

SB0036S01 compared with SB0036

~~{deleted text}~~ shows text that was in SB0036 but was deleted in SB0036S01.

inserted text shows text that was not in SB0036 but was inserted into SB0036S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

~~{Committee Note:~~

~~———The Business and Labor Interim Committee recommended this bill.~~

~~———Legislative Vote: 10 voting for 2 voting against 8 absent~~

~~}General Description:~~

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ clarifies the purpose of recommendations provided by a licensing board to the director of the Division of Professional Licensing (division);
- ▶ authorizes the director of the ~~{Division of Professional Licensing}~~division to designate certain professional licensing board members to preside over adjudicative

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proceedings concerning professional licenses;

- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, construction contractors, and deception detection examiners; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

58-53-302, as last amended by Laws of Utah 2009, Chapter 183

58-55-302.5, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

58-63-302, as last amended by Laws of Utah 2022, Chapter 415

58-64-302, as last amended by Laws of Utah 2020, Chapters 154 and 339

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

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

58-1-108. Adjudicative proceedings.

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

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Subsection 63G-4-103(1).

(2) Before proceeding under Section 63G-4-502, the division shall review the proposed action with a committee of no less than three licensees appointed by the chairman of the licensing board created under this title for the profession of the person against whom the action is proposed.

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

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

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

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

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

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

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

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

(ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to act as the presiding officer.

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

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

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

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

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

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

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

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

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

(7) If the director or the director's designee does not initiate additional fact finding or issue a final order within 20 calendar days after the [~~date of the~~] day on which the recommended order of the presiding officer ~~is~~ is issued, the recommended order becomes the final order of the director or the director's designee.

(8) The final order of the director may be appealed by filing a request for agency

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review with the executive director or the executive director's designee within the department.

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

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

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

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

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

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

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

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

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

(ii) Upon the expiration of the term of a board member, the board member shall continue to serve until a successor is appointed, but for a period not to exceed six months from the expiration date of the ~~and~~ board member's term.

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

(c) A board member may not serve more than two consecutive terms, and a board

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member who ceases to serve on a board may not serve again on that board until after the expiration of a two-year period beginning from that cessation of service.

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

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

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

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

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

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

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

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

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) Each board or commission established under this title may recommend to the appropriate legislative committee whether the board or commission supports a change to a licensing act.

(b) This Subsection (3) does not:

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

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

Section 5. Section **58-1-501** is amended to read:

58-1-501. Unlawful and unprofessional conduct.

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

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

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

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

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

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same [~~occupation or~~] profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

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

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

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

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

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

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

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

(g) aiding or abetting any other person to violate any statute, rule, or order regulating

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~~[an occupation or]~~ a profession under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

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

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

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

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

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

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

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

(h) practicing or attempting to practice ~~[an occupation or]~~ a profession requiring licensure under this title by any form of action or communication which is false, misleading,

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deceptive, or fraudulent;

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

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

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

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

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

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

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

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

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

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

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(c):

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

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

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

(ii) the conviction was for:

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

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

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

Section 6. Section **58-9-306** is amended to read:

58-9-306. License by endorsement.

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

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

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

(3) pays a fee determined by the department;

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

(a) a first or second degree felony; ~~f~~ a or

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

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

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

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

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

Section 7. Section **58-53-302** is amended to read:

58-53-302. Qualifications for licensure.

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(1) Each applicant for licensure as a landscape architect shall:

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

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

~~[(c) provide satisfactory evidence of good moral character;]~~

~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a landscape architecture program meeting criteria established by rule by the division in collaboration with the board ~~[(f)]~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

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

Section 8. Section 58-55-302.5 is amended to read:

58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.

(1) (a) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(b) Each contractor licensee who has a renewal cycle that ends on or after January 1, 2020, ~~shall~~ may complete one hour of approved continuing education on energy conservation as part of the six required hours.

(2) (a) The commission shall, with the concurrence of the division, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a program of approved continuing education for contractor licensees.

(b) Except as provided in ~~Subsection (2)(c), beginning on or after June 1, 2015]~~

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Subsections (2)(c) and (e), only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:

- (i) the Associated General Contractors of Utah;
- (ii) Associated Builders and Contractors, Utah Chapter;
- (iii) the Utah Home Builders Association;
- (iv) the National Electrical Contractors Association Intermountain Chapter;
- (v) the Utah Plumbing & Heating Contractors Association;
- (vi) the Independent Electrical Contractors of Utah;
- (vii) the Rocky Mountain Gas Association;
- (viii) the Utah Mechanical Contractors Association;
- (ix) the Sheet Metal Contractors Association;
- (x) the Intermountain Electrical Association;
- (xi) the Builders Bid Service of Utah; or
- (xii) Utah Roofing Contractors Association.

(c) An approved continuing education program for a contractor licensee may include a course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.

(ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

(iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.

(e) ~~On or after June 1, 2015, an~~ An approved continuing education program for a contractor licensee may include a course offered and taught by:

- (i) a state executive branch agency;
- (ii) the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001; or
- (iii) a nationally or regionally accredited college or university that has a physical

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campus in the state.

(f) ~~On or after June 1, 2017, for~~ For a contractor licensee that is licensed in the specialty contractor classification of HVAC contractor, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

(a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and

(b) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

Section ~~8~~9. Section **58-63-302** is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

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

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

(c) have a qualifying agent who:

(i) ~~[shall meet~~meets with the division and the board and ~~[demonstrate]~~ demonstrates that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state and is responsible management personnel or an owner of the applicant;

(iii) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

(iv) is not concurrently acting as a qualifying agent or employee of another armored car

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company or contract security company and is not engaged in any other employment on a regular basis;

(v) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;

(vi) is not an employee of a government agency;

(vii) passes an examination component established by rule by the division in collaboration with the board ~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(viii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and responsible management personnel; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and responsible management personnel; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and responsible management personnel;

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and responsible management personnel;

(h) have ~~[good moral character in that]~~ officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel ~~[have]~~ who

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have not been convicted of:

(i) a felony; ~~(f)~~ or

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

~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(j) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board ~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

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

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(k) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer ~~[shall]~~:

(a) shall ~~(f)~~ submit an application in a form prescribed by the division;

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

(c) ~~[have good moral character in that the applicant has not]~~ may not have been convicted of:

(i) a felony; ~~(f)~~ or

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

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~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may ~~{ }~~ not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may ~~{ }~~ not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may ~~{ }~~ not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall ~~{ }~~ successfully complete basic education and training requirements established by rule by the division in collaboration with the board ~~{ }~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(h) shall ~~{ }~~ successfully complete firearms training requirements established by rule by the division in collaboration with the board ~~{ }~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

(i) shall ~~{ }~~ pass the examination requirement established by rule by the division in collaboration with the board ~~{ }~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(j) shall ~~{ }~~ meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

(a) shall ~~{ }~~ submit an application in a form prescribed by the division;

(b) shall ~~{ }~~ pay a fee determined by the department under Section 63J-1-504;

(c) [~~have good moral character in that the applicant has not~~] may not have been convicted of:

(i) a felony; ~~{ }~~ or

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

~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may ~~{ }~~ not have been declared incompetent by a court of competent jurisdiction by

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reason of mental defect or disease and not been restored;

(e) may ~~(f)~~ not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall ~~(f)~~ successfully complete basic education and training requirements established by rule by the division in collaboration with the board ~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight hours of classroom or online curriculum;

(g) shall ~~(f)~~ pass the examination requirement established by rule by the division in collaboration with the board ~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) shall ~~(f)~~ meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer [~~shall~~]:

(a) shall ~~(f)~~ submit an application in a form prescribed by the division;

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

(c) [~~have good moral character in that the applicant has not~~] may not have been convicted of:

(i) a felony; ~~(f)~~ or

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

~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) may ~~(f)~~ not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) may ~~(f)~~ not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) may ~~(f)~~ not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) shall ~~(f)~~ successfully complete basic education and training requirements established by rule by the division in collaboration with the board ~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(h) shall successfully complete firearms training requirements established by rule by

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the division in collaboration with the board ~~and~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) shall ~~and~~ pass the examination requirements established by rule by the division in collaboration with the board ~~and~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(j) shall ~~and~~ meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

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(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.

Section ~~9~~10. Section **58-64-302** is amended to read:

58-64-302. Qualifications for licensure.

(1) Each applicant for licensure as a deception detection examiner:

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

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

(c) may not have been convicted of a felony~~], a misdemeanor involving moral turpitude,~~ or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule ~~{ }~~made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made { }by the division~~{ }~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) shall have successfully completed a training program in detection deception meeting criteria established by rule made { }by the division~~{ }~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100

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deception detection examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern:

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

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

(c) may not have been convicted of a felony~~], a misdemeanor involving moral turpitude,~~ or any other crime that when considered with the duties and responsibilities of a deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) may not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) shall have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule ~~{}~~ made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule made ~~{} by the division {}~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) shall have successfully completed a training program in deception detection meeting criteria established by rule made ~~{} by the division {}~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) shall provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) Each applicant for licensure as a deception detection examination administrator:

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- (a) shall submit an application in a form prescribed by the division;
 - (b) shall pay a fee determined by the department under Section 63J-1-504;
 - (c) may not have been convicted of a felony~~[, a misdemeanor involving moral turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;
 - (d) may not have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;
 - (e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;
 - (f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; and
 - (g) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.
- (4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:
- (a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and
 - (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.
- (5) The Department of Public Safety shall send to the division:
- (a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and
 - (b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.
- (6) (a) The division shall charge each applicant a fee, in accordance with Section

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63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

(7) [~~Information~~] The division shall use or disseminate information obtained [~~by the division~~] from the reviews of criminal history records of the Department of Public Safety and the F.B.I. [~~shall be used or disseminated by the division~~] only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.