guard and Reserve;

(b) "Adverse action" means any limitation or restriction imposed by a member state's licensing authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a teacher;

(c) "Bylaws" means those bylaws established by the commission;

(d) "Career and technical education license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings in a specific career and technical education area;

(e) "Charter member states" means a member state that has enacted legislation to adopt this compact where such legislation predates the initial meeting of the commission after the effective date of the compact;

(f) "Commission" means the interstate administrative body which membership consists of delegates of all states that have enacted this compact, and which is known as the Interstate Teacher Mobility Compact Commission;

(g) "Commissioner" means the delegate of a member state;

(h) "Eligible license" means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for teacher licensure;

(i) "Eligible military spouse" means the spouse of an individual in full-time duty status in the active uniformed service of the United States including members of the National Guard and Reserve on active duty moving as a result of a military mission or military career progression requirements or are on their terminal move as a result of separation or retirement,

## **SB0035S02 compared with SB0035S01**

to include surviving spouses of deceased military members;

(j) "Executive committee" means a group of commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the commission as provided for herein;

(k) "Licensing authority" means an official, agency, board, or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in P-12 public educational settings;

(l) "Member state" means any state that has adopted this compact, including all agencies and officials of such a state;

(m) "Receiving state" means any state where a teacher has applied for licensure under this compact;

(n) "Rule" means any regulation promulgated by the commission in accordance with Section 53E-9-1009, which shall have the force of law as a rule promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and which shall be binding in each member state;

(o) "State" means a state, territory, or possession of the United States, and the District of Columbia;

(p) "State practice laws" means a member state's laws, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline;

(q) "State specific requirements" means a requirement for licensure covered in coursework or examination that include content of unique interest to the state;

(r) "Teacher" means an individual who currently holds an authorization from a member state that forms the basis for employment in the P-12 public schools of the state to provide instruction in a specific subject area, grade level, or student population; and

(s) "Unencumbered license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in P-12 public educational settings. An unencumbered license is not a restricted, probationary, provisional, substitute, or temporary credential.

(2) The definitions described in Section 53E-1-102 do not apply to this compact.

Section 11. Section 53E-6-1102 is enacted to read:

53E-6-1102. Article III -- Licensure under the compact.

## **SB0035S02 compared with SB0035S01**

(1) Licensure under this compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.

(2) Each member state shall, in accordance with the rules of the commission, define, compile, and update as necessary, a list of eligible licenses and career and technical educational licenses that the member state is willing to consider for equivalency under this compact and provide the list to the commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state's licensing authority.

(3) Upon the receipt of an application for licensure by a teacher holding an unencumbered eligible license, the receiving state shall determine which of the receiving state's eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state's licensing authority and may include a determination that the applicant is not eligible for any of the receiving state's eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant one or more unencumbered license(s) that, in the receiving state's sole discretion, are equivalent to the license(s) held by the teacher in any other member state.

(4) For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state's sole discretion, is equivalent to the license or licenses held by the teacher in any other member state, except where the receiving state does not have an equivalent license.

(5) For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except where a career and technical education teacher does not hold a bachelor's degree and the receiving state requires a bachelor's degree for licenses to teach career and technical education. A receiving state may require career and technical education teachers to meet state industry recognized requirements, if required by law in the receiving state.

Section 12. Section 53E-6-1103 is enacted to read:

**53E-6-1103. Article IV -- Licensure not under the compact.**

## **SB0035S02 compared with SB0035S01**

(1) Except as provided in Section 53E-9-1004, nothing in this compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state's licensing authority.

(2) When a teacher is required to renew a license received pursuant to this compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.

(3) For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this compact.

(4) Nothing in this compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers, or limit the application of a member state's laws or regulations governing the ownership, use, or dissemination of information pertaining to teachers.

(5) Nothing in this compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a member state may already be a party to, or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:

(a) award teaching licenses or other benefits based on additional professional credentials, including, but not limited to National Board Certification;

(b) participate in the exchange of names of teachers whose license has been subject to an adverse action by a member state; or

(c) participate in any agreement or cooperative arrangement with a nonmember state.

Section 13. Section 53E-6-1104 is enacted to read:

**53E-6-1104. Article V -- Teacher qualifications and requirements for licensure under the compact.**

(1) Except as provided for active military members or eligible military spouses in Subsection 53E-9-1004(5), a teacher may only be eligible to receive a license under this compact where that teacher holds an unencumbered license in a member state.

(2) A teacher eligible to receive a license under this compact shall, unless otherwise provided for herein:

(a) upon their application to receive a license under this compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the

## **SB0035S02 compared with SB0035S01**

receiving state; and

(b) provide the receiving state with the information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

Section 14. Section 53E-6-1105 is enacted to read:

### **53E-6-1105. Article VI -- Discipline and adverse actions.**

(1) Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.

(2) Member states shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

Section 15. Section 53E-6-1106 is enacted to read:

### **53E-6-1106. Article VII -- Establishment of the Interstate Teacher Mobility Compact Commission.**

(1) The interstate compact member states hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

(a) the commission is a joint interstate governmental agency comprised of states that have enacted the Interstate Teacher Mobility Compact; and

(b) nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

(2) (a) Each member state shall have and be limited to one delegate to the commission, who shall be given the title of commissioner.

(b) The commissioner shall be the primary administrative officer of the state licensing authority or their designee.

(c) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed.

## **SB0035S02 compared with SB0035S01**

(d) The member state shall fill any vacancy occurring in the commission within 90 days.

(e) Each commissioner shall be entitled to one vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(f) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(g) The commission shall establish by rule a term of office for commissioners.

(3) The commission shall have the following powers and duties:

(a) establish a code of ethics for the commission;

(b) establish the fiscal year of the commission;

(c) establish bylaws for the commission;

(d) maintain its financial records in accordance with the bylaws of the commission;

(e) meet and take such actions as are consistent with the provisions of this interstate compact, the bylaws, and rules of the commission;

(f) promulgate uniform rules to implement and administer this interstate compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law;

(g) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

(h) purchase and maintain insurance and bonds;

(i) borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state, or an associated nongovernmental organization that is open to membership by all states;

(j) hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish

## SB0035S02 compared with SB0035S01

the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(k) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(l) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(m) establish a budget and make expenditures;

(n) borrow money;

(o) appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, rules, or bylaws;

(p) provide and receive information from, and cooperate with, law enforcement agencies;

(q) establish and elect an executive committee;

(r) establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information; use of information, data privacy, and technical support needs, and provide reports as needed;

(s) perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the state regulation of teacher licensure; and

(t) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.

(4) (a) The executive committee of the Interstate Teacher Mobility Compact Commission shall have the power to act on behalf of the commission according to the terms of this interstate compact.

(b) The executive committee shall be composed of eight voting members:

(i) the commission chair, vice chair, and treasurer; and

(ii) five members who are elected by the commission from the current membership:

(A) four voting members representing geographic regions in accordance with commission rules; and

(B) one at large voting member in accordance with commission rules.

(c) The commission may add or remove members of the executive committee as

## SB0035S02 compared with SB0035S01

provided in commission rules.

(d) The executive committee shall meet at least once annually.

(e) The executive committee shall have the following duties and responsibilities:

(i) recommend to the entire commission changes to the rules or bylaws, changes to the compact legislation, fees paid by interstate compact member states such as annual dues, and any compact fee charged by the member states on behalf of the commission;

(ii) ensure commission administration services are appropriately provided, contractual or otherwise;

(iii) prepare and recommend the budget;

(iv) maintain financial records on behalf of the commission;

(v) monitor compliance of member states and provide reports to the commission; and

(vi) perform other duties as provided in rules or bylaws.

(f) (i) All meetings of the commission shall be open to the public, and public notice of meetings shall be given in accordance with commission bylaws.

(ii) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(A) non-compliance of a Member State with its obligations under the compact;

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened, or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

(I) disclosure of information related to any investigative reports prepared by or on

## SB0035S02 compared with SB0035S01

behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(J) matters specifically exempted from disclosure by federal or member state statute;  
and

(K) other matters as set forth by commission bylaws and rules.

(iii) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(iv) The commission shall keep minutes of commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(g) (i) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(ii) The commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(iii) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission, in accordance with the commission rules.

(iv) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(v) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to accounting procedures established under commission bylaws. All receipts and disbursements of funds of the commission shall be reviewed annually in accordance with commission bylaws, and a report of the review shall be included in and become part of the annual report of the commission.

## **SB0035S02 compared with SB0035S01**

(h) (i) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(ii) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(iii) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 16. Section 53E-6-1107 is enacted to read:

### 53E-6-1107. Article VIII -- Rulemaking.

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) The commission shall promulgate reasonable rules to achieve the intent and

## **SB0035S02 compared with SB0035S01**

purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

(3) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(4) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.

(5) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of Commission or Member State funds;

(c) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(d) protect public health and safety.

Section 17. Section 53E-6-1108 is enacted to read:

### **53E-6-1108. Article IX -- Facilitating information exchange.**

(1) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

(2) Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

Section 18. Section 53E-6-1109 is enacted to read:

### **53E-6-1109. Article X -- Oversight, dispute resolution, and enforcement.**

(1) (a) The executive and judicial branches of state government in each member state

## **SB0035S02 compared with SB0035S01**

shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact shall have standing as statutory law.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(c) All courts and all administrative agencies shall take judicial notice of the compact, the rules of the commission, and any information provided to a member state pursuant thereto in any judicial or quasijudicial proceeding in a member state pertaining to the subject matter of this compact, or which may affect the powers, responsibilities, or actions of the commission.

(d) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) (a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(i) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(ii) provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate

## **SB0035S02 compared with SB0035S01**

shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority and each of the member states.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(8) (a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both binding and nonbinding alternative dispute resolutions for disputes as appropriate.

(9) (a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 19. Section **53E-6-1110** is enacted to read:

**53E-6-1110. Article XI -- Effectuation, withdrawal, and amendment.**

(1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state.

## **SB0035S02 compared with SB0035S01**

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different from the model compact statute.

(b) A charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 53E-9-1011.

(c) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Subsection 53E-9-1008(3)(t) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(2) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member States should be less than 10.

(3) Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state, as the rules and bylaws may be amended as provided in this compact.

(4) (a) Any member state may withdraw from this compact by enacting a statute repealing the same.

(b) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(c) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 20. Section 53E-6-1111 is enacted to read:

**53E-6-1111. Article XII -- Construction and severability.**

(1) This compact shall be liberally construed to effectuate the purposes thereof.

## **SB0035S02 compared with SB0035S01**

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or a state seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

(3) If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 21. Section 53E-6-1112 is enacted to read:

**53E-6-1112. Article XIII -- Consistent effect and conflict with other state laws.**

(1) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(2) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(3) All permissible agreements between the commission and the member states are binding in accordance with their terms.

Section 22. Section 58-1-301.5 is amended to read:

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

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

(a) Section 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy

Practice Act;

(e) Section 58-44a-302.1;

(f) Section 58-47b-302;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm

## SB0035S02 compared with SB0035S01

company agents;

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

(i) Sections 58-61-304 and 58-61-304.1;

(j) Section 58-63-302;

(k) Section 58-64-302;

(l) Sections 58-67-302 and 58-67-302.1; ~~and~~

(m) Sections 58-68-302 and 58-68-302.1~~[-:]; and~~

(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.

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

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

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

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

Section ~~10~~<sup>23</sup>. Section **58-1-302** is amended to read:

### **58-1-302. License by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections ~~[(3) through (6),]~~ (4) through (7), the division shall issue a license to ~~[a person]~~ an applicant who has been licensed in ~~[a]~~ another state, district, or territory of the United States if:

(a) the division determines that the license issued in the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) ~~[after being licensed outside of this state, the person]~~ the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory ~~[of the United States]~~ [where the license was issued]; and

~~[(b)]~~ (c) the ~~[person's]~~ applicant's license is in good standing in the other state, district,

## SB0035S02 compared with SB0035S01

or territory [~~of the United States~~] where the license was issued[~~;~~ and].

~~[(c) the division determines that the license issued by the state, district, or territory of the United States encompasses a similar scope of practice as the license sought in this state.]~~

~~[(2)]~~ (3) Subject to Subsections [~~(3) through (6);~~] (4) through (7), the division may issue a license to [~~a person~~] an applicant who:

(a) has been licensed in [~~a~~] another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the division determines that the applicant's education, experience, and skills demonstrate competency in the profession for which the licensure is sought in this state; and

~~(B) [after being licensed, the person]~~ the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction [~~where the license was issued~~]; [~~and~~] or

~~[(B) the division determines that the person's education, experience, and skills demonstrate competency in the occupation or profession for which the person seeks licensure; or]~~

(ii) the division determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the current [~~licensure~~] requirements [~~of~~] for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the [~~person~~] applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the division determines that the education or experience was substantially similar to the current education or experience requirements for [~~licensure~~] the license sought in this state.

~~[(3) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.]~~

(4) The division may refuse to issue a license to [~~a person under the provisions of~~] an applicant under this section if:

(a) the division determines that there is reasonable cause to believe that the [~~person~~] applicant is not qualified to receive [~~a~~] the license in this state; or

## SB0035S02 compared with SB0035S01

(b) the [person] applicant has a previous or pending disciplinary action related to the [person's] applicant's license.

(5) Before ~~[a person may be issued]~~ the division issues a license to an applicant under this section, the [person] applicant shall:

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

(b) produce satisfactory evidence of the [person's] applicant's identity, qualifications, and good standing in the ~~[occupation or]~~ profession for which licensure is sought in this state.

(6) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

~~[(6)] (7)~~ (7) In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

~~[(7) On or before October 1, 2022, the division shall provide a written report to the Business and Labor Interim Committee regarding the effectiveness and sufficiency of the provisions of this section at ensuring that persons receiving a license without examination under the provisions of this section are qualified to receive a license in this state.]~~

Section ~~{11}~~24. Section **58-70a-301.1** is enacted to read:

### **58-70a-301.1. Criminal background check.**

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

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

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

(2) The division shall:

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

## **SB0035S02 compared with SB0035S01**

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

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

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

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

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

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

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the PA Licensure Compact under Chapter 70c, PA Licensure Compact, until the criminal background check described in this section is completed.

Section ~~{12}~~25. Section **58-70a-302** is amended to read:

### **58-70a-302. Qualifications for licensure.**

Each applicant for licensure as a physician assistant shall:

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

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

(3) have successfully completed a physician assistant program accredited by:

(a) the Accreditation Review Commission on Education for the Physician Assistant; or

(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

## SB0035S02 compared with SB0035S01

(ii) Committee on Allied Health Education and Accreditation;

(4) have passed the licensing examinations required by division rule made in collaboration with the board; ~~and~~

(5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure~~[-]; and~~

(6) if the applicant is applying to participate in the PA Licensure Compact under Chapter 70c, PA Licensure Compact, consent to a criminal background check in accordance with Section 58-70a-301.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~{13}~~26. Section **58-70c-101** is enacted to read:

### CHAPTER 70c. PA LICENSURE COMPACT

#### Part 1. Compact Text

##### **58-70c-101. Section 1 -- Purpose.**

In order to strengthen access to Medical Services, and in recognition of the advances in the delivery of Medical Services, the Participating States of the PA Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing authority of State Licensing Boards to license and discipline PAs and seeks to enhance the portability of a License to practice as a PA while safeguarding the safety of patients. This Compact allows Medical Services to be provided by PAs, via the mutual recognition of the Licensees Qualifying License by other Compact Participating States. This Compact also adopts the prevailing standard for PA licensure and affirms that the practice and delivery of Medical Services by the PA occurs where the patient is located at the time of the patient encounter, and therefore requires the PA to be under the jurisdiction of the State Licensing Board where the patient is located. State Licensing Boards that participate in this Compact retain the jurisdiction to impose Adverse Action against a Compact Privilege in that State issued to a PA through the procedures of this Compact. The PA Licensure Compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a Compact Privilege based on having an unrestricted License in good standing from a Participating State.

Section ~~{14}~~27. Section **58-70c-102** is enacted to read:

##### **58-70c-102. Section 1 -- Definitions.**

In this Compact:

## **SB0035S02 compared with SB0035S01**

A. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against a PA License or License application or Compact Privilege such as License denial, censure, revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

B. "Compact Privilege" means the authorization granted by a Remote State to allow a Licensee from another Participating State to practice as a PA to provide Medical Services and other licensed activity to a patient located in the Remote State under the Remote State's laws and regulations.

C. "Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

D. "Criminal Background Check" means the submission of fingerprints or other biometric-based information for a License applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. § 20.3(d), from the State's criminal history record repository as defined in 28 C.F.R. § 20.3(f).

E. "Data System" means the repository of information about Licensees, including but not limited to License status and Adverse Actions, which is created and administered under the terms of this Compact.

F. "Executive Committee" means a group of directors and ex-officio individuals elected or appointed pursuant to Section 7.F.2.

G. "Impaired Practitioner" means a PA whose practice is adversely affected by health-related condition(s) that impact their ability to practice.

H. "Investigative Information" means information, records, or documents received or generated by a Licensing Board pursuant to an investigation.

I. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and Rules governing the practice of a PA in a State.

J. "License" means current authorization by a State, other than authorization pursuant to a Compact Privilege, for a PA to provide Medical Services, which would be unlawful without current authorization.

K. "Licensee" means an individual who holds a License from a State to provide

## SB0035S02 compared with SB0035S01

### Medical Services as a PA.

L. "Licensing Board" means any State entity authorized to license and otherwise regulate PAs.

M. "Medical Services" means health care services provided for the diagnosis, prevention, treatment, cure or relief of a health condition, injury, or disease, as defined by a State's laws and regulations.

N. "Model Compact" means the model for the PA Licensure Compact on file with The Council of State Governments or other entity as designated by the Commission.

O. "Participating State" means a State that has enacted this Compact.

P. "PA" means an individual who is licensed as a physician assistant in a State. For purposes of this Compact, any other title or status adopted by a State to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the Licensee under the provisions of this Compact at the time of its enactment.

Q. "PA Licensure Compact Commission," "Compact Commission," or "Commission" mean the national administrative body created pursuant to Section 7.A of this Compact.

R. "Qualifying License" means an unrestricted License issued by a Participating State to provide Medical Services as a PA.

S. "Remote State" means a Participating State where a Licensee who is not licensed as a PA is exercising or seeking to exercise the Compact Privilege.

T. "Rule" means a regulation promulgated by an entity that has the force and effect of law.

U. "Significant Investigative Information" means Investigative Information that a Licensing Board, after an inquiry or investigation that includes notification and an opportunity for the PA to respond if required by State law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

V. "State" means any state, commonwealth, district, or territory of the United States.

Section ~~{15}~~28. Section **58-70c-103** is enacted to read:

### **58-70c-103. Section 3 -- State Participation in this Compact.**

A. To participate in this Compact, a Participating State shall:

1. License PAs.

## **SB0035S02 compared with SB0035S01**

2. Participate in the Compact Commission's Data System.

3. Have a mechanism in place for receiving and investigating complaints against Licensees and License applicants.

4. Notify the Commission, in compliance with the terms of this Compact and Commission Rules, of any Adverse Action against a Licensee or License applicant and the existence of Significant Investigative Information regarding a Licensee or License applicant.

5. Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by its Licensing Board receiving the results of a Criminal Background Check and reporting to the Commission whether the License applicant has been granted a License.

6. Comply with the Rules of the Compact Commission.

7. Utilize passage of a recognized national exam such as the NCCPA PANCE as a requirement for PA licensure.

8. Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.

B. Nothing in this Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.

Section ~~16~~29. Section **58-70c-104** is enacted to read:

### **58-70c-104. Section 4 -- Compact Privilege.**

A. To exercise the Compact Privilege, a Licensee must:

1. Have graduated from a PA program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. or other programs authorized by Commission Rule.

2. Hold current NCCPA certification.

3. Have no felony or misdemeanor Conviction.

4. Have never had a controlled substance license, permit, or registration suspended or revoked by a State or by the United States Drug Enforcement Administration.

5. Have a unique identifier as determined by Commission Rule.

6. Hold a Qualifying License.

7. Have had no revocation of a License or limitation or restriction on any License currently held due to an adverse action.

## **SB0035S02 compared with SB0035S01**

8. If a Licensee has had a limitation or restriction on a License or Compact Privilege due to an Adverse Action, two years must have elapsed from the date on which the License or Compact Privilege is no longer limited or restricted due to the Adverse Action.

9. If a Compact Privilege has been revoked or is limited or restricted in a Participating State for conduct that would not be a basis for disciplinary action in a Participating State in which the Licensee is practicing or applying to practice under a Compact Privilege, that Participating State shall have the discretion not to consider such action as an Adverse Action requiring the denial or removal of a Compact Privilege in that State.

10. Notify the Compact Commission that the Licensee is seeking the Compact Privilege in a Remote State.

11. Meet any Jurisprudence Requirement of a Remote State in which the Licensee is seeking to practice under the Compact Privilege and pay any fees applicable to satisfying the Jurisprudence Requirement.

12. Report to the Commission any Adverse Action taken by a non-participating State within thirty (30) days after the action is taken.

B. The Compact Privilege is valid until the expiration or revocation of the Qualifying License unless terminated pursuant to an Adverse Action. The Licensee must also comply with all of the requirements of Subsection A above to maintain the Compact Privilege in a Remote State. If the Participating State takes Adverse Action against a Qualifying License, the Licensee shall lose the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege until all of the following occur:

1. The License is no longer limited or restricted; and

2. Two (2) years have elapsed from the date on which the License is no longer limited or restricted due to the Adverse Action.

C. Once a restricted or limited License satisfies the requirements of Subsection B.1 and 2, the Licensee must meet the requirements of Subsection A to obtain a Compact Privilege in any Remote State.

D. For each Remote State in which a PA seeks authority to prescribe controlled substances, the PA shall satisfy all requirements imposed by such State in granting or renewing such authority.

Section ~~{17}~~30. Section **58-70c-105** is enacted to read:

## SB0035S02 compared with SB0035S01

### **58-70c-105. Section 5 -- Designation of the State from Which Licensee is Applying for a Compact Privilege.**

A. Upon a Licensee's application for a Compact Privilege, the Licensee shall identify to the Commission the Participating State from which the Licensee is applying, in accordance with applicable Rules adopted by the Commission, and subject to the following requirements:

1. When applying for a Compact Privilege, the Licensee shall provide the Commission with the address of the Licensee's primary residence and thereafter shall immediately report to the Commission any change in the address of the Licensee's primary residence.

2. When applying for a Compact Privilege, the Licensee is required to consent to accept service of process by mail at the Licensee's primary residence on file with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State, including a subpoena, with respect to any action brought or investigation conducted by the Commission or a Participating State.

Section ~~{18}~~31. Section **58-70c-106** is enacted to read:

### **58-70c-106. Section 6 -- Adverse Actions.**

A. A Participating State in which a Licensee is licensed shall have exclusive power to impose Adverse Action against the Qualifying License issued by that Participating State.

B. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to do all of the following:

1. Take Adverse Action against a PA's Compact Privilege within that State to remove a Licensee's Compact Privilege or take other action necessary under applicable law to protect the health and safety of its citizens.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Participating State for the attendance and testimony of witnesses or the production of evidence from another Participating State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Notwithstanding paragraph 1, subpoenas may not be issued by a Participating State

## **SB0035S02 compared with SB0035S01**

to gather evidence of conduct in another State that is lawful in that other State for the purpose of taking Adverse Action against a Licensee's Compact Privilege or application for a Compact Privilege in that Participating State.

4. Nothing in this Compact authorizes a Participating State to impose discipline against a PA's Compact Privilege or to deny an application for a Compact Privilege in that Participating State for the individual's otherwise lawful practice in another State.

C. For purposes of taking Adverse Action, the Participating State which issued the Qualifying License shall give the same priority and effect to reported conduct received from any other Participating State as it would if the conduct had occurred within the Participating State which issued the Qualifying License. In so doing, that Participating State shall apply its own State laws to determine appropriate action.

D. A Participating State, if otherwise permitted by State law, may recover from the affected PA the costs of investigations and disposition of cases resulting from any Adverse Action taken against that PA.

E. A Participating State may take Adverse Action based on the factual findings of a Remote State, provided that the Participating State follows its own procedures for taking the Adverse Action.

F. Joint Investigations.

1. In addition to the authority granted to a Participating State by its respective State PA laws and regulations or other applicable State law, any Participating State may participate with other Participating States in joint investigations of Licensees.

2. Participating States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact Privilege in all Remote States shall be deactivated until two (2) years have elapsed after all restrictions have been removed from the State License. All disciplinary orders by the Participating State which issued the Qualifying License that impose Adverse Action against a PA's License shall include a Statement that the PA's Compact Privilege is deactivated in all Participating States during the pendency of the order.

H. If any Participating State takes Adverse Action, it promptly shall notify the administrator of the Data System.

## SB0035S02 compared with SB0035S01

Section ~~(19)~~32. Section **58-70c-107** is enacted to read:

### **58-70c-107. Section 7 -- Establishment of the PA Licensure Compact**

#### **Commission.**

A. The Participating States hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 11.A.

#### B. Membership, Voting, and Meetings

1. Each Participating State shall have and be limited to one (1) delegate selected by that Participating State's Licensing Board or, if the State has more than one Licensing Board, selected collectively by the Participating State's Licensing Boards.

2. The delegate shall be either:

a. A current PA, physician or public member of a Licensing Board or PA

Council/Committee; or

b. An administrator of a Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the laws of the State from which the delegate is appointed.

4. The Participating State Licensing Board shall fill any vacancy occurring in the Commission within sixty (60) days.

5. Each delegate shall be entitled to one (1) vote on all matters voted on by the Commission and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in this Compact and the bylaws.

7. The Commission shall establish by Rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

## **SB0035S02 compared with SB0035S01**

3. Establish fees;

4. Establish bylaws;

5. Maintain its financial records in accordance with the bylaws;

6. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

7. Promulgate Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Participating States;

8. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;

11. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

15. Establish a budget and make expenditures;

16. Borrow money;

17. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

## **SB0035S02 compared with SB0035S01**

18. Provide and receive information from, and cooperate with, law enforcement agencies;

19. Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as provided in the Commission's bylaws;

20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the Executive Committee may not exercise;

21. Approve or disapprove a State's participation in the Compact based upon its determination as to whether the State's Compact legislation departs in a material manner from the Model Compact language;

22. Prepare and provide to the Participating States an annual report; and

23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of PA licensure and practice.

### D. Meetings of the Commission

1. All meetings of the Commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.

2. Notwithstanding subsection D.1 of this section, the Commission may convene a public meeting by providing at least twenty-four (24) hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 9.L.

3. The Commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss.

a. Non-compliance of a Participating State with its obligations under this Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged

## **SB0035S02 compared with SB0035S01**

or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

j. Legal advice; or

k. Matters specifically exempted from disclosure by federal or Participating States' statutes.

4. If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

5. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

### E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Participating State and may impose Compact Privilege fees on Licensees of Participating States to whom a Compact Privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on Participating States shall be allocated based upon a formula to be determined by Commission Rule.

## **SB0035S02 compared with SB0035S01**

a. A Compact Privilege expires when the Licensee's Qualifying License in the Participating State from which the Licensee applied for the Compact Privilege expires.

b. If the Licensee terminates the Qualifying License through which the Licensee applied for the Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying License in another Participating State, the Licensee shall inform the Commission that it is changing to that Participating State the Participating State through which it applies for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Participating States, except by and with the authority of the Participating State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

### F. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules.

2. The Executive Committee shall be composed of nine (9) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from a recognized national PA professional association; and

c. One ex-officio, nonvoting member from a recognized national PA certification organization.

3. The ex-officio members will be selected by their respective organizations.

4. The Commission may remove any member of the Executive Committee as provided in its bylaws.

5. The Executive Committee shall meet at least annually.

## **SB0035S02 compared with SB0035S01**

6. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Participating States and provide compliance reports to the Commission;

f. Establish additional committees as necessary;

g. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for issuing proposed rulemaking or adopting Commission Rules or bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the Commission's Rules; and

h. Perform other duties as provided in the Commission's Rules or bylaws.

7. All meetings of the Executive Committee at which it votes or plans to vote on matters in exercising the powers and duties of the Commission shall be open to the public and public notice of such meetings shall be given as public meetings of the Commission are given.

8. The Executive Committee may convene in a closed, non-public meeting for the same reasons that the Commission may convene in a non-public meeting as set forth in Section 7.D.3 and shall announce the closed meeting as the Commission is required to under Section 7.D.4 and keep minutes of the closed meeting as the Commission is required to under Section 7.D.5.

### G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that

## **SB0035S02 compared with SB0035S01**

nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses in any proceedings as authorized by Commission Rules.

5. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

6. Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a PA. All such matters shall be determined exclusively by

## SB0035S02 compared with SB0035S01

State law other than this Compact.

7. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

8. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

Section ~~{20}~~33. Section **58-70c-108** is enacted to read:

**58-70c-108. Section 8 -- Data System.**

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure, Adverse Action, and the reporting of the existence of Significant Investigative Information on all licensed PAs and applicants denied a License in Participating States.

B. Notwithstanding any other State law to the contrary, a Participating State shall submit a uniform data set to the Data System on all PAs to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a License or Compact Privilege;
4. Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any Criminal history record information where prohibited by law);
5. The existence of Significant Investigative Information; and
6. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Significant Investigative Information pertaining to a Licensee in any Participating State shall only be available to other Participating States.

D. The Commission shall promptly notify all Participating States of any Adverse Action taken against a Licensee or an individual applying for a License that has been reported to it. This Adverse Action information shall be available to any other Participating State.

E. Participating States contributing information to the Data System may, in accordance with State or federal law, designate information that may not be shared with the public without

## SB0035S02 compared with SB0035S01

the express permission of the contributing State. Notwithstanding any such designation, such information shall be reported to the Commission through the Data System.

F. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Participating State contributing the information shall be removed from the Data System upon reporting of such by the Participating State to the Commission.

G. The records and information provided to a Participating State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a Participating State.

Section ~~{21}~~34. Section **58-70c-109** is enacted to read:

### **58-70c-109. Section 9 -- Rulemaking.**

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Commission Rules shall become binding as of the date specified by the Commission for each Rule.

B. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer this Compact and achieve its purposes. A Commission Rule shall be invalid and have not force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review.

C. The Rules of the Commission shall have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that establish the medical services a PA may perform in the Participating State, as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

D. If a majority of the legislatures of the Participating States rejects a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Participating State or to any State applying to participate in the

## **SB0035S02 compared with SB0035S01**

### Compact.

E. Commission Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. To persons who have requested notice of the Commission's notices of proposed rulemaking, and
3. In such other way(s) as the Commission may by Rule specify.

G. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing on the proposed Rule and the proposed time, date and location of the meeting in which the proposed Rule will be considered and voted upon;

2. The text of the proposed Rule and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person and the date by which written comments must be received; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

H. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

I. If the hearing is to be held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall as directed in the Notice of Proposed Rulemaking, not less than five (5) business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking shall be made available to a person upon request.

## **SB0035S02 compared with SB0035S01**

4. Nothing in this section shall be construed as requiring a separate hearing on each proposed Rule. Proposed Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the public hearing the Commission shall consider all written and oral comments timely received.

K. The Commission shall, by majority vote of all delegates, take final action on the proposed Rule and shall determine the effective date of the Rule, if adopted, based on the Rulemaking record and the full text of the Rule.

1. If adopted, the Rule shall be posted on the Commission's website.

2. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

3. The Commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

4. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in subsection L, the effective date of the Rule shall be no sooner than thirty (30) days after the Commission issued the notice that adopted the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with twenty-four (24) hours prior notice, without the opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately by the Commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Participating State funds;

3. Meet a deadline for the promulgation of a Commission Rule that is established by federal law or Rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Commission Rule for purposes of correcting typographical

## **SB0035S02 compared with SB0035S01**

errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Participating State's rulemaking requirements shall apply under this Compact.

Section ~~{22}~~35. Section **58-70c-110** is enacted to read:

**58-70c-110. Section 10 -- Oversight, Dispute Resolution, and Enforcement.**

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or the Commission's Rules and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission with service of process shall render a judgment or order in such proceeding void as to the Commission, this Compact, or Commission Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under this Compact or the Commission Rules, the Commission shall provide written notice to the defaulting State and other Participating States. The notice shall describe the default, the proposed means of curing the default and any

## **SB0035S02 compared with SB0035S01**

other action that the Commission may take and shall offer remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from this Compact upon an affirmative vote of a majority of the delegates of the Participating States, and all rights, privileges and benefits conferred by this Compact upon such State may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

3. Termination of participation in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and to the Licensing Board(s) of each of the Participating States.

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal its termination from the Compact by the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

7. Upon the termination of a State's participation in the Compact, the State shall immediately provide notice to all Licensees within that State of such termination:

a. Licensees who have been granted a Compact Privilege in that State shall retain the Compact Privilege for one hundred eighty (180) days following the effective date of such termination.

b. Licensees who are licensed in that State who have been granted a Compact Privilege in a Participating State shall retain the Compact Privilege for one hundred eighty (180) days unless the Licensee also has a Qualifying License in a Participating State or obtains a Qualifying License in a Participating State before the one hundred eighty (180)-day period ends, in which case the Compact Privilege shall continue.

## SB0035S02 compared with SB0035S01

### C. Dispute Resolution

1. Upon request by a Participating State, the Commission shall attempt to resolve disputes related to this Compact that arise among Participating States and between participating and non-Participating States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

### D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and Rules of the Commission.

2. If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices, against a Participating State in default to enforce compliance with the provisions of this Compact and the Commission's promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

### E. Legal Action Against the Commission

1. A Participating State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

2. No person other than a Participating State shall enforce this Compact against the Commission.

Section ~~{23}~~36. Section 58-70c-111 is enacted to read:

**58-70c-111. Section 11 -- Date of Implementation of the PA Licensure Compact Commission.**

## **SB0035S02 compared with SB0035S01**

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh Participating State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the States that enacted the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.

a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.B.

b. If any Participating State later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven. Participating States enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

2. Participating States enacting the Compact subsequent to the seven initial Charter Participating States shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

B. Any State that joins this Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which this Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.

C. Any Participating State may withdraw from this Compact by enacting a statute repealing the same.

1. A Participating State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute. During this one hundred eighty (180) day-period, all Compact Privileges that were in effect in the withdrawing State and were granted to

## **SB0035S02 compared with SB0035S01**

Licensees licensed in the withdrawing State shall remain in effect. If any Licensee licensed in the withdrawing State is also licensed in another Participating State or obtains a license in another Participating State within the one hundred eighty (180) days, the Licensee's Compact Privileges in other Participating States shall not be affected by the passage of the one hundred eighty (180) days.

2. Withdrawal shall not affect the continuing requirement of the State Licensing Board(s) of the withdrawing State to comply with the investigative, and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing a State from this Compact, the State shall immediately provide notice of such withdrawal to all Licensees within that State. Such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between Participating States and between a Participating State and non-Participating State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Participating States. No amendment to this Compact shall become effective and binding upon any Participating State until it is enacted materially in the same manner into the laws of all Participating States as determined by the Commission.

Section ~~{24}~~37. Section **58-70c-112** is enacted to read:

### **58-70c-112. Section 12 -- Construction and Severability.**

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is

## SB0035S02 compared with SB0035S01

held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

C. Notwithstanding subsection B or this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 10.B, terminate a Participating State's participation in the Compact, if it determines that a constitutional requirement of a Participating State is, or would be with respect to a State seeking to participate in the Compact, a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Participating State, the Compact shall remain in full force and effect as to the remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

Section ~~{25}~~38. Section **58-70c-113** is enacted to read:

### **58-70c-113. Section 13 -- Binding Effect of Compact.**

A. Nothing herein prevents the enforcement of any other law of a Participating State that is not inconsistent with this Compact.

B. Any laws in a Participating State in conflict with this Compact are superseded to the extent of the conflict.

C. All agreements between the Commission and the Participating States are binding in accordance with their terms.

Section ~~{26}~~39. Section **58-70c-201** is enacted to read:

### **Part 2. Division Implementation**

#### **58-70c-201. Rulemaking authority -- State authority over scope of practice.**

(1) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

(2) Notwithstanding any provision in Sections 58-70c-101 through 58-70c-113, Sections 58-70c-101 through 58-70c-113 do not supersede state law related to an individual's scope of practice under this title.

Section ~~{27}~~40. Section **72-9-602.5** is enacted to read:

#### **72-9-602.5. Certificate by endorsement.**

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession described in Section 72-9-602.

## **SB0035S02 compared with SB0035S01**

(2) Subject to Subsections (4) through (6), the department shall issue a certificate described in Section 72-9-602 to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the certificate;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (6), the department may issue a certificate described in Section 72-9-602 to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) the department determines that the applicant's education, experience, and skills demonstrate competency in the occupation for which certification is sought; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the certificate; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the certificate.

(4) The department may refuse to issue a certificate to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the certificate; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

## **SB0035S02 compared with SB0035S01**

(5) Before the department issues a certificate to an applicant under this section, the applicant shall:

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

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the occupation for which certification is sought.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.