

**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

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to professional licensing.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ clarifies the purpose of recommendations provided by a professional licensing board to the director of the Division of Professional Licensing (division);
- ▶ authorizes the director of the division to designate certain professional licensing board members to preside over adjudicative proceedings concerning professional licenses;
- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies professional license application requirements regarding proof of identity;
- ▶ allows the division to designate information regarding proof of identity that is included with a professional license application as a private government record;
- ▶ clarifies supervision requirements for a physician assistant performing a cosmetic medical procedure;
- ▶ removes provisions requiring the division to administer a radiology practical



- 26 technician examination for radiology-related license applicants;
- 27       ▶ modifies penalties for unlawful conduct by a person licensed to engage in a
- 28 construction trade;
- 29       ▶ removes requirements a licensed advanced practice registered nurse is required to
- 30 meet before prescribing or administering a Schedule II controlled substance;
- 31       ▶ modifies licensing requirements for certain funeral service establishments and
- 32 professionals, landscape architects, security personnel, and deception detection
- 33 examiners;
- 34       ▶ modifies background check requirements for licensed pharmacies, alarm companies,
- 35 security car companies, and deception detector examiners;
- 36       ▶ grants administrative rulemaking authority; and
- 37       ▶ makes technical changes.

38 **Money Appropriated in this Bill:**

39       None

40 **Other Special Clauses:**

41       None

42 **Utah Code Sections Affected:**

43 AMENDS:

- 44       **58-1-108**, as last amended by Laws of Utah 2008, Chapter 382
- 45       **58-1-109**, as last amended by Laws of Utah 2016, Chapter 238
- 46       **58-1-201**, as last amended by Laws of Utah 2013, Chapter 262
- 47       **58-1-202**, as last amended by Laws of Utah 2022, Chapter 415
- 48       **58-1-301**, as last amended by Laws of Utah 2022, Chapters 413, 415
- 49       **58-1-301.5**, as last amended by Laws of Utah 2022, Chapters 221, 438 and 466
- 50       **58-1-501**, as last amended by Laws of Utah 2020, Chapters 289, 339
- 51       **58-1-506**, as last amended by Laws of Utah 2016, Chapter 75
- 52       **58-9-306**, as last amended by Laws of Utah 2007, Chapter 144
- 53       **58-17b-102**, as last amended by Laws of Utah 2021, Chapters 127, 340
- 54       **58-17b-306**, as last amended by Laws of Utah 2017, Chapter 384
- 55       **58-17b-307**, as last amended by Laws of Utah 2018, Chapter 318
- 56       **58-17b-625**, as last amended by Laws of Utah 2021, Chapter 340

- 57 [58-31b-102](#), as last amended by Laws of Utah 2022, Chapter 277
- 58 [58-31b-502](#), as last amended by Laws of Utah 2022, Chapter 290
- 59 [58-31b-803](#), as last amended by Laws of Utah 2022, Chapter 274
- 60 [58-53-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 61 [58-54-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 62 [58-55-102](#), as last amended by Laws of Utah 2022, Chapters 415, 446
- 63 [58-55-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 64 [58-55-303](#), as last amended by Laws of Utah 2013, Chapter 57
- 65 [58-55-503](#), as last amended by Laws of Utah 2022, Chapter 415
- 66 [58-63-102](#), as last amended by Laws of Utah 2022, Chapter 415
- 67 [58-63-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 68 [58-64-302](#), as last amended by Laws of Utah 2020, Chapters 154, 339

69 ENACTS:

- 70 [58-55-302.1](#), Utah Code Annotated 1953
- 71 [58-63-302.1](#), Utah Code Annotated 1953
- 72 [58-64-302.1](#), Utah Code Annotated 1953



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

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

76 **58-1-108. Adjudicative proceedings.**

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

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

86 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning  
87 or final disposition letter which does not constitute disciplinary action against the addressee,

88 issued in response to a complaint of unprofessional or unlawful conduct under this title, does  
89 not constitute an adjudicative proceeding.

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

91 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**  
92 **orders -- Appeal of orders.**

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

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

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

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

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

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

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

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

119 the designated board members' recommended order.

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

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

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

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

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

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

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

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

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

144 (9) The content of all orders shall comply with the requirements of Subsection  
145 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

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

147 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**  
148 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**  
149 **professional school that teaches continuing education prohibited.**

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

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

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

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

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

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

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

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

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

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

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

180 (e) The director, with the approval of the executive director, may remove a board

181 member and replace the board member in accordance with this section for the following  
182 reasons:

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

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

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

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

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

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

193 (a) Section 63A-3-106;

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

195 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and  
196 63A-3-107.

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

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

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

204 **58-1-202. Boards -- Duties, functions, and responsibilities.**

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

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

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

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

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

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

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

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

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

225 (b) This Subsection (3) does not:

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

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

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

229 **58-1-301. License application -- Licensing procedure.**

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

232 (b) Each completed application shall:

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

236 (ii) include the applicant's:

237 (A) full legal name; and

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

241 (iii) be verified by the applicant; and

242 (iv) be accompanied by the appropriate fees.



243 (c) An applicant's social security number is a private record under Subsection  
244 [63G-2-302\(1\)\(i\)](#).

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

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

249 (b) The division shall provide a written notice of additional proceedings to an applicant  
250 who submits a complete application, but who has been, is, or will be placed under investigation  
251 by the division for conduct directly bearing upon the applicant's qualifications for licensure, if  
252 the outcome of additional proceedings is required to determine the division's response to the  
253 application.

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

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

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

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

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

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

273 (B) "Competency-based licensing requirement" may include any combination of

274 training, experience, testing, or observation.

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

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

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

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

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

293 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

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

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

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

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

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

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

305 (g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm  
306 company agents, and Section 58-55-302.1;

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

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

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

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

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

313 (m) Sections 58-68-302 and 58-68-302.1.

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

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

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

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

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

323 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

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

334 (ii) for a licensee who has had a license under this title reinstated following disciplinary  
335 action, practicing the same [~~occupation or~~] profession using a different name than the name

336 used before the disciplinary action, except as permitted by law and after notice to, and approval  
337 by, the division;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

397 (k) verbally, physically, mentally, or sexually abusing or exploiting any person through

398 conduct connected with the licensee's practice under this title or otherwise facilitated by the  
399 licensee's license;

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

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

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

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

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

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

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

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

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

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

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

426 (ii) the conviction was for:

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

428 (B) a felony related to a criminal sexual act [~~pursuant to~~] under Title 76, Chapter 5,

429 Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

430 (C) a felony related to criminal fraud or embezzlement, including a felony [~~pursuant to~~]

431 under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

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

433 **58-1-506. Supervision of cosmetic medical procedures.**

434 (1) For purposes of this section:

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

437 (i) a physician assistant, if acting [~~under the supervision of a physician and the~~  
438 ~~procedure is included in the delegation of services agreement as defined in Section 58-70a-102]~~

439 in accordance with Chapter 70a, Utah Physician Assistant Act;

440 (ii) a registered nurse;

441 (iii) a master esthetician; and

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

443 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

456 (e) "Hair removal review" means:

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

459 supervisor;

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

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

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

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

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

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

470 (iv) is available to:

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

472 and

473 (B) evaluate the patient, as necessary.

474 (2) A supervisor supervising a nonablative cosmetic medical procedure for hair  
475 removal shall:

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

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

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

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

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

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

490 (i) has received appropriate training regarding the medical procedures developed under



491 Subsection (2)(b);

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

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

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

499 (B) physiology of the skin;

500 (C) skin typing and analysis;

501 (D) skin conditions, disorders, and diseases;

502 (E) pre- and post-procedure care;

503 (F) infection control;

504 (G) laser and light physics training;

505 (H) laser technologies and applications;

506 (I) safety and maintenance of lasers;

507 (J) cosmetic medical procedures an individual is permitted to perform under this title;

508 (K) recognition and appropriate management of complications from a procedure; and

509 (L) cardiopulmonary resuscitation (CPR).

510 (3) For a nonablative cosmetic medical procedure other than hair removal under

511 Subsection (2):

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

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

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

521 (b) a nurse practitioner or physician assistant conducting an in-person face-to-face

522 evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:

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

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

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

531 (c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

553 identifying the supervisor;

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

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

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

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

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

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

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

569 **58-9-306. License by endorsement.**

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

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

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

574 (3) pays a fee determined by the department;

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

576 (a) a first or second degree felony; or

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

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

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

584 (6) has passed a national examination determined by the division; and  
585 (7) has demonstrated competency of the laws and the rules of the state as determined  
586 by the division.

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

588 **58-17b-102. Definitions.**

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

590 (1) "Administering" means:

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

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

598 (2) "Adulterated drug or device" means a drug or device considered adulterated under  
599 21 U.S.C. Sec. 351 (2003).

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

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

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

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

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

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

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

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

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

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

630 (11) "Class B pharmacy":

631 (a) means a pharmacy located in Utah:

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

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

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

637 (ii) pharmaceutical administration and sterile product preparation facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

667 (b) "Compounding" does not include:

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

670 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a  
671 dosage form which is regularly and commonly available from a manufacturer in quantities and  
672 strengths prescribed by a practitioner; or

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

675 (19) "Confidential information" has the same meaning as "protected health  
676 information" under the Standards for Privacy of Individually Identifiable Health Information,

677 45 C.F.R. Parts 160 and 164.

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

679 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter  
680 417, Sec. 3a(ff) which is incorporated by reference.

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

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

686 (a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

707 (iii) a substance other than food intended to affect the structure or any function of the

708 body of humans or other animals; and

709 (iv) substances intended for use as a component of any substance specified in

710 Subsections (26)(a)(i), (ii), (iii), and (iv).

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

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

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

714 (i) known allergies;

715 (ii) rational therapy-contraindications;

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

717 (iv) reasonable directions for use;

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

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

722 (i) drug-drug;

723 (ii) drug-food;

724 (iii) drug-disease; and

725 (iv) adverse drug reactions; and

726 (d) evaluation of the prescription drug order and patient record for proper utilization,  
727 including over- or under-utilization, and optimum therapeutic outcomes.

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

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

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

738 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to



739 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health  
740 under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

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

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

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

747 (35) (a) "Manufacturing" means:

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

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

754 (b) "Manufacturing" includes the preparation and promotion of commercially available  
755 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

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

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

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

765 (38) "Misbranded drug or device" means a drug or device considered misbranded under  
766 21 U.S.C. Sec. 352 (2003).

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

768 (i) may be sold without a prescription; and

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

770 (b) "Nonprescription drug" includes homeopathic remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

802 (iii) arresting or slowing a disease process.

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

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

808 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility  
809 engaged in the business of wholesale vending or selling of a prescription drug or device to  
810 other than a consumer or user of the prescription drug or device that the pharmaceutical facility  
811 has not produced, manufactured, compounded, or dispensed.

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

814 (i) intracompany sales;

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

819 (A) hospitals;

820 (B) pharmacies;

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

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

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

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

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

831 (iv) the distribution of a prescription drug or device as a sample by representatives of a

832 manufacturer; and

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

834 (A) the facility's total distribution-related sales of prescription drugs does not exceed  
835 5% of the facility's total prescription drug sales; and

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

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

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

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

846 (51) "Pharmacy" means any place where:

847 (a) drugs are dispensed;

848 (b) pharmaceutical care is provided;

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

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

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

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

857 (54) "Pharmacy manager" means:

858 (a) a pharmacist-in-charge;

859 (b) an immediate supervisor of a pharmacist-in-charge; or

860 (c) an individual who manages the facility in which a pharmacy is located.

861 (55) "Pharmacy officer" means:

862 (a) a governing person, as defined in Section [48-3a-102](#), of a pharmacy;

863 (b) an individual appointed as an officer of a pharmacy that is a corporation in  
864 accordance with Section 16-10a-830;

865 (c) a general partner, as defined in Section 48-2e-102, of a pharmacy; or

866 (d) a partner, as defined in Section 48-1d-102, of a pharmacy.

867 (56) "Pharmacy owner" means:

868 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly  
869 through an entity controlled by the individual, 5% or more of the outstanding shares of a  
870 pharmacy that:

871 (i) is a corporation; and

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

873 (b) an individual who owns directly, or indirectly through an entity controlled by the  
874 individual, 5% or more of the equity of a pharmacy that is not a corporation.

875 (57) "Pharmacy technician training program" means an approved technician training  
876 program providing education for pharmacy technicians.

877 ~~[(55)]~~ (58) (a) "Practice as a dispensing medical practitioner" means the practice of  
878 pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part  
879 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and  
880 division rule adopted after consultation with the Board of pharmacy and the governing boards  
881 of the practitioners described in Subsection (23)(a).

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

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

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

887 ~~[(56)]~~ (59) "Practice as a licensed pharmacy technician" means engaging in practice as  
888 a pharmacy technician under the general supervision of a licensed pharmacist and in  
889 accordance with a scope of practice defined by division rule made in collaboration with the  
890 board.

891 ~~[(57)]~~ (60) "Practice of pharmacy" includes the following:

892 (a) providing pharmaceutical care;

893 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy

894 practice agreement;

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

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

899 (ii) in accordance with written guidelines or protocols:

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

902 (B) approved by the division, in collaboration with the board and, when appropriate,  
903 the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device  
904 is to be administered on an outpatient basis solely by a licensed pharmacist;

905 (d) participating in drug utilization review;

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

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

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

911 (h) providing drug product equivalents;

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

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

915 (k) providing emergency refills as defined by rule;

916 (l) telepharmacy;

917 (m) formulary management intervention;

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

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

921 [~~58~~] (61) "Practice of telepharmacy" means the practice of pharmacy through the use  
922 of telecommunications and information technologies.

923 [~~59~~] (62) "Practice of telepharmacy across state lines" means the practice of  
924 pharmacy through the use of telecommunications and information technologies that occurs

925 when the patient is physically located within one jurisdiction and the pharmacist is located in  
926 another jurisdiction.

927 ~~[(60)]~~ (63) "Practitioner" means an individual currently licensed, registered, or  
928 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the  
929 course of professional practice.

930 ~~[(61)]~~ (64) "Prescribe" means to issue a prescription:

931 (a) orally or in writing; or

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

934 ~~[(62)]~~ (65) "Prescription" means an order issued:

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

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

939 ~~[(63)]~~ (66) "Prescription device" means an instrument, apparatus, implement, machine,  
940 contrivance, implant, in vitro reagent, or other similar or related article, and any component  
941 part or accessory, which is required under federal or state law to be prescribed by a practitioner  
942 and dispensed by or through a person or entity licensed under this chapter or exempt from  
943 licensure under this chapter.

944 ~~[(64)]~~ (67) "Prescription drug" means a drug that is required by federal or state law or  
945 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

946 ~~[(65)]~~ (68) "Repackage":

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

949 (b) does not include:

950 (i) Subsection ~~[(65)(a)]~~ (68)(i) when completed by the pharmacist responsible for  
951 dispensing the product to a patient; or

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

955 ~~[(66)]~~ (69) "Research using pharmaceuticals" means research:

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

959 (b) requiring the use of a controlled substance, prescription drug, or prescription  
960 device;

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

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

966 ~~[(67)]~~ (70) "Retail pharmacy" means a pharmaceutical facility dispensing prescription  
967 drugs and devices to the general public.

968 ~~[(68)]~~ (71) (a) "Self-administered hormonal contraceptive" means a self-administered  
969 hormonal contraceptive that is approved by the United States Food and Drug Administration to  
970 prevent pregnancy.

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

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

975 ~~[(69)]~~ (72) "Self-audit" means an internal evaluation of a pharmacy to determine  
976 compliance with this chapter.

977 ~~[(70)]~~ (73) "Supervising pharmacist" means a pharmacist who is overseeing the  
978 operation of the pharmacy during a given day or shift.

979 ~~[(71)]~~ (74) "Supportive personnel" means unlicensed individuals who:

980 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed  
981 pharmacy technician in nonjudgmental duties not included in the definition of the practice of  
982 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as  
983 those duties may be further defined by division rule adopted in collaboration with the board;  
984 and

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



987           ~~[(72)]~~ (75) "Unlawful conduct" means the same as that term is defined in Sections  
988 [58-1-501](#) and [58-17b-501](#).

989           ~~[(73)]~~ (76) "Unprofessional conduct" means the same as that term is defined in  
990 Sections [58-1-501](#) and [58-17b-502](#) and may be further defined by rule.

991           ~~[(74)]~~ (77) "Veterinary pharmaceutical facility" means a pharmaceutical facility that  
992 dispenses drugs intended for use by animals or for sale to veterinarians for the administration  
993 for animals.

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

995           **58-17b-306. Qualifications for licensure as a pharmacy.**

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

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

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

1000           (c) satisfy the division that the applicant, and each owner, officer, or manager of the  
1001 applicant have not engaged in any act, practice, or omission, which when considered with the  
1002 duties and responsibilities of a licensee under this section indicates there is cause to believe  
1003 that issuing a license to the applicant is inconsistent with the interest of the public's health,  
1004 safety, or welfare;

1005           (d) demonstrate the licensee's operations will be in accordance with all federal, state,  
1006 and local laws relating to the type of activity engaged in by the licensee, including regulations  
1007 of the Federal Drug Enforcement Administration and Food and Drug Administration;

1008           (e) maintain operating standards established by division rule made in collaboration  
1009 with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative  
1010 Rulemaking Act;

1011           (f) for each pharmacy officer, pharmacy manager, and pharmacy owner, submit  
1012 fingerprint cards and consent to a fingerprint background check in accordance with Section  
1013 [58-17b-307](#); and

1014           ~~[(f)]~~ (g) acknowledge the division's authority to inspect the licensee's business premises  
1015 pursuant to Section [58-17b-103](#).

1016           (2) Each applicant applying for a class D license shall:

1017           (a) submit a written application in the form prescribed by the division;

- 1018 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 1019 (c) present to the division verification of licensure in the state where physically located  
1020 and verification that such license is in good standing;
- 1021 (d) satisfy the division that the applicant, and each officer, pharmacy manager, and  
1022 pharmacy owner of the applicant has not engaged in any act, practice, or omission, which when  
1023 considered with the duties and responsibilities of a licensee under this section, indicates there is  
1024 cause to believe that issuing a license to the applicant is inconsistent with the interest of the  
1025 public's health, safety, or welfare;
- 1026 (e) for each pharmacy officer, pharmacy manager, and pharmacy owner, submit  
1027 fingerprint cards and consent to a fingerprint background check in accordance with Section  
1028 [58-17b-307](#);
- 1029 ~~(f)~~ (f) provide a statement of the scope of pharmacy services that will be provided  
1030 and a detailed description of the protocol as described by rule by which pharmacy care will be  
1031 provided, including any collaborative practice arrangements with other health care  
1032 practitioners;
- 1033 ~~(g)~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the  
1034 applicant and physically located in Utah have the appropriate license issued by the division and  
1035 in good standing;
- 1036 ~~(h)~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws  
1037 and regulations of the jurisdiction in which the pharmacy is located; and
- 1038 ~~(i)~~ (i) if an applicant engages in compounding, submit the most recent inspection  
1039 report:
- 1040 (i) conducted within two years before the application for licensure; and
- 1041 (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified  
1042 Pharmacy Program; or
- 1043 (B) performed by the state licensing agency of the state in which the applicant is a  
1044 resident and in accordance with the National Association of Boards of Pharmacy multistate  
1045 inspection blueprint program.
- 1046 (3) Each license issued under this section shall be issued for a single, specific address,  
1047 and is not transferable or assignable.
- 1048 Section 12. Section [58-17b-307](#) is amended to read:

1049 **58-17b-307. Qualification for licensure -- Criminal background checks.**

1050 (1) An individual applicant for licensure under this chapter shall:

1051 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
1052 application is filed; and

1053 (b) in accordance with this section and requirements established by rule made in  
1054 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a  
1055 fingerprint background check regarding the application conducted by the:

1056 (i) Utah Bureau of Criminal Identification; and

1057 (ii) Federal Bureau of Investigation.

1058 (2) An applicant for licensure as a pharmacy under this chapter shall submit the  
1059 information described in Subsection (1) for each pharmacy officer, pharmacy owner, and  
1060 pharmacy manager of the applicant.

1061 [~~2~~] (3) The division shall:

1062 (a) in addition to other fees authorized by this chapter, collect from each applicant  
1063 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
1064 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
1065 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
1066 obtaining federal criminal history record information;

1067 (b) submit from each applicant the fingerprint card and the fees described in  
1068 Subsection (2)(a) to the Bureau of Criminal Identification; and

1069 (c) obtain and retain in division records, a signed waiver approved by the Bureau of  
1070 Criminal Identification in accordance with Section 53-10-108 for each [~~applicant~~] individual  
1071 who requires a background check under this section.

1072 [~~3~~] (4) The Bureau of Criminal Identification shall, in accordance with the  
1073 requirements of Section 53-10-108:

1074 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
1075 and regional criminal records databases;

1076 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
1077 criminal history background check; and

1078 (c) provide the results from the state, regional, and nationwide criminal history  
1079 background checks to the division.

1080           ~~[(4)]~~ (5) For purposes of conducting the criminal background check required in  
1081 Subsection (1), the division shall have direct access to criminal background information  
1082 maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1083           ~~[(5)]~~ (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician  
1084 license issued under this section is conditional, pending completion of the criminal background  
1085 ~~[check]~~ checks.

1086           (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
1087 criminal background check required in Subsection (1), discloses that the applicant or the  
1088 applicant's pharmacy officer, pharmacy owner, or pharmacy manager has failed to accurately  
1089 disclose a criminal history, the license is immediately and automatically revoked upon notice to  
1090 the licensee by the division.

1091           ~~[(6)]~~ (7) (a) A person whose conditional license has been revoked under Subsection  
1092 ~~[(5)]~~ (6) is entitled to a postrevocation hearing to challenge the revocation.

1093           (b) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
1094 Chapter 4, Administrative Procedures Act.

1095           ~~[(7)]~~ (8) The division may not disseminate outside of the division any criminal history  
1096 record information that the division obtains from the Bureau of Criminal Identification or the  
1097 Federal Bureau of Investigation under the criminal background check requirements of this  
1098 section.

1099           Section 13. Section **58-17b-625** is amended to read:

1100           **58-17b-625. Administration of a long-acting injectable and naloxone.**

1101           (1) A pharmacist may, in accordance with this section, administer a drug described in  
1102 Subsection (2).

1103           (2) Notwithstanding the provisions of Subsection [~~58-17b-102(57)(c)(ii)(B)~~]  
1104 ~~58-17b-102(60)(c)(ii)(B)~~, the division shall make rules in collaboration with the board and,  
1105 when appropriate, the Physicians Licensing Board created in Section ~~58-67-201~~, and in  
1106 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish  
1107 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1108           (3) A pharmacist may not administer naloxone or a long-acting injectable  
1109 intramuscularly unless the pharmacist:

1110           (a) completes the training described in Subsection (2);

1111 (b) administers the drug at a clinic or community pharmacy, as those terms are defined  
1112 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah  
1113 Administrative Rulemaking Act; and

1114 (c) is directed by the physician, as that term is defined in Section 58-67-102 or Section  
1115 58-68-102, who issues the prescription to administer the drug.

1116 Section 14. Section 58-31b-102 is amended to read:

1117 **58-31b-102. Definitions.**

1118 In addition to the definitions in Section 58-1-102, as used in this chapter:

1119 (1) "Administrative penalty" means a monetary fine or citation imposed by the division  
1120 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a  
1121 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah  
1122 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in  
1123 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1124 (2) "Applicant" means an individual who applies for licensure or certification under  
1125 this chapter by submitting a completed application for licensure or certification and the  
1126 required fees to the department.

1127 (3) "Approved education program" means a nursing education program that is  
1128 accredited by an accrediting body for nursing education that is approved by the United States  
1129 Department of Education.

1130 (4) "Board" means the Board of Nursing created in Section 58-31b-201.

1131 (5) "Diagnosis" means the identification of and discrimination between physical and  
1132 psychosocial signs and symptoms essential to the effective execution and management of  
1133 health care.

1134 (6) "Examinee" means an individual who applies to take or does take any examination  
1135 required under this chapter for licensure.

1136 (7) "Licensee" means an individual who is licensed or certified under this chapter.

1137 (8) "Long-term care facility" means any of the following facilities licensed by the  
1138 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and  
1139 Inspection Act:

1140 (a) a nursing care facility;

1141 (b) a small health care facility;

- 1142 (c) an intermediate care facility for people with an intellectual disability;
- 1143 (d) an assisted living facility Type I or II; or
- 1144 (e) a designated swing bed unit in a general hospital.
- 1145 (9) "Medication aide certified" means a certified nurse aide who:
- 1146 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- 1147 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
- 1148 that is approved by the division in collaboration with the board, in administering routine
- 1149 medications to patients or residents of long-term care facilities; and
- 1150 (c) is certified by the division as a medication aide certified.
- 1151 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
- 1152 under the supervision, as defined by the division by rule made in accordance with Title 63G,
- 1153 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
- 1154 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
- 1155 an individual who:
- 1156 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
- 1157 disability; and
- 1158 (ii) is in a regulated long-term care facility.
- 1159 (b) "Practice as a medication aide certified":
- 1160 (i) includes:
- 1161 (A) providing direct personal assistance or care; and
- 1162 (B) administering routine medications to patients in accordance with a formulary and
- 1163 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
- 1164 Utah Administrative Rulemaking Act; and
- 1165 (ii) does not include assisting a resident of an assisted living facility, a long term care
- 1166 facility, or an intermediate care facility for people with an intellectual disability to self
- 1167 administer a medication, as regulated by the Department of Health by rule made in accordance
- 1168 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1169 (11) "Practice of advanced practice registered nursing" means the practice of nursing
- 1170 within the generally recognized scope and standards of advanced practice registered nursing as
- 1171 defined by rule and consistent with professionally recognized preparation and education
- 1172 standards of an advanced practice registered nurse by a person licensed under this chapter as an

1173 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

1174 (a) maintenance and promotion of health and prevention of disease;

1175 (b) diagnosis, treatment, correction, consultation, and referral;

1176 (c) prescription or administration of prescription drugs or devices including:

1177 (i) local anesthesia;

1178 (ii) Schedule III-V controlled substances; and

1179 (iii) [~~Subject to Section 58-31b-803;~~] Schedule II controlled substances; or

1180 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and

1181 related services upon the request of a licensed health care professional by an advanced practice

1182 registered nurse specializing as a certified registered nurse anesthetist, including:

1183 (i) preanesthesia preparation and evaluation including:

1184 (A) performing a preanesthetic assessment of the patient;

1185 (B) ordering and evaluating appropriate lab and other studies to determine the health of

1186 the patient; and

1187 (C) selecting, ordering, or administering appropriate medications;

1188 (ii) anesthesia induction, maintenance, and emergence, including:

1189 (A) selecting and initiating the planned anesthetic technique;

1190 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

1191 (C) administering general, regional, and local anesthesia;

1192 (iii) postanesthesia follow-up care, including:

1193 (A) evaluating the patient's response to anesthesia and implementing corrective

1194 actions; and

1195 (B) selecting, ordering, or administering the medications and studies listed in this

1196 Subsection (11)(d);

1197 (iv) other related services within the scope of practice of a certified registered nurse

1198 anesthetist, including:

1199 (A) emergency airway management;

1200 (B) advanced cardiac life support; and

1201 (C) the establishment of peripheral, central, and arterial invasive lines; and

1202 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care

1203 professional":

1204 (A) means a health care professional practicing within the scope of the health care  
1205 professional's license, requests anesthesia services for a specific patient; and

1206 (B) does not require an advanced practice registered nurse specializing as a certified  
1207 registered nurse anesthetist to obtain additional authority to select, administer, or provide  
1208 preoperative, intraoperative, or postoperative anesthesia care and services.

1209 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain  
1210 optimal health, implementing a strategy of care to accomplish defined goals and evaluating  
1211 responses to care and treatment, and requires substantial specialized or general knowledge,  
1212 judgment, and skill based upon principles of the biological, physical, behavioral, and social  
1213 sciences. "Practice of nursing" includes:

- 1214 (a) initiating and maintaining comfort measures;
- 1215 (b) promoting and supporting human functions and responses;
- 1216 (c) establishing an environment conducive to well-being;
- 1217 (d) providing health counseling and teaching;
- 1218 (e) collaborating with health care professionals on aspects of the health care regimen;
- 1219 (f) performing delegated procedures only within the education, knowledge, judgment,  
1220 and skill of the licensee;
- 1221 (g) delegating nursing tasks that may be performed by others, including an unlicensed  
1222 assistive personnel; and
- 1223 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as  
1224 the individual performs the task.

1225 (13) "Practice of practical nursing" means the performance of nursing acts in the  
1226 generally recognized scope of practice of licensed practical nurses as defined by division rule  
1227 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as  
1228 provided in this Subsection (13) by an individual licensed under this chapter as a licensed  
1229 practical nurse and under the direction of a registered nurse, licensed physician, or other  
1230 specified health care professional as defined by division rule made in accordance with Title  
1231 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 1232 (a) contributing to the assessment of the health status of individuals and groups;
- 1233 (b) participating in the development and modification of the strategy of care;
- 1234 (c) implementing appropriate aspects of the strategy of care;



1235 (d) maintaining safe and effective nursing care rendered to a patient directly or  
1236 indirectly; and

1237 (e) participating in the evaluation of responses to interventions.

1238 (14) "Practice of registered nursing" means performing acts of nursing as provided in  
1239 this Subsection (14) by an individual licensed under this chapter as a registered nurse within  
1240 the generally recognized scope of practice of registered nurses as defined by division rule made  
1241 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered  
1242 nursing acts include:

1243 (a) assessing the health status of individuals and groups;

1244 (b) identifying health care needs;

1245 (c) establishing goals to meet identified health care needs;

1246 (d) planning a strategy of care;

1247 (e) prescribing nursing interventions to implement the strategy of care;

1248 (f) implementing the strategy of care;

1249 (g) maintaining safe and effective nursing care that is rendered to a patient directly or  
1250 indirectly;

1251 (h) evaluating responses to interventions;

1252 (i) teaching the theory and practice of nursing; and

1253 (j) managing and supervising the practice of nursing.

1254 (15) "Registered nurse apprentice" means an individual licensed under Subsection  
1255 [58-31b-301\(2\)\(b\)](#) who is learning and engaging in the practice of registered nursing under the  
1256 indirect supervision of an individual licensed under:

1257 (a) Subsection [58-31b-301\(2\)\(c\)](#), (e), or (f);

1258 (b) Chapter 67, Utah Medical Practice Act; or

1259 (c) Chapter 68, Utah Osteopathic Medical Practice Act.

1260 (16) "Routine medications":

1261 (a) means established medications administered to a medically stable individual as  
1262 determined by a licensed health care practitioner or in consultation with a licensed medical  
1263 practitioner; and

1264 (b) is limited to medications that are administered by the following routes:

1265 (i) oral;

- 1266 (ii) sublingual;
- 1267 (iii) buccal;
- 1268 (iv) eye;
- 1269 (v) ear;
- 1270 (vi) nasal;
- 1271 (vii) rectal;
- 1272 (viii) vaginal;
- 1273 (ix) skin ointments, topical including patches and transdermal;
- 1274 (x) premeasured medication delivered by aerosol/nebulizer; and
- 1275 (xi) medications delivered by metered hand-held inhalers.
- 1276 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
- 1277 and 58-31b-501.

1278 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of  
1279 title, who is delegated a task by a licensed nurse as permitted by division rule made in  
1280 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards  
1281 of the profession.

1282 (19) "Unprofessional conduct" means the same as that term is defined in Sections  
1283 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance  
1284 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1285 Section 15. Section 58-31b-502 is amended to read:

1286 **58-31b-502. Unprofessional conduct.**

1287 (1) "Unprofessional conduct" includes:

1288 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,  
1289 diagnosis, personal effects, or any other matter about which the licensee is privileged to know  
1290 because of the licensee's or person with a certification's position or practice as a nurse or  
1291 practice as a medication aide certified;

1292 (b) failure to provide nursing service or service as a medication aide certified in a  
1293 manner that demonstrates respect for the patient's human dignity and unique personal character  
1294 and needs without regard to the patient's race, religion, ethnic background, socioeconomic  
1295 status, age, sex, or the nature of the patient's health problem;

1296 (c) engaging in sexual relations with a patient during any:

- 1297 (i) period when a generally recognized professional relationship exists between the  
1298 person licensed or certified under this chapter and the patient; or
- 1299 (ii) extended period when a patient has reasonable cause to believe a professional  
1300 relationship exists between the person licensed or certified under the provisions of this chapter  
1301 and the patient;
- 1302 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using  
1303 information about a patient or exploiting the licensee's or the person with a certification's  
1304 professional relationship between the licensee or holder of a certification under this chapter and  
1305 the patient; or
- 1306 (ii) exploiting the patient by use of the licensee's or person with a certification's  
1307 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 1308 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 1309 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 1310 (g) unauthorized taking or personal use of a patient's personal property;
- 1311 (h) unlawful or inappropriate delegation of nursing care;
- 1312 (i) failure to exercise appropriate supervision of persons providing patient care services  
1313 under supervision of the licensed nurse;
- 1314 (j) employing or aiding and abetting the employment of an unqualified or unlicensed  
1315 person to practice as a nurse;
- 1316 (k) failure to file or record any medical report as required by law, impeding or  
1317 obstructing the filing or recording of such a report, or inducing another to fail to file or record  
1318 such a report;
- 1319 (l) breach of a statutory, common law, regulatory, or ethical requirement of  
1320 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 1321 (m) failure to pay a penalty imposed by the division;
- 1322 ~~[(n) prescribing a Schedule II controlled substance without complying with the~~  
1323 ~~requirements in Section 58-31b-803, if applicable;]~~
- 1324 ~~[(o)]~~ (n) violating Section 58-31b-801;
- 1325 ~~[(p)]~~ (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b,  
1326 Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy,  
1327 if applicable;

1328           ~~[(q)]~~ (p) falsely making an entry in, or altering, a medical record with the intent to  
1329 conceal:

1330           (i) a wrongful or negligent act or omission of an individual licensed under this chapter  
1331 or an individual under the direction or control of an individual licensed under this chapter; or

1332           (ii) conduct described in Subsections (1)(a) through ~~[(m)]~~ (m) or Subsection  
1333 58-1-501(1); or

1334           ~~[(r)]~~ (q) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis  
1335 Act.

1336           (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter  
1337 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as  
1338 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending  
1339 the use of medical cannabis.

1340           (3) Notwithstanding Subsection (2), the division, in consultation with the board and in  
1341 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
1342 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1343           Section 16. Section 58-31b-803 is amended to read:

1344           **58-31b-803. Advanced practice registered nurse prescriptive authority.**

1345           (1) Except as provided in Subsection (2), a licensed advanced practice registered nurse  
1346 may prescribe or administer a Schedule II controlled substance.

1347           (2) This section does not apply to an advanced practice registered nurse specializing as  
1348 a certified registered nurse anesthetist under Subsection 58-31b-102(11)(d).

1349           ~~[(2) Except as provided in Subsection (3), an advanced practice registered nurse may~~  
1350 ~~prescribe or administer a Schedule II controlled substance.]~~

1351           ~~[(3) An advanced practice registered nurse described in Subsection (4) may not~~  
1352 ~~prescribe or administer a Schedule II controlled substance unless the advanced practice~~  
1353 ~~registered nurse:]~~

1354           ~~[(a) receives a board certification from a nationally recognized organization;]~~

1355           ~~[(b) completes at least 30 hours of instruction, or the equivalent number of credit~~  
1356 ~~hours, pertaining to advanced pharmacology during a graduate education program;]~~

1357           ~~[(c) when obtaining licensure with the division, demonstrates completion of at least~~  
1358 ~~seven hours of continuing education pertaining to prescribing opioids; and]~~

1359 ~~[(d) participates in a prescribing mentorship under which the advanced practice~~  
1360 ~~registered nurse:]~~

1361 ~~[(i) is mentored by:]~~

1362 ~~[(A) a physician licensed in accordance with this title; or]~~

1363 ~~[(B) an advance practice registered nurse who has been licensed at least three years;~~  
1364 ~~and]~~

1365 ~~[(ii) periodically provides the mentor described in Subsection (3)(d)(i) timesheets that,~~  
1366 ~~in total, demonstrate 1,000 hours of clinical experience.]~~

1367 ~~[(4) Subsection (3) applies to an advanced practice registered nurse who:]~~

1368 ~~[(a) is engaged in independent solo practice; and]~~

1369 ~~[(b) (i) has been licensed as an advanced practice registered nurse for less than one~~  
1370 ~~year; or]~~

1371 ~~[(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice~~  
1372 ~~registered nurse:]~~

1373 Section 17. Section **58-53-302** is amended to read:

1374 **58-53-302. Qualifications for licensure.**

1375 (1) Each applicant for licensure as a landscape architect shall:

1376 (a) submit an application in a form prescribed by the division;

1377 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1378 ~~[(c) provide satisfactory evidence of good moral character;]~~

1379 ~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a  
1380 landscape architecture program meeting criteria established by rule by the division in  
1381 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
1382 Rulemaking Act; or

1383 (ii) have completed not less than eight years of supervised practical experience in  
1384 landscape architecture which meets the requirements established by rule by the division in  
1385 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
1386 Rulemaking Act; and

1387 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in  
1388 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
1389 Rulemaking Act.

1390 (2) Satisfactory completion of each year of a landscape architectural program described  
1391 in Subsection ~~[(1)(d)(i)]~~ (1)(c)(i) is equivalent to one year of experience for purposes of  
1392 Subsection ~~[(1)(d)(ii)]~~ (1)(c)(ii).

1393 Section 18. Section **58-54-302** is amended to read:

1394 **58-54-302. Requirements for licensure.**

1395 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or  
1396 radiology practical technician shall:

1397 (a) submit an application in a form prescribed by the division in collaboration with the  
1398 board; and

1399 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#).

1400 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the  
1401 requirements of Subsection (1):

1402 (a) be a graduate of an accredited educational program in radiologic technology or  
1403 certified by the American Registry of Radiologic Technologists or any equivalent educational  
1404 program approved by the division in collaboration with the board; and

1405 (b) have passed an examination approved by the division in collaboration with the  
1406 board.

1407 (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
1408 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
1409 examinations that are competency based, using a task analysis of the scope of practice of  
1410 radiology practical technicians in the state. The basic examination and the specialty  
1411 examination shall be approved by the division in collaboration with the board and the licensing  
1412 board of the profession within which the radiology practical technician will be practicing.

1413 ~~[(4) The division shall provide for administration of the radiology practical technician  
1414 examination not less than monthly at offices designated by the division and located:]~~

1415 ~~[(a) in Salt Lake City; and]~~

1416 ~~[(b) within each local health department jurisdictional area.]~~

1417 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);~~ (4)(b), each applicant for  
1418 licensure as a radiologist assistant shall:

1419 (i) meet the requirements of Subsections (1) and (2);

1420 (ii) have a Bachelor of Science degree; and

1421 (iii) be certified as:  
1422 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or  
1423 (B) a radiology practitioner assistant by the Certification Board of Radiology  
1424 Practitioner Assistants.

1425 (b) An individual who meets the requirements of Subsections [~~(5)(a)(i)~~] (4)(a)(i) and  
1426 (iii), but not Subsection [~~(5)(a)(ii)~~] (4)(a)(ii), may be licensed as a radiologist assistant under  
1427 this chapter until May 31, 2013, at which time, the individual must have completed the  
1428 Bachelor of Science degree in order to retain the license of radiologist assistant.

1429 Section 19. Section **58-55-102** is amended to read:

1430 **58-55-102. Definitions.**

1431 In addition to the definitions in Section **58-1-102**, as used in this chapter:

1432 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,  
1433 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm  
1434 system, except as provided in Subsection (1)(b).

1435 (b) "Alarm business" or "alarm company" does not include:

1436 (i) a person engaged in the manufacture or sale of alarm systems unless:

1437 (A) that person is also engaged in the installation, maintenance, alteration, repair,  
1438 replacement, servicing, or monitoring of alarm systems;

1439 (B) the manufacture or sale occurs at a location other than a place of business  
1440 established by the person engaged in the manufacture or sale; or

1441 (C) the manufacture or sale involves site visits at the place or intended place of  
1442 installation of an alarm system; or

1443 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who  
1444 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring  
1445 of the alarm system owned by that owner.

1446 (2) "Alarm company agent":

1447 (a) except as provided in Subsection (2)(b), means any individual employed within this  
1448 state by an alarm business; and

1449 (b) does not include an individual who:

1450 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,  
1451 servicing, or monitoring of an alarm system; and

1452 (ii) does not, during the normal course of the individual's employment with an alarm  
1453 business, use or have access to sensitive alarm system information.

1454 (3) "Alarm company officer" means:

1455 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;

1456 (b) an individual appointed as an officer of an alarm company that is a corporation in  
1457 accordance with Section 16-10a-830;

1458 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

1459 (d) a partner, as defined in Section 48-1d-102, of an alarm company.

1460 (4) "Alarm company owner" means:

1461 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly  
1462 through an entity controlled by the individual, 5% or more of the outstanding shares of an  
1463 alarm company that:

1464 (i) is a corporation; and

1465 (ii) is not publicly listed or traded; or

1466 (b) an individual who owns directly, or indirectly through an entity controlled by the  
1467 individual, 5% or more of the equity of an alarm company that is not a corporation.

1468 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is  
1469 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1470 (6) "Alarm company trustee" means an individual with control of or power of  
1471 administration over property held in trust.

1472 [~~(3)~~] (7) (a) "Alarm system" means equipment and devices assembled for the purpose  
1473 of:

1474 (i) detecting and signaling unauthorized intrusion or entry into or onto certain  
1475 premises; or

1476 (ii) signaling a robbery or attempted robbery on protected premises.

1477 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is  
1478 part of and interfaces with an alarm system for the purposes of detecting and deterring  
1479 unauthorized intrusion or entry into or onto certain premises.

1480 [~~(4)~~] (8) "Apprentice electrician" means a person licensed under this chapter as an  
1481 apprentice electrician who is learning the electrical trade under the immediate supervision of a  
1482 master electrician, residential master electrician, a journeyman electrician, or a residential



1483 journeyman electrician.

1484 ~~[(5)]~~ (9) "Apprentice plumber" means a person licensed under this chapter as an  
1485 apprentice plumber who is learning the plumbing trade under the immediate supervision of a  
1486 master plumber, residential master plumber, journeyman plumber, or a residential journeyman  
1487 plumber.

1488 ~~[(6)]~~ (10) "Approved continuing education" means instruction provided through  
1489 courses under a program established under Subsection 58-55-302.5(2).

1490 ~~[(7)]~~ (11) (a) "Approved preclicensure course provider" means a provider that is the  
1491 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and  
1492 Contractors, or the Utah Home Builders Association, and that meets the requirements  
1493 established by rule by the commission with the concurrence of the director, to teach the  
1494 25-hour course described in Subsection 58-55-302(1)(e)(iii).

1495 (b) "Approved preclicensure course provider" may only include a provider that, in  
1496 addition to any other locations, offers the 25-hour course described in Subsection  
1497 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake  
1498 County, Utah County, Davis County, or Weber County.

1499 ~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and  
1500 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

1501 ~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

1502 (a) piping and components with a means for conveying, either continuously or  
1503 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the  
1504 appliance;

1505 (b) the electric control and combustion air supply and venting systems, including air  
1506 ducts; and

1507 (c) components intended to achieve control of quantity, flow, and pressure.

1508 ~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under  
1509 Section 58-55-103.

1510 ~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

1511 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition  
1512 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation  
1513 or other project, development, or improvement to other than personal property; and

1514 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as  
1515 defined in Section 15A-1-302; or

1516 (b) installation or repair of a residential or commercial natural gas appliance or  
1517 combustion system.

1518 ~~[(12)]~~ (16) "Construction trades instructor" means a person licensed under this chapter  
1519 to teach one or more construction trades in both a classroom and project environment, where a  
1520 project is intended for sale to or use by the public and is completed under the direction of the  
1521 instructor, who has no economic interest in the project.

1522 ~~[(13)]~~ (17) (a) "Contractor" means any person who for compensation other than wages  
1523 as an employee undertakes any work in the construction, plumbing, or electrical trade for  
1524 which licensure is required under this chapter and includes:

1525 (i) a person who builds any structure on the person's own property for the purpose of  
1526 sale or who builds any structure intended for public use on the person's own property;

1527 (ii) any person who represents that the person is a contractor, or will perform a service  
1528 described in this Subsection ~~[(13)];~~ (17) by advertising on a website or social media, or any  
1529 other means;

1530 (iii) any person engaged as a maintenance person, other than an employee, who  
1531 regularly engages in activities set forth under the definition of "construction trade";

1532 (iv) any person engaged in, or offering to engage in, any construction trade for which  
1533 licensure is required under this chapter; or

1534 (v) a construction manager, construction consultant, construction assistant, or any other  
1535 person who, for a fee:

1536 (A) performs or offers to perform construction consulting;

1537 (B) performs or offers to perform management of construction subcontractors;

1538 (C) provides or offers to provide a list of subcontractors or suppliers; or

1539 (D) provides or offers to provide management or counseling services on a construction  
1540 project.

1541 (b) "Contractor" does not include:

1542 (i) an alarm company or alarm company agent; or

1543 (ii) a material supplier who provides consulting to customers regarding the design and  
1544 installation of the material supplier's products.

1545            [~~(14)~~] (18) (a) "Electrical trade" means the performance of any electrical work involved  
1546 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,  
1547 buildings, or appendages or appurtenances.

1548            (b) "Electrical trade" does not include:

1549            (i) transporting or handling electrical materials;

1550            (ii) preparing clearance for raceways for wiring;

1551            (iii) work commonly done by unskilled labor on any installations under the exclusive  
1552 control of electrical utilities;

1553            (iv) work involving cable-type wiring that does not pose a shock or fire-initiation  
1554 hazard; or

1555            (v) work involving class two or class three power-limited circuits as defined in the  
1556 National Electrical Code.

1557            [~~(15)~~] (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#),  
1558 except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or  
1559 an incline platform lift.

1560            [~~(16)~~] (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed  
1561 under this chapter that is engaged in the business of erecting, constructing, installing, altering,  
1562 servicing, repairing, or maintaining an elevator.

1563            [~~(17)~~] (21) "Elevator mechanic" means an individual who is licensed under this chapter  
1564 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,  
1565 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator  
1566 contractor.

1567            [~~(18)~~] (22) "Employee" means an individual as defined by the division by rule giving  
1568 consideration to the definition adopted by the Internal Revenue Service and the Department of  
1569 Workforce Services.

1570            [~~(19)~~] (23) "Engage in a construction trade" means to:

1571            (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged  
1572 in a construction trade; or

1573            (b) use the name "contractor" or "builder" or in any other way lead a reasonable person  
1574 to believe one is or will act as a contractor.

1575            [~~(20)~~] (24) (a) "Financial responsibility" means a demonstration of a current and

1576 expected future condition of financial solvency evidencing a reasonable expectation to the  
1577 division and the board that an applicant or licensee can successfully engage in business as a  
1578 contractor without jeopardy to the public health, safety, and welfare.

1579 (b) Financial responsibility may be determined by an evaluation of the total history  
1580 concerning the licensee or applicant including past, present, and expected condition and record  
1581 of financial solvency and business conduct.

1582 [~~(21)~~] (25) "Gas appliance" means any device that uses natural gas to produce light,  
1583 heat, power, steam, hot water, refrigeration, or air conditioning.

1584 [~~(22)~~] (26) (a) "General building contractor" means a person licensed under this  
1585 chapter as a general building contractor qualified by education, training, experience, and  
1586 knowledge to perform or superintend construction of structures for the support, shelter, and  
1587 enclosure of persons, animals, chattels, or movable property of any kind or any of the  
1588 components of that construction except plumbing, electrical work, mechanical work, work  
1589 related to the operating integrity of an elevator, and manufactured housing installation, for  
1590 which the general building contractor shall employ the services of a contractor licensed in the  
1591 particular specialty, except that a general building contractor engaged in the construction of  
1592 single-family and multifamily residences up to four units may perform the mechanical work  
1593 and hire a licensed plumber or electrician as an employee.

1594 (b) The division may by rule exclude general building contractors from engaging in the  
1595 performance of other construction specialties in which there is represented a substantial risk to  
1596 the public health, safety, and welfare, and for which a license is required unless that general  
1597 building contractor holds a valid license in that specialty classification.

1598 [~~(23)~~] (27) (a) "General electrical contractor" means a person licensed under this  
1599 chapter as a general electrical contractor qualified by education, training, experience, and  
1600 knowledge to perform the fabrication, construction, and installation of generators,  
1601 transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or  
1602 apparatus that uses electrical energy.

1603 (b) The scope of work of a general electrical contractor may be further defined by rules  
1604 made by the commission, with the concurrence of the director, in accordance with Title 63G,  
1605 Chapter 3, Utah Administrative Rulemaking Act.

1606 [~~(24)~~] (28) (a) "General engineering contractor" means a person licensed under this

1607 chapter as a general engineering contractor qualified by education, training, experience, and  
1608 knowledge to perform or superintend construction of fixed works or components of fixed  
1609 works requiring specialized engineering knowledge and skill in any of the following:

- 1610 (i) irrigation;
  - 1611 (ii) drainage;
  - 1612 (iii) water power;
  - 1613 (iv) water supply;
  - 1614 (v) flood control;
  - 1615 (vi) an inland waterway;
  - 1616 (vii) a harbor;
  - 1617 (viii) a railroad;
  - 1618 (ix) a highway;
  - 1619 (x) a tunnel;
  - 1620 (xi) an airport;
  - 1621 (xii) an airport runway;
  - 1622 (xiii) a sewer;
  - 1623 (xiv) a bridge;
  - 1624 (xv) a refinery;
  - 1625 (xvi) a pipeline;
  - 1626 (xvii) a chemical plant;
  - 1627 (xviii) an industrial plant;
  - 1628 (xix) a pier;
  - 1629 (xx) a foundation;
  - 1630 (xxi) a power plant; or
  - 1631 (xxii) a utility plant or installation.
- 1632 (b) A general engineering contractor may not perform or superintend:
- 1633 (i) construction of a structure built primarily for the support, shelter, and enclosure of  
1634 persons, animals, and chattels; or
  - 1635 (ii) performance of:
    - 1636 (A) plumbing work;
    - 1637 (B) electrical work; or

1638 (C) mechanical work.

1639 [~~(25)~~] (29) (a) "General plumbing contractor" means a person licensed under this  
1640 chapter as a general plumbing contractor qualified by education, training, experience, and  
1641 knowledge to perform the fabrication or installation of material and fixtures to create and  
1642 maintain sanitary conditions in a building by providing permanent means for a supply of safe  
1643 and pure water, a means for the timely and complete removal from the premises of all used or  
1644 contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life  
1645 and the occupation of such premises, and a safe and adequate supply of gases for lighting,  
1646 heating, and industrial purposes.

1647 (b) The scope of work of a general plumbing contractor may be further defined by rules  
1648 made by the commission, with the concurrence of the director, in accordance with Title 63G,  
1649 Chapter 3, Utah Administrative Rulemaking Act.

1650 [~~(26)~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection,  
1651 and evaluation of the work of a person:

1652 (a) as the division specifies in rule;

1653 (b) by, as applicable, a qualified electrician or plumber;

1654 (c) as part of a planned program of training; and

1655 (d) to ensure that the end result complies with applicable standards.

1656 [~~(27)~~] (31) "Individual" means a natural person.

1657 [~~(28)~~] (32) "Journeyman electrician" means a person licensed under this chapter as a  
1658 journeyman electrician having the qualifications, training, experience, and knowledge to wire,  
1659 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

1660 [~~(29)~~] (33) "Journeyman plumber" means a person licensed under this chapter as a  
1661 journeyman plumber having the qualifications, training, experience, and technical knowledge  
1662 to engage in the plumbing trade.

1663 [~~(30)~~] (34) "Master electrician" means a person licensed under this chapter as a master  
1664 electrician having the qualifications, training, experience, and knowledge to properly plan,  
1665 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment  
1666 for light, heat, power, and other purposes.

1667 [~~(31)~~] (35) "Master plumber" means a person licensed under this chapter as a master  
1668 plumber having the qualifications, training, experience, and knowledge to properly plan and

1669 layout projects and supervise persons in the plumbing trade.

1670 ~~[(32)]~~ (36) "Person" means a natural person, sole proprietorship, joint venture,  
1671 corporation, limited liability company, association, or organization of any type.

1672 ~~[(33)]~~ (37) (a) "Plumbing trade" means the performance of any mechanical work  
1673 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in  
1674 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and  
1675 fittings for the:

1676 (i) delivery of the water supply;

1677 (ii) discharge of liquid and water carried waste;

1678 (iii) building drainage system within the walls of the building; and

1679 (iv) delivery of gases for lighting, heating, and industrial purposes.

1680 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,  
1681 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the  
1682 safe and adequate supply of gases, together with their devices, appurtenances, and connections  
1683 where installed within the outside walls of the building.

1684 ~~[(34)]~~ (38) "Ratio of apprentices" means the number of licensed plumber apprentices or  
1685 licensed electrician apprentices that are allowed to be under the immediate supervision of a  
1686 licensed supervisor as established by the provisions of this chapter and by rules made by the  
1687 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1688 Utah Administrative Rulemaking Act.

1689 ~~[(35)]~~ (39) "Residential and small commercial contractor" means a person licensed  
1690 under this chapter as a residential and small commercial contractor qualified by education,  
1691 training, experience, and knowledge to perform or superintend the construction of  
1692 single-family residences, multifamily residences up to four units, and commercial construction  
1693 of not more than three stories above ground and not more than 20,000 square feet, or any of the  
1694 components of that construction except plumbing, electrical work, mechanical work, and  
1695 manufactured housing installation, for which the residential and small commercial contractor  
1696 shall employ the services of a contractor licensed in the particular specialty, except that a  
1697 residential and small commercial contractor engaged in the construction of single-family and  
1698 multifamily residences up to four units may perform the mechanical work and hire a licensed  
1699 plumber or electrician as an employee.

1700            [~~(36)~~] (40) "Residential building," as it relates to the license classification of residential  
1701 journeyman plumber and residential master plumber, means a single or multiple family  
1702 dwelling of up to four units.

1703            [~~(37)~~] (41) (a) "Residential electrical contractor" means a person licensed under this  
1704 chapter as a residential electrical contractor qualified by education, training, experience, and  
1705 knowledge to perform the fabrication, construction, and installation of services, disconnecting  
1706 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,  
1707 appliances, and fixtures in a residential unit.

1708            (b) The scope of work of a residential electrical contractor may be further defined by  
1709 rules made by the commission, with the concurrence of the director, in accordance with Title  
1710 63G, Chapter 3, Utah Administrative Rulemaking Act.

1711            [~~(38)~~] (42) "Residential journeyman electrician" means a person licensed under this  
1712 chapter as a residential journeyman electrician having the qualifications, training, experience,  
1713 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,  
1714 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1715            [~~(39)~~] (43) "Residential journeyman plumber" means a person licensed under this  
1716 chapter as a residential journeyman plumber having the qualifications, training, experience, and  
1717 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1718            [~~(40)~~] (44) "Residential master electrician" means a person licensed under this chapter  
1719 as a residential master electrician having the qualifications, training, experience, and  
1720 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of  
1721 electrical apparatus and equipment for light, heat, power, and other purposes on residential  
1722 projects.

1723            [~~(41)~~] (45) "Residential master plumber" means a person licensed under this chapter as  
1724 a residential master plumber having the qualifications, training, experience, and knowledge to  
1725 properly plan and layout projects and supervise persons in the plumbing trade as limited to the  
1726 plumbing of residential buildings.

1727            [~~(42)~~] (46) (a) "Residential plumbing contractor" means a person licensed under this  
1728 chapter as a residential plumbing contractor qualified by education, training, experience, and  
1729 knowledge to perform the fabrication or installation of material and fixtures to create and  
1730 maintain sanitary conditions in residential buildings by providing permanent means for a



1731 supply of safe and pure water, a means for the timely and complete removal from the premises  
1732 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities  
1733 incidental to life and the occupation of such premises, and a safe and adequate supply of gases  
1734 for lighting, heating, and residential purposes.

1735 (b) The scope of work of a residential plumbing contractor may be further defined by  
1736 rules made by the commission, with the concurrence of the director, in accordance with Title  
1737 63G, Chapter 3, Utah Administrative Rulemaking Act.

1738 ~~[(43)]~~ (47) "Residential project," as it relates to an electrician or electrical contractor,  
1739 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard  
1740 rules and regulations governing this work, including the National Electrical Code, and in which  
1741 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1742 (48) "Responsible management personnel" means:

1743 (a) a qualifying agent;

1744 (b) an operations manager; or

1745 (c) a site manager.

1746 ~~[(44)]~~ (49) "Sensitive alarm system information" means:

1747 (a) a pass code or other code used in the operation of an alarm system;

1748 (b) information on the location of alarm system components at the premises of a  
1749 customer of the alarm business providing the alarm system;

1750 (c) information that would allow the circumvention, bypass, deactivation, or other  
1751 compromise of an alarm system of a customer of the alarm business providing the alarm  
1752 system; and

1753 (d) any other similar information that the division by rule determines to be information  
1754 that an individual employed by an alarm business should use or have access to only if the  
1755 individual is licensed as provided in this chapter.

1756 ~~[(45)]~~ (50) (a) "Specialty contractor" means a person licensed under this chapter under  
1757 a specialty contractor classification established by rule, who is qualified by education, training,  
1758 experience, and knowledge to perform those construction trades and crafts requiring  
1759 specialized skill, the regulation of which are determined by the division to be in the best  
1760 interest of the public health, safety, and welfare.

1761 (b) A specialty contractor may perform work in crafts or trades other than those in

1762 which the specialty contractor is licensed if they are incidental to the performance of the  
1763 specialty contractor's licensed craft or trade.

1764 [~~(46)~~] (51) "Unincorporated entity" means an entity that is not:

- 1765 (a) an individual;
- 1766 (b) a corporation; or
- 1767 (c) publicly traded.

1768 [~~(47)~~] (52) "Unlawful conduct" means the same as that term is defined in Sections  
1769 58-1-501 and 58-55-501.

1770 [~~(48)~~] (53) "Unprofessional conduct" means the same as that term is defined in  
1771 Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

1772 [~~(49)~~] (54) "Wages" means amounts due to an employee for labor or services whether  
1773 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for  
1774 calculating the amount.

1775 Section 20. Section 58-55-302 is amended to read:

1776 **58-55-302. Qualifications for licensure.**

1777 (1) Each applicant for a license under this chapter shall:

- 1778 (a) submit an application prescribed by the division;
- 1779 (b) pay a fee as determined by the department under Section 63J-1-504;
- 1780 (c) meet the examination requirements established by this section and by rule by the  
1781 commission with the concurrence of the director, which requirements include:

- 1782 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty  
1783 contractor, no division-administered examination is required;
- 1784 (ii) for licensure as a general building contractor, general engineering contractor,  
1785 residential and small commercial contractor, general plumbing contractor, residential plumbing  
1786 contractor, general electrical contractor, or residential electrical contractor, the only required  
1787 division-administered examination is a division-administered examination that covers  
1788 information from the 25-hour course described in Subsection (1)(e)(iii), which course may  
1789 have been previously completed as part of applying for any other license under this chapter,  
1790 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law  
1791 course described in Subsection (1)(e)(iv); and

1792 (iii) if required in Section 58-55-304, an individual qualifier must pass the required

1793 division-administered examination if the applicant is a business entity;

1794 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1795 (e) if an applicant for a contractor's license:

1796 (i) produce satisfactory evidence of financial responsibility, except for a construction

1797 trades instructor for whom evidence of financial responsibility is not required;

1798 (ii) produce satisfactory evidence of:

1799 (A) except as provided in Subsection (2)(a), and except that no employment experience

1800 is required for licensure as a specialty contractor, two years full-time paid employment

1801 experience in the construction industry, which employment experience, unless more

1802 specifically described in this section, may be related to any contracting classification and does

1803 not have to include supervisory experience; and

1804 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

1805 necessary for the protection of the public health, safety, and welfare;

1806 (iii) except as otherwise provided by rule by the commission with the concurrence of

1807 the director, complete a 25-hour course established by rule by the commission with the

1808 concurrence of the director, which is taught by an approved prelicensure course provider, and

1809 which course may include:

1810 (A) construction business practices;

1811 (B) bookkeeping fundamentals;

1812 (C) mechanics lien fundamentals;

1813 (D) other aspects of business and construction principles considered important by the

1814 commission with the concurrence of the director; and

1815 (E) for no additional fee, a provider-administered examination at the end of the

1816 25-hour course;

1817 (iv) complete a five-hour business and law course established by rule by the

1818 commission with the concurrence of the director, which is taught by an approved prelicensure

1819 course provider, if an applicant for licensure as a general building contractor, general

1820 engineering contractor, residential and small commercial contractor, general plumbing

1821 contractor, residential plumbing contractor, general electrical contractor, or residential

1822 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was

1823 completed before July 1, 2019, the applicant does not need to take the business and law course;

1824 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's  
1825 license or a licensed master residential electrician if an applicant for a residential electrical  
1826 contractor's license;

1827 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or  
1828 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
1829 license; or

1830 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years  
1831 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1832 (vi) when the applicant is an unincorporated entity, provide a list of the one or more  
1833 individuals who hold an ownership interest in the applicant as of the day on which the  
1834 application is filed that includes for each individual:

1835 (A) the individual's name, address, birth date, and social security number or other  
1836 satisfactory evidence of the applicant's identity permitted under rules made by the division in  
1837 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1838 (B) whether the individual will engage in a construction trade; and

1839 (f) if an applicant for a construction trades instructor license, satisfy any additional  
1840 requirements established by rule.

1841 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a  
1842 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory  
1843 evidence of two years full-time paid employment experience as a building inspector, which  
1844 shall include at least one year full-time experience as a licensed combination inspector.

1845 (b) The applicant shall file the following with the division before the division issues  
1846 the license:

1847 (i) proof of workers' compensation insurance which covers employees of the applicant  
1848 in accordance with applicable Utah law;

1849 (ii) proof of public liability insurance in coverage amounts and form established by rule  
1850 except for a construction trades instructor for whom public liability insurance is not required;  
1851 and

1852 (iii) proof of registration as required by applicable law with the:

1853 (A) Department of Commerce;

1854 (B) Division of Corporations and Commercial Code;

1855 (C) Unemployment Insurance Division in the Department of Workforce Services, for  
1856 purposes of Title 35A, Chapter 4, Employment Security Act;

1857 (D) State Tax Commission; and

1858 (E) Internal Revenue Service.

1859 (3) In addition to the general requirements for each applicant in Subsection (1),  
1860 applicants shall comply with the following requirements to be licensed in the following  
1861 classifications:

1862 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1863 (A) has been a licensed journeyman plumber for at least two years and had two years of  
1864 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1865 (B) has received at least an associate of applied science degree or similar degree  
1866 following the completion of a course of study approved by the division and had one year of  
1867 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1868 (C) meets the qualifications for expedited licensure as established by rules made by the  
1869 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1870 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1871 and skills to be a licensed master plumber.

1872 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
1873 least four years of practical experience as a licensed apprentice under the supervision of a  
1874 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
1875 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
1876 master plumber license under this chapter, and satisfies the requirements of this Subsection  
1877 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

1878 (iii) An individual holding a valid plumbing contractor's license or residential  
1879 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
1880 2008:

1881 (A) considered to hold a current master plumber license under this chapter if licensed  
1882 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
1883 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
1884 58-55-303; and

1885 (B) considered to hold a current residential master plumber license under this chapter if

1886 licensed as a residential plumbing contractor and a residential journeyman plumber, and  
1887 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of  
1888 that license under Section [58-55-303](#).

1889 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
1890 applicant:

1891 (i) has been a licensed residential journeyman plumber for at least two years and had  
1892 two years of supervisory experience as a licensed residential journeyman plumber in  
1893 accordance with division rule; or

1894 (ii) meets the qualifications for expedited licensure as established by rules made by the  
1895 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1896 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1897 and skills to be a licensed master residential plumber.

1898 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1899 (i) successful completion of the equivalent of at least four years of full-time training  
1900 and instruction as a licensed apprentice plumber under supervision of a licensed master  
1901 plumber or journeyman plumber and in accordance with a planned program of training  
1902 approved by the division;

1903 (ii) at least eight years of full-time experience approved by the division in collaboration  
1904 with the Plumbers Licensing Board; or

1905 (iii) meeting the qualifications for expedited licensure as established by rules made by  
1906 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1907 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1908 and skills to be a licensed journeyman plumber.

1909 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1910 (i) completion of the equivalent of at least three years of full-time training and  
1911 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
1912 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
1913 accordance with a planned program of training approved by the division;

1914 (ii) completion of at least six years of full-time experience in a maintenance or repair  
1915 trade involving substantial plumbing work; or

1916 (iii) meeting the qualifications for expedited licensure as established by rules made by

1917 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1918 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1919 and skills to be a licensed residential journeyman plumber.

1920 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be  
1921 in accordance with the following:

1922 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
1923 under the immediate supervision of a licensed master plumber, licensed residential master  
1924 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

1925 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed  
1926 apprentice plumber may work without supervision for a period not to exceed eight hours in any  
1927 24-hour period; and

1928 (iii) rules made by the commission, with the concurrence of the director, in accordance  
1929 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
1930 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
1931 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
1932 immediate supervision of a licensed supervisor.

1933 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1934 (i) is a graduate electrical engineer of an accredited college or university approved by  
1935 the division and has one year of practical electrical experience as a licensed apprentice  
1936 electrician;

1937 (ii) is a graduate of an electrical trade school, having received an associate of applied  
1938 sciences degree following successful completion of a course of study approved by the division,  
1939 and has two years of practical experience as a licensed journeyman electrician;

1940 (iii) has four years of practical experience as a journeyman electrician; or

1941 (iv) meets the qualifications for expedited licensure as established by rules made by the  
1942 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1943 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1944 and skills to be a licensed master electrician.

1945 (g) A master residential electrician applicant shall produce satisfactory evidence that  
1946 the applicant:

1947 (i) has at least two years of practical experience as a residential journeyman electrician;

1948 or

1949 (ii) meets the qualifications for expedited licensure as established by rules made by the  
1950 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1951 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1952 and skills to be a master residential electrician.

1953 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
1954 applicant:

1955 (i) has successfully completed at least four years of full-time training and instruction as  
1956 a licensed apprentice electrician under the supervision of a master electrician or journeyman  
1957 electrician and in accordance with a planned training program approved by the division;

1958 (ii) has at least eight years of full-time experience approved by the division in  
1959 collaboration with the Electricians Licensing Board; or

1960 (iii) meets the qualifications for expedited licensure as established by rules made by the  
1961 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1962 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1963 and skills to be a licensed journeyman electrician.

1964 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
1965 that the applicant:

1966 (i) has successfully completed two years of training in an electrical training program  
1967 approved by the division;

1968 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
1969 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
1970 journeyman, residential master, or residential journeyman electrician; or

1971 (iii) meets the qualifications for expedited licensure as established by rules made by the  
1972 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1973 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1974 and skills to be a licensed residential journeyman electrician.

1975 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
1976 be in accordance with the following:

1977 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
1978 licensed master, journeyman, residential master, or residential journeyman electrician;



1979 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed  
 1980 apprentice electrician may work without supervision for a period not to exceed eight hours in  
 1981 any 24-hour period;

1982 (iii) rules made by the commission, with the concurrence of the director, in accordance  
 1983 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
 1984 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
 1985 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
 1986 immediate supervision of a licensed supervisor; and

1987 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a  
 1988 residential project, or more if established by rules made by the commission, in concurrence  
 1989 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 1990 Act.

1991 (k) An alarm company applicant shall:

1992 (i) have a qualifying agent who:

1993 (A) is an [officer, director, partner, proprietor, or manager of the applicant who:] alarm  
 1994 company officer, alarm company owner, alarm company proprietor, an alarm company trustee,  
 1995 or other responsible management personnel;

1996 [(A)] (B) demonstrates 6,000 hours of experience in the alarm company business;

1997 [(B)] (C) demonstrates 2,000 hours of experience as a manager or administrator in the  
 1998 alarm company business or in a construction business; and

1999 [(C)] (D) passes an examination component established by rule by the commission  
 2000 with the concurrence of the director;

2001 (ii) provide the name, address, date of birth, social security number, fingerprint card,  
 2002 and consent to a background check in accordance with Section 58-55-302.1 and requirements  
 2003 established by division rule made in accordance with Title 63G, Chapter 3, Utah  
 2004 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm  
 2005 company proprietor, alarm company trustee, and responsible management personnel with direct  
 2006 responsibility for managing operations of the applicant within the state;

2007 [(ii) if a corporation, provide:]

2008 [(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
 2009 of all corporate officers, directors, and those responsible management personnel employed

2010 ~~within the state or having direct responsibility for managing operations of the applicant within~~  
2011 ~~the state; and]~~

2012 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~  
2013 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~  
2014 ~~shall not be required if the stock is publicly listed and traded;]~~

2015 ~~[(iii) if a limited liability company, provide:]~~

2016 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~  
2017 ~~of all company officers, and those responsible management personnel employed within the~~  
2018 ~~state or having direct responsibility for managing operations of the applicant within the state;~~  
2019 ~~and]~~

2020 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~  
2021 ~~of all individuals owning 5% or more of the equity of the company;]~~

2022 ~~[(iv) if a partnership, provide the names, addresses, dates of birth, social security~~  
2023 ~~numbers, and fingerprint cards of all general partners, and those responsible management~~  
2024 ~~personnel employed within the state or having direct responsibility for managing operations of~~  
2025 ~~the applicant within the state;]~~

2026 ~~[(v) if a proprietorship, provide the names, addresses, dates of birth, social security~~  
2027 ~~numbers, and fingerprint cards of the proprietor, and those responsible management personnel~~  
2028 ~~employed within the state or having direct responsibility for managing operations of the~~  
2029 ~~applicant within the state;]~~

2030 ~~[(vi) if a trust, provide the names, addresses, dates of birth, social security numbers,~~  
2031 ~~and fingerprint cards of the trustee, and those responsible management personnel employed~~  
2032 ~~within the state or having direct responsibility for managing operations of the applicant within~~  
2033 ~~the state;]~~

2034 ~~[(vii) (iii) document that none of the [applicant's officers, directors, shareholders~~  
2035 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible~~  
2036 ~~management personnel] persons described in Subsection (3)(k)(ii):~~

2037 ~~(A) have been declared by any court of competent jurisdiction incompetent by reason~~  
2038 ~~of mental defect or disease and not been restored; or~~

2039 ~~[(viii) (B) [document that none of the applicant's officers, directors, shareholders~~  
2040 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management~~

2041 ~~personnel~~ are currently suffering from habitual drunkenness or from drug addiction or  
2042 dependence;

2043 ~~[(ix)]~~ (iv) file and maintain with the division evidence of:

2044 (A) comprehensive general liability insurance in form and in amounts to be established  
2045 by rule by the commission with the concurrence of the director;

2046 (B) workers' compensation insurance that covers employees of the applicant in  
2047 accordance with applicable Utah law; and

2048 (C) registration as is required by applicable law with the:

2049 (I) Division of Corporations and Commercial Code;

2050 (II) Unemployment Insurance Division in the Department of Workforce Services, for  
2051 purposes of Title 35A, Chapter 4, Employment Security Act;

2052 (III) State Tax Commission; and

2053 (IV) Internal Revenue Service; and

2054 ~~[(x)]~~ (v) meet with the division and board.

2055 (l) Each applicant for licensure as an alarm company agent shall:

2056 (i) submit an application in a form prescribed by the division accompanied by  
2057 fingerprint cards;

2058 (ii) pay a fee determined by the department under Section [63J-1-504](#);

2059 (iii) submit to and pass a criminal background check in accordance with Section  
2060 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,  
2061 Chapter 3, Utah Administrative Rulemaking Act;

2062 ~~[(iii)]~~ (iv) not have been declared by any court of competent jurisdiction incompetent  
2063 by reason of mental defect or disease and not been restored;

2064 ~~[(iv)]~~ (v) not be currently suffering from habitual drunkenness or from drug addiction  
2065 or dependence; and

2066 ~~[(v)]~~ (vi) meet with the division and board if requested by the division or the board.

2067 (m) (i) Each applicant for licensure as an elevator mechanic shall:

2068 (A) provide documentation of experience and education credits of not less than three  
2069 years work experience in the elevator industry, in construction, maintenance, or service and  
2070 repair; and

2071 (B) satisfactorily complete a written examination administered by the division

2072 established by rule under Section [58-1-203](#); or

2073 (C) provide certificates of completion of an apprenticeship program for elevator  
2074 mechanics, having standards substantially equal to those of this chapter and registered with the  
2075 United States Department of Labor Bureau Apprenticeship and Training or a state  
2076 apprenticeship council.

2077 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed  
2078 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,  
2079 repairing, or maintaining an elevator, the contractor may:

2080 (I) notify the division of the unavailability of licensed personnel; and

2081 (II) request the division issue a temporary elevator mechanic license to an individual  
2082 certified by the contractor as having an acceptable combination of documented experience and  
2083 education to perform the work described in this Subsection (3)(m)(ii)(A).

2084 (B) (I) The division may issue a temporary elevator mechanic license to an individual  
2085 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by  
2086 the appropriate fee as determined by the department under Section [63J-1-504](#).

2087 (II) The division shall specify the time period for which the license is valid and may  
2088 renew the license for an additional time period upon its determination that a shortage of  
2089 licensed elevator mechanics continues to exist.

2090 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2091 division may make rules establishing when Federal Bureau of Investigation records shall be  
2092 checked for applicants as an alarm company or alarm company agent under this section and  
2093 Section [58-55-302.1](#).

2094 [~~(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide~~  
2095 ~~an appropriate number of copies of fingerprint cards to the Department of Public Safety with~~  
2096 ~~the division's request to:]~~

2097 [~~(a) conduct a search of records of the Department of Public Safety for criminal history~~  
2098 ~~information relating to each applicant for licensure as an alarm company or alarm company~~  
2099 ~~agent and each applicant's officers, directors, shareholders described in Subsection~~  
2100 ~~(3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

2101 [~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2102 ~~requiring a check of records of the Federal Bureau of Investigation for criminal history~~

2103 information under this section.]

2104 [~~(6) The Department of Public Safety shall send to the division:]~~

2105 [~~(a) a written record of criminal history, or certification of no criminal history record,~~  
2106 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~  
2107 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~  
2108 ~~records; and]~~

2109 [~~(b) the results of the Federal Bureau of Investigation review concerning an applicant~~  
2110 ~~in a timely manner after receipt of information from the Federal Bureau of Investigation.]~~

2111 [~~(7) (a) The division shall charge each applicant for licensure as an alarm company or~~  
2112 ~~alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of~~  
2113 ~~performing the records reviews under this section.]~~

2114 [~~(b) The division shall pay the Department of Public Safety the costs of all records~~  
2115 ~~reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the~~  
2116 ~~costs of records reviews under this section.]~~

2117 [~~(8) Information obtained by the division from the reviews of criminal history records~~  
2118 ~~of the Department of Public Safety and the Federal Bureau of Investigation shall be used or~~  
2119 ~~disseminated by the division only for the purpose of determining if an applicant for licensure as~~  
2120 ~~an alarm company or alarm company agent is qualified for licensure.]~~

2121 [~~(9)~~] (5) (a) An application for licensure under this chapter shall be denied if:

2122 (i) the applicant has had a previous license, which was issued under this chapter,  
2123 suspended or revoked within two years before the date of the applicant's application;

2124 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2125 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
2126 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
2127 status, performing similar functions, or directly or indirectly controlling the applicant has  
2128 served in any similar capacity with any person or entity which has had a previous license,  
2129 which was issued under this chapter, suspended or revoked within two years before the date of  
2130 the applicant's application;

2131 (iii) (A) the applicant is an individual or sole proprietorship; and

2132 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
2133 Subsection [~~(9)(a)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which

2134 was issued under this chapter, suspended or revoked within two years before the date of the  
2135 applicant's application; or

2136 (iv) (A) the applicant includes an individual who was an owner, director, or officer of  
2137 an unincorporated entity at the time the entity's license under this chapter was revoked; and

2138 (B) the application for licensure is filed within 60 months after the revocation of the  
2139 unincorporated entity's license.

2140 (b) An application for licensure under this chapter shall be reviewed by the appropriate  
2141 licensing board prior to approval if:

2142 (i) the applicant has had a previous license, which was issued under this chapter,  
2143 suspended or revoked more than two years before the date of the applicant's application;

2144 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2145 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
2146 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
2147 status, performing similar functions, or directly or indirectly controlling the applicant has  
2148 served in any similar capacity with any person or entity which has had a previous license,  
2149 which was issued under this chapter, suspended or revoked more than two years before the date  
2150 of the applicant's application; or

2151 (iii) (A) the applicant is an individual or sole proprietorship; and

2152 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
2153 Subsection ~~[(9)(b)(ii)(B)]~~ (5)(a)(ii)(B) in any entity which has had a previous license, which  
2154 was issued under this chapter, suspended or revoked more than two years before the date of the  
2155 applicant's application.

2156 ~~[(10)]~~ (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership  
2157 status report with the division every 30 days after the day on which the license is issued if the  
2158 licensee has more than five owners who are individuals who:

2159 (A) own an interest in the contractor that is an unincorporated entity;

2160 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the  
2161 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the  
2162 unincorporated entity; and

2163 (C) engage, or will engage, in a construction trade in the state as owners of the  
2164 contractor described in Subsection ~~[(10)(a)(i)(A)]~~ (6)(a)(i)(A).

2165 (ii) If the licensee has five or fewer owners described in Subsection [~~(10)~~(a)(i)]  
2166 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal  
2167 of licensure.

2168 (b) An ownership status report required under this Subsection [~~(10)~~] (6) shall:

2169 (i) specify each addition or deletion of an owner:

2170 (A) for the first ownership status report, after the day on which the unincorporated  
2171 entity is licensed under this chapter; and

2172 (B) for a subsequent ownership status report, after the day on which the previous  
2173 ownership status report is filed;

2174 (ii) be in a format prescribed by the division that includes for each owner, regardless of  
2175 the owner's percentage ownership in the unincorporated entity, the information described in  
2176 Subsection (1)(e)(vi);

2177 (iii) list the name of:

2178 (A) each officer or manager of the unincorporated entity; and

2179 (B) each other individual involved in the operation, supervision, or management of the  
2180 unincorporated entity; and

2181 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)  
2182 if the ownership status report indicates there is a change described in Subsection [~~(10)~~(b)(i).]  
2183 (6)(b)(i).

2184 (c) The division may, at any time, audit an ownership status report under this  
2185 Subsection [~~(10)~~] (6):

2186 (i) to determine if financial responsibility has been demonstrated or maintained as  
2187 required under Section [58-55-306](#); and

2188 (ii) to determine compliance with Subsection [58-55-501](#)(23), (24), or (26) or  
2189 Subsection [58-55-502](#)(8) or (9).

2190 [~~(11)~~] (7) (a) An unincorporated entity that provides labor to an entity licensed under  
2191 this chapter by providing an individual who owns an interest in the unincorporated entity to  
2192 engage in a construction trade in Utah shall file with the division:

2193 (i) before the individual who owns an interest in the unincorporated entity engages in a  
2194 construction trade in Utah, a current list of the one or more individuals who hold an ownership  
2195 interest in the unincorporated entity that includes for each individual:

2196 (A) the individual's name, address, birth date, and social security number; and  
2197 (B) whether the individual will engage in a construction trade; and  
2198 (ii) every 30 days after the day on which the unincorporated entity provides the list  
2199 described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the  
2200 information that would be required under Subsection ~~[(10)]~~ (6) if the unincorporated entity  
2201 were a licensed contractor.

2202 (b) When filing an ownership list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i) or an  
2203 ownership status report described in Subsection ~~[(11)(a)(ii)]~~, (7)(a)(i) an unincorporated entity  
2204 shall pay a fee set by the division in accordance with Section 63J-1-504.

2205 ~~[(12)]~~ (8) This chapter may not be interpreted to create or support an express or  
2206 implied independent contractor relationship between an unincorporated entity described in  
2207 Subsection ~~[(10)]~~ (6) or ~~[(11)]~~ (7) and the owners of the unincorporated entity for any purpose,  
2208 including income tax withholding.

2209 ~~[(13)]~~ (9) (a) A social security number provided under Subsection (1)(e)(vi) or  
2210 (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

2211 (b) The division may designate an applicant's evidence of identity under Subsection  
2212 (1)(e)(iv) as a private record in accordance with Section 63G-2-302.

2213 Section 21. Section **58-55-302.1** is enacted to read:

2214 **58-55-302.1. Criminal background check.**

2215 (1) An applicant for licensure under this chapter who requires a criminal background  
2216 check shall:

2217 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2218 application is filed; and

2219 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2220 Identification and the Federal Bureau of Investigation regarding the application.

2221 (2) The division shall:

2222 (a) in addition to other fees authorized by this chapter, collect from each applicant  
2223 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
2224 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
2225 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2226 obtaining federal criminal history record information;



- 2227 (b) submit from each applicant the fingerprint card and the fees described in  
2228 Subsection (2)(a) to the Bureau of Criminal Identification; and
- 2229 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2230 Criminal Identification in accordance with Section 53-10-108 for each applicant.
- 2231 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2232 Section 53-10-108:
- 2233 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2234 and regional criminal records databases;
- 2235 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2236 criminal history background check; and
- 2237 (c) provide the results from the state, regional, and nationwide criminal history  
2238 background checks to the division.
- 2239 (4) For purposes of conducting a criminal background check required under this  
2240 section, the division shall have direct access to criminal background information maintained  
2241 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
- 2242 (5) The division may not disseminate outside of the division any criminal history  
2243 record information that the division obtains from the Bureau of Criminal Identification or the  
2244 Federal Bureau of Investigation under the criminal background check requirements of this  
2245 section.
- 2246 (6) (a) A new license issued under Section 58-55-302 is conditional pending  
2247 completion of the criminal background check.
- 2248 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2249 criminal background check required in Section 58-55-302 demonstrates the applicant or the  
2250 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2251 responsible management personnel has failed to accurately disclose a criminal history, the  
2252 license is immediately and automatically revoked upon notice to the licensee by the division.
- 2253 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
2254 entitled to a postrevocation hearing to challenge the revocation.
- 2255 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
2256 Chapter 4, Administrative Procedures Act.
- 2257 Section 22. Section **58-55-303** is amended to read:

2258 **58-55-303. Term of license -- Expiration -- Renewal.**

2259 (1) (a) Each license issued under this chapter shall be issued in accordance with a  
2260 two-year renewal cycle established by rule.

2261 (b) The division may by rule extend or shorten a renewal period by as much as one year  
2262 to stagger the renewal cycle it administers.

2263 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding  
2264 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a  
2265 license is automatically suspended 60 days after the licensee:

2266 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the  
2267 ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~]

2268 58-55-302(6)(a)(i); or

2269 (B) transfers its license to an unincorporated entity that is subject to the ownership  
2270 status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

2271 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the  
2272 expiration of the 60-day period in Subsection (1)(c)(i):

2273 (A) the licensee submits an application for renewal of the license; and

2274 (B) the division renews the licensee's license pursuant to the licensee's application for  
2275 renewal.

2276 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),  
2277 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,  
2278 make a final determination concerning the suspension.

2279 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

2280 (a) continuing financial responsibility as required under Section 58-55-306;

2281 (b) for a contractor licensee, completion of six hours of approved continuing education,  
2282 as required in Section 58-55-302.5; and

2283 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or  
2284 plumber, master electrician or plumber, residential journeyman electrician or plumber, or  
2285 residential master electrician or plumber, completion of the number of hours of continuing  
2286 education specified under Section 58-55-302.7.

2287 (3) Each license automatically expires on the expiration date shown on the license  
2288 unless the licensee renews the license in accordance with Section 58-1-308.

2289 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to  
 2290 applicants seeking to renew or reinstate a license.

2291 (5) In addition to any other requirements imposed by law, if a license has been  
 2292 suspended or revoked for any reason, the applicant:

2293 (a) shall pay in full all fines imposed by the division;

2294 (b) resolve any outstanding citations or disciplinary actions with the division;

2295 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

2296 (d) complete a new financial responsibility review as required under Section

2297 58-55-306, using only titled assets; and

2298 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,

2299 Residence Lien Restriction and Lien Recovery Fund Act.

2300 Section 23. Section **58-55-503** is amended to read:

2301 **58-55-503. Penalty for unlawful conduct -- Citations.**

2302 (1) As used in this section:

2303 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does

2304 not include a sole proprietorship, joint venture, corporation, limited liability company,

2305 association, or organization of any type.

2306 (b) "Qualifying violation" means a violation under:

2307 (i) Subsection 58-55-308(2);

2308 (ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)

2309 through (28);

2310 (iii) Subsection 58-55-502(4)(a) or (11); or

2311 (iv) Subsection 58-55-504(2).

2312 (2) (a) [(†)] A person who violates [~~Subsection 58-55-308(2);~~] Subsection

2313 [~~58-55-501(1), (2), (3), (4), (5), (6);~~] 58-55-501(1) through (7), (9), (10), (12), (14), (15),

2314 (16)(e), [(21), (22), (23), (24), (25), (26), (27), or] or (21) through (28), Subsection

2315 58-55-308(2), or Subsection 58-55-504(2), or who fails to comply with a citation issued under

2316 this section after [†] the citation is final, is guilty of a class A misdemeanor.

2317 [(ii) ~~As used in this section in reference to Subsection 58-55-504(2), "person" means an~~

2318 ~~individual and does not include a sole proprietorship, joint venture, corporation, limited~~

2319 ~~liability company, association, or organization of any type.]~~

2320 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
2321 awarded and may not accept a contract for the performance of the work.

2322 ~~[(2)]~~ (3) A person who violates ~~[the provisions of]~~ Subsection 58-55-501(13) is guilty  
2323 of:

2324 (a) an infraction ~~[unless the]~~; or

2325 (b) if the violator did so with the intent to deprive the person to whom money is to be  
2326 paid of the money received, ~~[in which case the violator is guilty]~~ of theft[,], as classified in  
2327 Section 76-6-412.

2328 ~~[(3)]~~ (4) Grounds for immediate suspension of a licensee's license by the division and  
2329 the commission include:

2330 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section  
2331 58-55-501, or Subsection 58-55-504(2); and

2332 (b) the failure by a licensee to make application to, report to, or notify the division with  
2333 respect to any matter for which application, notification, or reporting is required under this  
2334 chapter or rules adopted under this chapter, including:

2335 (i) applying to the division for a new license to engage in a new specialty classification  
2336 or to do business under a new form of organization or business structure;

2337 (ii) filing a current financial statement with the division; and

2338 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2339 ~~[(4)]~~ (5) (a) (i) If upon inspection or investigation, the division concludes that a person  
2340 has ~~[violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),~~  
2341 ~~(10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection~~  
2342 ~~58-55-502(4)(a) or (11), Subsection 58-55-504(2),]~~ committed a qualifying violation or  
2343 violated any rule or order issued with respect to ~~[these subsections]~~ a qualifying violation, and  
2344 that disciplinary action is appropriate, the director or the director's designee from within the  
2345 division shall:

2346 (A) promptly issue a citation to the person according to this chapter and any pertinent  
2347 rules[;];

2348 (B) attempt to negotiate a stipulated settlement[;]; or

2349 (C) notify the person to appear before an adjudicative proceeding conducted under  
2350 Title 63G, Chapter 4, Administrative Procedures Act.

2351 (ii) A person who [~~is in violation of the provisions of Subsection 58-55-308(2);~~  
 2352 ~~Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24);~~  
 2353 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)] committed a qualifying violation, as  
 2354 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an  
 2355 adjudicative proceeding, may be assessed a fine [~~pursuant to this Subsection (4)] and may, in~~  
 2356 addition to or in lieu of, be ordered to cease and desist from [~~violating Subsection~~  
 2357 ~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24),~~  
 2358 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)] engaging in the qualifying violation.~~~~

2359 (iii) Except for a cease and desist order, the licensure sanctions cited in Section  
 2360 ~~58-55-401~~ may not be assessed through a citation.

2361 (b) [~~(f)~~] A citation shall:

2362 (i) be in writing and describe with particularity the nature of the violation, including a  
 2363 reference to the provision of the chapter, rule, or order alleged to have been violated[-];

2364 (ii) [~~A citation shall~~] clearly state that the recipient must notify the division in writing  
 2365 within 20 calendar days [~~of service of the citation]~~ after the day on which the citation is served  
 2366 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,  
 2367 Administrative Procedures Act[-]; and

2368 (iii) [~~A citation shall~~] clearly explain the consequences of failure to timely contest the  
 2369 citation or to make payment of any fines assessed by the citation within the time specified in  
 2370 the citation.

2371 (c) A citation issued under this section, or a copy of a citation, may be served upon a  
 2372 person upon whom a summons may be served:

2373 (i) in accordance with the Utah Rules of Civil Procedure;

2374 (ii) personally or upon the person's agent by a division investigator or by a person  
 2375 specially designated by the director; or

2376 (iii) by mail.

2377 (d) (i) If within 20 calendar days after the day on which a citation is served, the person  
 2378 to whom the citation was issued fails to request a hearing to contest the citation, the citation  
 2379 becomes the final order of the division and is not subject to further agency review.

2380 (ii) The period to contest a citation may be extended by the division for cause.

2381 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation

2382 the license of a licensee who fails to comply with a citation after the citation becomes final.

2383 (f) The failure of an applicant for licensure to comply with a citation after the citation  
2384 becomes final is a ground for denial of license.

2385 (g) A citation may not be issued under this section after the expiration of one year  
2386 ~~following~~ after the date on which the violation that is the subject of the citation is reported to  
2387 the division.

2388 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5); (6)]~~, the  
2389 director or the director's designee shall assess a fine in accordance with the following:

2390 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of  
2391 up to \$1,000;

2392 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a); (5)(a)]~~, a fine  
2393 of up to \$2,000; and

2394 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a  
2395 fine of up to \$2,000 for each day of continued offense.

2396 (ii) Except as provided in Subsection ~~[(5); (6)]~~, if a person violates Subsection  
2397 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in  
2398 accordance with the following:

2399 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a); (5)(a)]~~, a fine of  
2400 up to \$2,000;

2401 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a); (5)(a)]~~, a fine  
2402 of up to \$4,000; and

2403 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a); (5)(a)]~~,  
2404 a fine of up to \$4,000 for each day of continued offense.

2405 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
2406 Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

2407 (A) the division previously issued a final order determining that a person committed a  
2408 first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),~~  
2409 ~~(3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection~~  
2410 58-55-504(2)] qualifying violation; or

2411 (B) (I) the division initiated an action for a first or second offense;

2412 (II) a final order has not been issued by the division in the action initiated under

2413 Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

2414 (III) the division determines during an investigation that occurred after the initiation of  
 2415 the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second  
 2416 or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~  
 2417 ~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (19), (23), (24), (25), (26), (27), (28),~~  
 2418 ~~or Subsection 58-55-504(2)]~~ qualifying violation; and

2419 (IV) after determining that the person committed a second or subsequent ~~[offense]~~  
 2420 qualifying violation under Subsection ~~[(4)(i)(i)(B)(III)]~~ (5)(i)(i)(B)(III), the division issues a  
 2421 final order on the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I).

2422 (ii) In issuing a final order for a second or subsequent offense under Subsection  
 2423 ~~[(4)(i)(i)]~~ (5)(i)(i), the division shall comply with the requirements of this section.

2424 (j) In addition to any other licensure sanction or fine imposed under this section, the  
 2425 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)  
 2426 two or more times within a 12-month period, unless, with respect to a violation of Subsection  
 2427 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal  
 2428 legal working status of the individual who was the subject of the violation using a status  
 2429 verification system, as defined in Section 13-47-102.

2430 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)  
 2431 for each individual is considered a separate violation.

2432 ~~[(5)]~~ (6) If a person violates Section 58-55-501, the division may not treat the violation  
 2433 as a subsequent violation of a previous violation if the violation occurs five years or more after  
 2434 the day on which the person committed the previous violation.

2435 ~~[(6)]~~ (7) If, after an investigation, the division determines that a person has committed  
 2436 multiple of the same type of violation of Section 58-55-501, the division may treat each  
 2437 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to  
 2438 each violation.

2439 ~~[(7)]~~ (8) (a) A penalty imposed by the director under Subsection ~~[(4)(i)]~~ (5) shall be  
 2440 deposited into the Commerce Service Account created by Section 13-1-2.

2441 (b) A penalty that is not paid may be collected by the director by either referring the  
 2442 matter to a collection agency or bringing an action in the district court of the county in which  
 2443 the person against whom the penalty is imposed resides or in the county where the office of the



2444 director is located.

2445 (c) A county attorney or the attorney general of the state shall provide legal assistance  
2446 and advice to the director in an action to collect a penalty.

2447 (d) In an action brought to collect a penalty, the court shall award reasonable attorney  
2448 fees and costs to the prevailing party.

2449 Section 24. Section **58-63-102** is amended to read:

2450 **58-63-102. Definitions.**

2451 In addition to the definitions in Section **58-1-102**, as used in this chapter:

2452 (1) "Agreement for services" means a written and signed agreement between a security  
2453 service provider and a client that:

2454 (a) contains clear language that addresses and assigns financial responsibility;  
2455 (b) describes the length, duties, and scope of the security services that will be provided;

2456 and

2457 (c) describes the compensation that will be paid by the client for the security services,  
2458 including the compensation for each security officer.

2459 (2) "Armed courier service" means a person engaged in business as a contract security  
2460 company who transports or offers to transport tangible personal property from one place or  
2461 point to another under the control of an armed security officer employed by that service.

2462 (3) "Armed private security officer" means an individual:

2463 (a) employed by a contract security company;

2464 (b) whose primary duty is:

2465 (i) guarding personal or real property; or

2466 (ii) providing protection or security to the life and well being of humans or animals;

2467 and

2468 (c) who wears, carries, possesses, or has immediate access to a firearm in the  
2469 performance of the individual's duties.

2470 (4) "Armored car company" means a person engaged in business under contract to  
2471 others who transports or offers to transport tangible personal property, currency, valuables,  
2472 jewelry, SNAP benefits as defined in Section **35A-1-102**, or any other high value items, that  
2473 require secured delivery from one place to another under the control of an armored car security  
2474 officer employed by the company using a specially equipped motor vehicle offering a high



2475 degree of security.

2476 (5) "Armored car security officer" means an individual:

2477 (a) employed by an armored car company;

2478 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,  
2479 SNAP benefits as defined in Section [35A-1-102](#), or other high value items that require secured  
2480 delivery from one place to another; and

2481 (c) who wears, carries, possesses, or has immediate access to a firearm in the  
2482 performance of the individual's duties.

2483 (6) "Board" means the Security Services Licensing Board created in Section  
2484 [58-63-201](#).

2485 (7) "Client" means a person, company, or entity that contracts for and receives security  
2486 services from a contract security company or an armored car company.

2487 (8) "Contract security company" means a company that [~~is registered with the Division~~  
2488 ~~of Corporations and Commercial Code and~~] is engaged in business to provide security services  
2489 to another person, business, or entity on a contractual basis by assignment of an armed or  
2490 unarmed private security officer.

2491 [~~(9) "Corporate officer" means an individual who is on file with the Division of~~  
2492 ~~Corporations and Commercial Code as:]~~

2493 [~~(a) a corporate officer of a contract security company or an armored car company that~~  
2494 ~~is a corporation; or]~~

2495 [~~(b) a sole proprietor of a contract security company or an armored car company that is~~  
2496 ~~not a corporation.]~~

2497 [~~(10)~~] (9) "Company officer" means:

2498 (a) a governing person, as defined in Section [48-3a-102](#), of an armored car company or  
2499 contract security company;

2500 (b) an individual appointed as an officer of an armored car company or contract  
2501 security company that is a corporation in accordance with Section [16-10a-830](#);

2502 (c) a general partner, as defined in Section [48-2e-102](#), of an armored car company or  
2503 contract security company; or

2504 (d) a partner, as defined in Section [48-1d-102](#), of an armored car company or contract  
2505 security company.

2506           (10) "Company owner" means:  
2507           (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly  
2508 through an entity controlled by the individual, 5% or more of the outstanding shares of an  
2509 armored car company or contract security company that:  
2510           (i) is a corporation; and  
2511           (ii) is not publicly listed or traded; or  
2512           (b) an individual who owns directly, or indirectly through an entity controlled by the  
2513 individual, 5% or more of the equity of an armored car company or contract security company  
2514 that is not a corporation.  
2515           (11) "Company proprietor" means the sole proprietor of an armored car company or  
2516 contract security company that is registered as a sole proprietorship with the Division of  
2517 Corporations and Commercial Code.  
2518           (12) "Company trustee" means an individual with control of or power of administration  
2519 over property held in trust.  
2520           (13) "Financial responsibility," when referring to a contract security company, means  
2521 that a contract security company may only provide security services to a client if the contract  
2522 security company:  
2523           (a) enters into an agreement for services with the client;  
2524           (b) maintains a current general liability insurance policy with:  
2525           (i) at least an annual \$1,000,000 per occurrence limit;  
2526           (ii) at least an annual \$2,000,000 aggregate limit; and  
2527           (iii) the following riders:  
2528           (A) general liability;  
2529           (B) assault and battery;  
2530           (C) personal injury;  
2531           (D) false arrest;  
2532           (E) libel and slander;  
2533           (F) invasion of privacy;  
2534           (G) broad form property damage;  
2535           (H) damage to property in the care, custody, or control of the security service provider;  
2536 and

2537 (l) errors and omissions;

2538 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per  
2539 occurrence limit and that covers each security officer employed by the contract security  
2540 company; and

2541 (d) maintains a federal employer identification number and an unemployment  
2542 insurance employer account as required under state and federal law.

2543 ~~[(11)]~~ (14) "Identification card" means a personal pocket or wallet size card issued by  
2544 the division to each armored car and armed or unarmed private security officer licensed under  
2545 this chapter.

2546 ~~[(12)]~~ (15) "Law enforcement agency" means the same as that term is defined in  
2547 Section 53-1-102.

2548 ~~[(13)] "Owner" means an individual who is listed with the Division of Corporations and  
2549 Commercial Code as a majority stockholder of a company, a general partner of a partnership,  
2550 or the proprietor of a sole proprietorship.]~~

2551 ~~[(14)]~~ (16) "Peace officer" means a person who:

2552 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer  
2553 Classifications; and

2554 (b) derives total or special law enforcement powers from, and is an employee of, the  
2555 federal government, the state, or a political subdivision, agency, department, branch, or service  
2556 of either, of a municipality, or a unit of local government.

2557 ~~[(15)]~~ (17) "Regular basis" means at least 20 hours per month.

2558 ~~[(16)]~~ (18) "Responsible management personnel" means ~~[an individual who is  
2559 responsible for managing an applicant's operations.]:~~

2560 (a) a qualifying agent;

2561 (b) an operations manager; or

2562 (c) a site manager.

2563 ~~[(17)]~~ (19) (a) "Security officer" means an individual who is licensed as an armed or  
2564 unarmed private security officer under this chapter and who:

2565 (i) is employed by a contract security company securing, guarding, or otherwise  
2566 protecting tangible personal property, real property, or the life and well being of human or  
2567 animal life against:

- 2568 (A) trespass or other unlawful intrusion or entry;
- 2569 (B) larceny;
- 2570 (C) vandalism or other abuse;
- 2571 (D) arson or other criminal activity; or
- 2572 (E) personal injury caused by another person or as a result of an act or omission by
- 2573 another person;
- 2574 (ii) is controlling, regulating, or directing the flow of movements of an individual or
- 2575 vehicle; or
- 2576 (iii) providing street patrol service.
- 2577 (b) "Security officer" does not include an individual whose duties include taking
- 2578 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
- 2579 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
- 2580 convention center, fairgrounds, public assembly facility, or mass gathering location if:
- 2581 (i) the individual carries out these duties without the use of specialized equipment;
- 2582 (ii) the authority of the individual is limited to denying entry or passage of another
- 2583 individual into or within the facility; and
- 2584 (iii) the individual is not authorized to use physical force in the performance of the
- 2585 individual's duties under this Subsection [~~(17)(b).~~] (19)(b).
- 2586 [~~(18)~~] (20) "Security service provider" means a contract security company or an
- 2587 armored car company licensed under this chapter.
- 2588 [~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed
- 2589 for:
- 2590 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
- 2591 the premises protected by the system; or
- 2592 (b) signaling the commission of criminal activity at the election of an individual having
- 2593 control of the features of the security system.
- 2594 [~~(20)~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of
- 2595 tangible personal property specifically designed for use in law enforcement or in providing
- 2596 security or guard services, or that is specially equipped with a device or feature designed for
- 2597 use in providing law enforcement, security, or guard services, but does not include:
- 2598 (a) standardized clothing, whether or not bearing a company name or logo, if the

2599 clothing does not bear the words "security" or "guard"; or

2600 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that  
2601 may be used without modification in providing security or guard services.

2602 [~~(21)~~] (23) "Street patrol service" means a contract security company that provides  
2603 patrols by means of foot, vehicle, or other method of transportation using public streets,  
2604 thoroughfares, or property in the performance of the company's duties and responsibilities.

2605 [~~(22)~~] (24) "Unarmed private security officer" means an individual:

2606 (a) employed by a contract security company;

2607 (b) whose primary duty is guarding personal or real property or providing protection or  
2608 security to the life and well being of humans or animals;

2609 (c) who does not wear, carry, possess, or have immediate access to a firearm in the  
2610 performance of the individual's duties; and

2611 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,  
2612 emblem, insignia, or other device that identifies the individual as a security officer.

2613 [~~(23)~~] (25) "Unlawful conduct" means the same as that term is defined in Sections  
2614 58-1-501 and 58-63-501.

2615 [~~(24)~~] (26) "Unprofessional conduct" means the same as that term is defined in  
2616 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

2617 Section 25. Section 58-63-302 is amended to read:

2618 **58-63-302. Qualifications for licensure.**

2619 (1) Each applicant for licensure as an armored car company or a contract security  
2620 company shall:

2621 (a) submit an application in a form prescribed by the division;

2622 (b) pay a fee determined by the department under Section 63J-1-504;

2623 (c) have a qualifying agent who:

2624 (i) [~~shall meet~~] meets with the division and the board and [~~demonstrate~~] demonstrates  
2625 that the applicant and the qualifying agent meet the requirements of this section;

2626 (ii) is a resident of the state [~~and~~];

2627 (iii) is responsible management personnel or [~~an~~] a company owner of the applicant;

2628 [~~(iii)~~] (iv) exercises material day-to-day authority in the conduct of the applicant's  
2629 business by making substantive technical and administrative decisions and whose primary

2630 employment is with the applicant;

2631 ~~[(iv)]~~ (v) is not concurrently acting as a qualifying agent or employee of another  
2632 armored car company or contract security company and is not engaged in any other  
2633 employment on a regular basis;

2634 ~~[(v)]~~ (vi) is not involved in any activity that would conflict with the qualifying agent's  
2635 duties and responsibilities under this chapter to ensure that the qualifying agent's and the  
2636 applicant's performance under this chapter does not jeopardize the health or safety of the  
2637 general public;

2638 ~~[(vi)]~~ (vii) is not an employee of a government agency;

2639 ~~[(vii)]~~ (viii) passes an examination component established by rule by the division in  
2640 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
2641 Rulemaking Act; and

2642 ~~[(viii)]~~ (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,  
2643 supervisor, or administrator of an armored car company or a contract security company; or

2644 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
2645 collaboration with the board with a federal, United States military, state, county, or municipal  
2646 law enforcement agency;

2647 (d) provide the name, address, date of birth, social security number, fingerprint card,  
2648 and consent to a criminal background check in accordance with Section 58-55-302.1 and  
2649 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah  
2650 Administrative Rulemaking Act, for each company officer, company owner, company  
2651 proprietor, company trustee, and responsible management personnel with direct responsibility  
2652 for managing operations of the applicant within the state;

2653 ~~[(d) if a corporation, provide:]~~

2654 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~  
2655 ~~officers, directors, and responsible management personnel; and]~~

2656 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~  
2657 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~  
2658 ~~the division if the stock is publicly listed and traded;]~~

2659 ~~[(e) if a limited liability company, provide:]~~

2660 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~

2661 ~~officers, and responsible management personnel; and]~~

2662  ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~

2663  ~~owning 5% or more of the equity of the company;]~~

2664  ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~

2665  ~~numbers of all general partners, and responsible management personnel;]~~

2666  ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~

2667  ~~numbers of the proprietor, and responsible management personnel;]~~

2668  ~~[(h)] (e) have [good moral character in that officers, directors, shareholders described~~

2669  ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~

2670  ~~company officers, company owners, company proprietors, company trustees, and responsible~~

2671  ~~management personnel who have not been convicted of:~~

2672  ~~(i) a felony; or~~

2673  ~~[(ii) a misdemeanor involving moral turpitude; or]~~

2674  ~~[(iii)] (ii) a crime that when considered with the duties and responsibilities of a contract~~

2675  ~~security company or an armored car company by the division and the board indicates that the~~

2676  ~~best interests of the public are not served by granting the applicant a license;~~

2677  ~~[(i)] (f) document that none of the [applicant's officers, directors, shareholders~~

2678  ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~

2679  ~~personnel] persons described in Subsection (1)(e):~~

2680  ~~(i) have been declared by a court of competent jurisdiction incompetent by reason of~~

2681  ~~mental defect or disease and not been restored; ~~and]~~ or~~

2682  ~~(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;~~

2683  ~~[(j)] (g) file and maintain with the division evidence of:~~

2684  ~~(i) comprehensive general liability insurance in a form and in amounts established by~~

2685  ~~rule by the division in collaboration with the board and in accordance with Title 63G, Chapter~~

2686  ~~3, Utah Administrative Rulemaking Act;~~

2687  ~~(ii) workers' compensation insurance that covers employees of the applicant in~~

2688  ~~accordance with applicable Utah law;~~

2689  ~~(iii) registration with the Division of Corporations and Commercial Code; and~~

2690  ~~(iv) registration as required by applicable law with the:~~

2691  ~~(A) Unemployment Insurance Division in the Department of Workforce Services, for~~

2692 purposes of Title 35A, Chapter 4, Employment Security Act;

2693 (B) State Tax Commission; and

2694 (C) Internal Revenue Service; and

2695 ~~[(k)]~~ (h) meet with the division and board if requested by the division or board.

2696 (2) Each applicant for licensure as an armed private security officer ~~[shall]~~:

2697 (a) shall submit an application in a form prescribed by the division;

2698 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2699 (c) ~~[have good moral character in that the applicant has not]~~ may not have been

2700 convicted of:

2701 (i) a felony; or

2702 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

2703 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an armed

2704 private security officer by the division and the board indicates that the best interests of the

2705 public are not served by granting the applicant a license;

2706 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.

2707 Sec. 922(g);

2708 (e) may not have been declared incompetent by a court of competent jurisdiction by

2709 reason of mental defect or disease and not been restored;

2710 (f) may not be currently suffering from habitual drunkenness or from drug addiction or

2711 dependence;

2712 (g) shall successfully complete basic education and training requirements established

2713 by rule by the division in collaboration with the board and in accordance with Title 63G,

2714 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight

2715 hours of classroom or online curriculum;

2716 (h) shall successfully complete firearms training requirements established by rule by

2717 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah

2718 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

2719 (i) shall pass the examination requirement established by rule by the division in

2720 collaboration with the board~~;~~ and in accordance with Title 63G, Chapter 3, Utah

2721 Administrative Rulemaking Act;

2722 (j) shall submit to and pass a background check in accordance with Section



2723 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,  
 2724 Chapter 3, Utah Administrative Rulemaking Act; and  
 2725 ~~[(j)]~~ (k) shall meet with the division and board if requested by the division or the board.  
 2726 (3) Each applicant for licensure as an unarmed private security officer ~~[shall]~~:  
 2727 (a) shall submit an application in a form prescribed by the division;  
 2728 (b) shall pay a fee determined by the department under Section 63J-1-504;  
 2729 (c) ~~[have good moral character in that the applicant has not]~~ may not have been  
 2730 convicted of:  
 2731 (i) a felony; or  
 2732 ~~[(ii) a misdemeanor involving moral turpitude; or]~~  
 2733 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an  
 2734 unarmed private security officer by the division and the board indicates that the best interests of  
 2735 the public are not served by granting the applicant a license;  
 2736 (d) may not have been declared incompetent by a court of competent jurisdiction by  
 2737 reason of mental defect or disease and not been restored;  
 2738 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
 2739 dependence;  
 2740 (f) shall successfully complete basic education and training requirements established  
 2741 by rule by the division in collaboration with the board and in accordance with Title 63G,  
 2742 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight  
 2743 hours of classroom or online curriculum;  
 2744 (g) shall pass the examination requirement established by rule by the division in  
 2745 collaboration with the board~~;~~ and in accordance with Title 63G, Chapter 3, Utah  
 2746 Administrative Rulemaking Act;  
 2747 (h) shall submit to and pass a background check in accordance with Section  
 2748 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,  
 2749 Chapter 3, Utah Administrative Rulemaking Act; and  
 2750 ~~[(h)]~~ (i) shall meet with the division and board if requested by the division or board.  
 2751 (4) Each applicant for licensure as an armored car security officer ~~[shall]~~:  
 2752 (a) shall submit an application in a form prescribed by the division;  
 2753 (b) shall pay a fee determined by the department under Section 63J-1-504;

2754 (c) [~~have good moral character in that the applicant has not~~] may not have been  
2755 convicted of:

2756 (i) a felony; or

2757 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2758 [(iii)] (ii) a crime that when considered with the duties and responsibilities of an  
2759 armored car security officer by the division and the board indicates that the best interests of the  
2760 public are not served by granting the applicant a license;

2761 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.  
2762 Sec. 922(g);

2763 (e) may not have been declared incompetent by a court of competent jurisdiction by  
2764 reason of mental defect or disease and not been restored;

2765 (f) may not be currently suffering from habitual drunkenness or from drug addiction or  
2766 dependence;

2767 (g) shall successfully complete basic education and training requirements established  
2768 by rule by the division in collaboration with the board and in accordance with Title 63G,  
2769 Chapter 3, Utah Administrative Rulemaking Act;

2770 (h) shall successfully complete firearms training requirements established by rule by  
2771 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah  
2772 Administrative Rulemaking Act;

2773 (i) shall pass the examination requirements established by rule by the division in  
2774 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah  
2775 Administrative Rulemaking Act;

2776 (j) shall submit to and pass a background check in accordance with Section  
2777 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,  
2778 Chapter 3, Utah Administrative Rulemaking Act; and

2779 [(j)] (k) shall meet with the division and board if requested by the division or the board.

2780 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2781 division may make a rule establishing when the division shall request a Federal Bureau of  
2782 Investigation records' review for an applicant who is applying for licensure or licensure renewal  
2783 under this chapter.

2784 [~~(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),~~

2785 ~~(3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint~~  
2786 ~~cards to the Department of Public Safety with the division's request to:]~~

2787 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~  
2788 ~~information relating to each applicant for licensure under this chapter and each applicant's~~  
2789 ~~officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and~~  
2790 ~~responsible management personnel; and]~~

2791 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2792 ~~requiring a check of records of the FBI for criminal history information under this section.]~~

2793 ~~[(7) The Department of Public Safety shall send the division:]~~

2794 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~  
2795 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~  
2796 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~  
2797 ~~records; and]~~

2798 ~~[(b) the results of the FBI review concerning an applicant in a timely manner after~~  
2799 ~~receipt of information from the FBI.]~~

2800 ~~[(8)(a) The division shall charge each applicant a fee, in accordance with Section~~  
2801 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2802 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~  
2803 ~~reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews~~  
2804 ~~under this chapter.]~~

2805 ~~[(9) The division shall use or disseminate the information it obtains from the reviews~~  
2806 ~~of criminal history records of the Department of Public Safety and the FBI only to determine if~~  
2807 ~~an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]~~

2808 Section 26. Section **58-63-302.1** is enacted to read:

2809 **58-63-302.1. Criminal background check.**

2810 (1) An applicant for licensure under this chapter who requires a criminal background  
2811 check shall:

2812 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2813 application is filed; and

2814 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2815 Identification and the Federal Bureau of Investigation regarding the application.

2816           (2) The division shall:  
2817           (a) in addition to other fees authorized by this chapter, collect from each applicant  
2818 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
2819 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
2820 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2821 obtaining federal criminal history record information;  
2822           (b) submit from each applicant the fingerprint card and the fees described in  
2823 Subsection (2)(a) to the Bureau of Criminal Identification; and  
2824           (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2825 Criminal Identification in accordance with Section 53-10-108 for each applicant.  
2826           (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2827 Section 53-10-108:  
2828           (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2829 and regional criminal records databases;  
2830           (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2831 criminal history background check; and  
2832           (c) provide the results from the state, regional, and nationwide criminal history  
2833 background checks to the division.  
2834           (4) For purposes of conducting a criminal background check required under this  
2835 section, the division shall have direct access to criminal background information maintained  
2836 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.  
2837           (5) The division may not disseminate outside of the division any criminal history  
2838 record information that the division obtains from the Bureau of Criminal Identification or the  
2839 Federal Bureau of Investigation under the criminal background check requirements of this  
2840 section.  
2841           (6) (a) A new license issued under Section 58-63-302 is conditional pending  
2842 completion of the criminal background check.  
2843           (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2844 criminal background check required in Section 58-68-302 demonstrates the applicant or the  
2845 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2846 responsible management personnel has failed to accurately disclose a criminal history, the

2847 license is immediately and automatically revoked upon notice to the licensee by the division.

2848 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
2849 entitled to a postrevocation hearing to challenge the revocation.

2850 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
2851 Chapter 4, Administrative Procedures Act.

2852 Section 27. Section **58-64-302** is amended to read:

2853 **58-64-302. Qualifications for licensure.**

2854 (1) Each applicant for licensure as a deception detection examiner:

2855 (a) shall submit an application in a form prescribed by the division;

2856 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2857 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~  
2858 ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a  
2859 deception detection examiner is considered by the division to indicate that the best interests of  
2860 the public will not be served by granting the applicant a license;

2861 (d) may not have been declared by any court of competent jurisdiction incompetent by  
2862 reason of mental defect or disease and not been restored;

2863 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
2864 dependence;

2865 (f) shall have completed one of the following:

2866 (i) have earned a bachelor's degree from a four year university or college meeting  
2867 standards established by the division by rule made in accordance with Title 63G, Chapter 3,  
2868 Utah Administrative Rulemaking Act;

2869 (ii) have completed not less than 8,000 hours of investigation experience approved by  
2870 the division; or

2871 (iii) have completed a combination of university or college education and investigation  
2872 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,  
2873 Utah Administrative Rulemaking Act, as being equivalent to the requirements under  
2874 Subsection (1)(f)(i) or (1)(f)(ii);

2875 (g) shall have successfully completed a training program in detection deception  
2876 meeting criteria established by rule made by the division~~[, and]~~ in accordance with Title 63G,  
2877 Chapter 3, Utah Administrative Rulemaking Act;

2878 (h) shall submit to and pass a background check in accordance with Section  
2879 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,  
2880 Chapter 3, Utah Administrative Rulemaking Act; and

2881 ~~(h)~~ (i) shall have performed satisfactorily as a licensed deception detection intern for  
2882 a period of not less than one year and shall have satisfactorily conducted not less than 100  
2883 deception detection examinations under the supervision of a licensed deception detection  
2884 examiner.

2885 (2) Each applicant for licensure as a deception detection intern:

2886 (a) shall submit an application in a form prescribed by the division;

2887 (b) shall pay a fee determined by the department under Section 63J-1-504;

2888 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~  
2889 ~~turpitude,~~ or any other crime that when considered with the duties and responsibilities of a  
2890 deception detection intern is considered by the division to indicate that the best interests of the  
2891 public will not be served by granting the applicant a license;

2892 (d) may not have been declared by any court of competent jurisdiction incompetent by  
2893 reason of mental defect or disease and not been restored;

2894 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
2895 dependence;

2896 (f) shall have completed one of the following:

2897 (i) have earned a bachelor's degree from a four year university or college meeting  
2898 standards established by the division by rule made in accordance with Title 63G, Chapter 3,  
2899 Utah Administrative Rulemaking Act;

2900 (ii) have completed not less than 8,000 hours of investigation experience approved by  
2901 the division; or

2902 (iii) have completed a combination of university or college education and investigation  
2903 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,  
2904 Utah Administrative Rulemaking Act, as being equivalent to the requirements under  
2905 Subsection (2)(f)(i) or (2)(f)(ii);

2906 (g) shall have successfully completed a training program in detection deception  
2907 meeting criteria established by rule made by the division~~], and~~ in accordance with Title 63G,  
2908 Chapter 3, Utah Administrative Rulemaking Act;

2909 (h) shall submit to and pass a background check in accordance with Section  
 2910 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,  
 2911 Chapter 3, Utah Administrative Rulemaking Act; and

2912 ~~[(h)]~~ (i) shall provide the division with an intern supervision agreement in a form  
 2913 prescribed by the division under which:

2914 (i) a licensed deception detection examiner agrees to supervise the intern; and  
 2915 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

2916 (3) Each applicant for licensure as a deception detection examination administrator:  
 2917 (a) shall submit an application in a form prescribed by the division;  
 2918 (b) shall pay a fee determined by the department under Section 63J-1-504;  
 2919 (c) may not have been convicted of a felony ~~[, a misdemeanor involving moral~~  
 2920  ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a  
 2921 deception detection examination administrator is considered by the division to indicate that the  
 2922 best interests of the public will not be served by granting the applicant a license;

2923 (d) may not have been declared by a court of competent jurisdiction incompetent by  
 2924 reason of mental defect or disease and not been restored;

2925 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
 2926 dependence;

2927 (f) shall have earned an associate degree from a state-accredited university or college or  
 2928 have an equivalent number of years' work experience; ~~[and]~~

2929 (g) shall submit to and pass a background check in accordance with Section  
 2930 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,  
 2931 Chapter 3, Utah Administrative Rulemaking Act; and

2932 ~~[(g)]~~ (h) shall have successfully completed a training program and have obtained  
 2933 certification in deception detection examination administration provided by the manufacturer  
 2934 of a scientific or technology-based software application solution that is approved by the  
 2935 director.

2936 ~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c),~~  
 2937  ~~or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the~~  
 2938  ~~Department of Public Safety with the division's request to:]~~

2939 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~



2940 information relating to each applicant for licensure under this chapter; and]

2941        ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2942 ~~requiring a check of records of the F.B.I. for criminal history information under this section.]~~

2943        ~~[(5) The Department of Public Safety shall send to the division:]~~

2944        ~~[(a) a written record of criminal history, or certification of no criminal history record,~~  
2945 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~  
2946 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~  
2947 ~~records; and]~~

2948        ~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after~~  
2949 ~~receipt of information from the F.B.I.]~~

2950        ~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section~~  
2951 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2952        ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~  
2953 ~~reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews~~  
2954 ~~under this chapter.]~~

2955        ~~[(7) Information obtained by the division from the reviews of criminal history records~~  
2956 ~~of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division~~  
2957 ~~only for the purpose of determining if an applicant for licensure under this chapter is qualified~~  
2958 ~~for licensure.]~~

2959        Section 28. Section **58-64-302.1** is enacted to read:

2960        **58-64-302.1. Criminal background check.**

2961        (1) An applicant for licensure under this chapter who requires a criminal background  
2962 check shall:

2963        (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2964 application is filed; and

2965        (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2966 Identification and the Federal Bureau of Investigation regarding the application.

2967        (2) The division shall:

2968        (a) in addition to other fees authorized by this chapter, collect from each applicant  
2969 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal

2970 Identification is authorized to collect for the services provided under Section 53-10-108 and the



2971 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2972 obtaining federal criminal history record information;

2973 (b) submit from each applicant the fingerprint card and the fees described in  
2974 Subsection (2)(a) to the Bureau of Criminal Identification; and

2975 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2976 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2977 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2978 Section 53-10-108:

2979 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2980 and regional criminal records databases;

2981 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2982 criminal history background check; and

2983 (c) provide the results from the state, regional, and nationwide criminal history  
2984 background checks to the division.

2985 (4) For purposes of conducting a criminal background check required under this  
2986 section, the division shall have direct access to criminal background information maintained  
2987 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2988 (5) The division may not disseminate outside of the division any criminal history  
2989 record information that the division obtains from the Bureau of Criminal Identification or the  
2990 Federal Bureau of Investigation under the criminal background check requirements of this  
2991 section.

2992 (6) (a) A new license issued under Section 58-64-302 is conditional pending  
2993 completion of the criminal background check.

2994 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2995 criminal background check required in Section 58-64-302 demonstrates the applicant or the  
2996 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2997 responsible management personnel has failed to accurately disclose a criminal history, the  
2998 license is immediately and automatically revoked upon notice to the licensee by the division.

2999 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
3000 entitled to a postrevocation hearing to challenge the revocation.

3001 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,

3002 Chapter 4, Administrative Procedures Act.