

## SB0036S03 compared with SB0036

~~{deleted text}~~ shows text that was in SB0036 but was deleted in SB0036S03.

inserted text shows text that was not in SB0036 but was inserted into SB0036S03.

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Senator Curtis S. Bramble proposes the following substitute bill:

### PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: A. Cory Maloy

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#### LONG TITLE

~~{Committee Note:~~

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

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

~~{General Description:~~

This bill modifies provisions related to professional licensing.

#### Highlighted Provisions:

This bill:

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

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proceedings concerning professional licenses;

- ▶ creates a process for review of the designated professional licensing board members' recommended order after an adjudicative proceeding;
- ▶ modifies professional license application requirements regarding proof of identity;
- ▶ allows the division to designate information regarding proof of identity that is included with a professional license application as a private government record;
- ▶ clarifies supervision requirements for a physician assistant performing a cosmetic medical procedure;
- ▶ removes provisions requiring the division to administer a radiology practical technician examination for radiology-related license applicants;
- ▶ modifies penalties for unlawful conduct by a person licensed to engage in a construction trade;
- ▶ removes requirements a licensed advanced practice registered nurse is required to meet before prescribing or administering a Schedule II controlled substance;
- ▶ modifies licensing requirements for certain funeral service establishments and professionals, landscape architects, security personnel, and deception detection examiners;
- ▶ modifies background check requirements for licensed pharmacies, alarm companies, security car companies, and deception detector examiners;
- ▶ grants administrative rulemaking authority; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

58-17b-625, as last amended by Laws of Utah 2021, Chapter 340

58-31b-102, as last amended by Laws of Utah 2022, Chapter 277

58-31b-502, as last amended by Laws of Utah 2022, Chapter 290

58-31b-803, as last amended by Laws of Utah 2022, Chapter 274

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

58-54-302, as last amended by Laws of Utah 2020, Chapter 339

58-55-102, as last amended by Laws of Utah 2022, Chapters 415, 446

58-55-302, as last amended by Laws of Utah 2022, Chapter 415

58-55-303, as last amended by Laws of Utah 2013, Chapter 57

58-55-503, as last amended by Laws of Utah 2022, Chapter 415

58-63-102, as last amended by Laws of Utah 2022, Chapter 415

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

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

### ENACTS:

58-55-302.1, Utah Code Annotated 1953

58-63-302.1, Utah Code Annotated 1953

58-64-302.1, Utah Code Annotated 1953

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

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

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

(1) The division and all boards created under ~~[the authority of]~~ this title, including the members of a board designated under Subsection 58-1-109(3), shall comply with the

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procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of their adjudicative proceedings as defined by Subsection 63G-4-103(1).

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

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

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

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

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

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

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

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

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

(ii) Notwithstanding Subsection 58-1-201(3), the vote of the majority of the board

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members designated under Subsection (3)(b)(i) is sufficient authority for the licensing board to act as the presiding officer.

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

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

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

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

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

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

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

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

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

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

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final order of the director or the director's designee.

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

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

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

**58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies -- Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in { }\_professional school that teaches continuing education prohibited.**

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

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

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

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

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

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

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

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms

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of board members are staggered so that approximately half of the board is appointed every two years.

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

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

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

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

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

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

(6) A board member may not be a member of the faculty of, or have a financial interest in, a vocational or professional college or school that provides continuing education to any licensee if that continuing education is required by statute or rule made in accordance with

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### Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

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

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

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

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

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

(b) This Subsection (3) does not:

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

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

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

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

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

(b) Each completed application shall:



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

(ii) include the applicant's:

(A) full legal name; and

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

(iii) be verified by the applicant; and

(iv) be accompanied by the appropriate fees.

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

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

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

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

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

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

(3) The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made

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in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

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

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

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

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

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

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

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

(1) The division shall have direct access to local files maintained by the Bureau of

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Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

- (a) ~~[Section]~~ Sections 58-17b-306 and 58-17b-307;
- (b) Sections 58-24b-302 and 58-24b-302.1;
- (c) Section 58-31b-302;
- (d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy

Practice Act;

- (e) Section 58-44a-302.1;
- (f) Section 58-47b-302;
- (g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm

company agents, and Section 58-55-302.1;

- (h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental

Health Professional Practice Act;

- (i) Sections 58-61-304 and 58-61-304.1;
- (j) ~~[Section]~~ Sections 58-63-302 and 58-63-302.1;
- (k) ~~[Section]~~ Sections 58-64-302 and 58-64-302.1;
- (l) Sections 58-67-302 and 58-67-302.1; and
- (m) Sections 58-68-302 and 58-68-302.1.

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

- (a) shall meet the requirements of Section 53-10-108; and
- (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere

held in abeyance, dismissed charges, and charges without a known disposition.

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

Section ~~{5}~~7. Section **58-1-501** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call

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or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

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

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

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

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

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

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

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

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

(g) practicing or attempting to practice ~~[an occupation or]~~ a profession regulated under

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this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

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

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

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

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

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

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

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

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

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

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

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

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

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Subsection (2)(c):

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

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

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

(ii) the conviction was for:

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

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

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

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

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

(1) For purposes of this section:

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

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

(ii) a registered nurse;

(iii) a master esthetician; and

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

(b) "Delegation group B" means:

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

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

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

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

(ii) is present and available for a face-to-face communication with the supervisee when

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and where a cosmetic medical procedure is performed.

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

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

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

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

(e) "Hair removal review" means:

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

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

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

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

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

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

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

(iv) is available to:

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

and

(B) evaluate the patient, as necessary.

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

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

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

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



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

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

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

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

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

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

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

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

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

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

(L) cardiopulmonary resuscitation (CPR).

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

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

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

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

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

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

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

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

(c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (3) pays a fee determined by the department;
- (4) ~~[is of good moral character in that the person]~~ has not been convicted of:

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

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

- ~~[(c)]~~ (b) ~~[any other ( )] (a)~~ crime that when considered with the duties and

responsibilities of the license for which the person is applying is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

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

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

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

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

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

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

- (1) "Administering" means:

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

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

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

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

- (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the

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prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

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

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

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

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

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

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

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

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

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

(ii) whose primary purpose is to provide a physical environment for patients to obtain

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health care services; and

- (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and
- (ii) pharmaceutical administration and sterile product preparation facilities.

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

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

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

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

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

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

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

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

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

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

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

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

- (iii) in anticipation of prescription drug orders based on routine, regularly observed

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prescribing patterns.

(b) "Compounding" does not include:

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

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

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

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

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

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

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

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

(a) currently licensed as:

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

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

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

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

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

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

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy

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located within a licensed dispensing medical practitioner's place of practice.

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

(26) (a) "Drug" means:

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

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

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

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

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

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

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

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

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

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

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

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



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

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

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

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

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

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

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

(35) (a) "Manufacturing" means:

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

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

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

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

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analysis.

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

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

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

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

(i) may be sold without a prescription; and

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

(b) "Nonprescription drug" includes homeopathic remedies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) arresting or slowing a disease process.

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

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

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

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

(i) intracompany sales;

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

(A) hospitals;

(B) pharmacies;

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

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

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

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

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

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

(v) the distribution of prescription drugs, if:

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

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

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

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

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

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

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

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

(52) "Pharmacy benefits manager or coordinator" means a person or entity that

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provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

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

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

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

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

(55) "Pharmacy officer" means:

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

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

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

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

(56) "Pharmacy owner" means:

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

(i) is a corporation; and

(ii) is not publicly listed or traded; or

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

~~(54)~~57. "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

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

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

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

or

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

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

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

(a) providing pharmaceutical care;

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

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

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

(ii) in accordance with written guidelines or protocols:

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

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

(d) participating in drug utilization review;

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

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

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

(h) providing drug product equivalents;

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

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- (j) providing patient counseling, including adverse and therapeutic effects of drugs;
- (k) providing emergency refills as defined by rule;
- (l) telepharmacy;
- (m) formulary management intervention;
- (n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act; and
- (o) issuing a prescription in accordance with Section 58-17b-627.

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

~~[(59)]~~ [(62)] "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

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

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

- (a) orally or in writing; or
- (b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

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

- (a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and
- (b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

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

~~[(64)]~~ [(67)] "Prescription drug" means a drug that is required by federal or state law or

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rule to be dispensed only by prescription or is restricted to administration only by practitioners.

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

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

(b) does not include:

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

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

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

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

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

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

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

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

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

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

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

~~[(69)]~~ (72) "Self-audit" means an internal evaluation of a pharmacy to determine



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compliance with this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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of the Federal Drug Enforcement Administration and Food and Drug Administration;

(e) maintain operating standards established by division rule made in collaboration with the board~~;~~ and

~~(f)~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

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

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

(c) present to the division verification of licensure in the state where physically located and verification that such license is in good standing;

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

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

~~(d)~~ (f) provide a statement of the scope of pharmacy services that will be provided and a detailed description of the protocol as described by rule by which pharmacy care will be provided, including any collaborative practice arrangements with other health care practitioners;

~~(e)~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the applicant and physically located in Utah have the appropriate license issued by the division and in good standing;

~~(f)~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws

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and regulations of the jurisdiction in which the pharmacy is located; and

~~[(g)]~~ (i) if an applicant engages in compounding, submit the most recent inspection report:

(i) conducted within two years before the application for licensure; and

(ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

(B) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards of Pharmacy multistate inspection blueprint program.

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

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

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

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

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

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

(i) Utah Bureau of Criminal Identification; and

(ii) Federal Bureau of Investigation.

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

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

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

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

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Subsection (2)(a) to the Bureau of Criminal Identification; and

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

~~(3)~~ (4) applicant individual who requires a background check under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

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

- (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- (b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and
- (c) is certified by the division as a medication aide certified.

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

- (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and
  - (ii) is in a regulated long-term care facility.
- (b) "Practice as a medication aide certified":
- (i) includes:

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(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

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

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

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

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

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

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

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

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

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

(A) selecting and initiating the planned anesthetic technique;

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

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

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(iii) postanesthesia follow-up care, including:

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

(B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d);

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

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

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

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

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

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

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

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



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

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

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

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

- (a) assessing the health status of individuals and groups;
- (b) identifying health care needs;
- (c) establishing goals to meet identified health care needs;
- (d) planning a strategy of care;
- (e) prescribing nursing interventions to implement the strategy of care;
- (f) implementing the strategy of care;
- (g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;
- (h) evaluating responses to interventions;
- (i) teaching the theory and practice of nursing; and
- (j) managing and supervising the practice of nursing.

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

- (a) Subsection 58-31b-301(2)(c), (e), or (f);
- (b) Chapter 67, Utah Medical Practice Act; or
- (c) Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Routine medications":

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

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

- (i) oral;
- (ii) sublingual;
- (iii) buccal;
- (iv) eye;
- (v) ear;
- (vi) nasal;
- (vii) rectal;
- (viii) vaginal;
- (ix) skin ointments, topical including patches and transdermal;
- (x) premeasured medication delivered by aerosol/nebulizer; and
- (xi) medications delivered by metered hand-held inhalers.

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

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

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

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

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

(1) "Unprofessional conduct" includes:

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

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

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

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

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(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

~~[(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;]~~

~~[(n)]~~ [(n)] violating Section 58-31b-801;

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

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

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

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

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

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

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

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

**58-31b-803. ~~{Limitations on}~~ Advanced practice registered nurse prescriptive authority ~~{for}~~ ;**

(1) Except as provided in Subsection (2), a licensed advanced practice registered

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~~{nurses}~~ nurse may prescribe or administer a Schedule II controlled substance.

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

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

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

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

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

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

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

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

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

~~[(B) an advanced practice registered nurse who has been licensed at least three years;~~

~~and]~~

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

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

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

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

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

Section ~~{7}~~17. Section **58-53-302** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Each applicant for licensure as a radiology practical technician shall, in addition to

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the requirements of Subsection (1), have passed a basic examination and one or more specialty examinations that are competency based, using a task analysis of the scope of practice of radiology practical technicians in the state. The basic examination and the specialty examination shall be approved by the division in collaboration with the board and the licensing board of the profession within which the radiology practical technician will be practicing.

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

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

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

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

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

(ii) have a Bachelor of Science degree; and

(iii) be certified as:

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

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

Practitioner Assistants.

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

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

### **58-55-102. Definitions.**

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

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

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

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

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

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

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

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

(2) "Alarm company agent":

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

(b) does not include an individual who:

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

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

(3) "Alarm company officer" means:

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

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

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

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

(4) "Alarm company owner" means:

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

(i) is a corporation; and

(ii) is not publicly listed or traded; or

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

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



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

~~[(3)]~~ 1(7) (a) "Alarm system" means equipment and devices assembled for the purpose of:

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

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

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

~~[(4)]~~ 1(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

~~[(5)]~~ 1(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

~~[(6)]~~ 1(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

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

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

~~[(8)]~~ 1(12) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

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~~[(9)]~~1(13) "Combustion system" means an assembly consisting of:

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

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

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

~~[(10)]~~1(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

~~[(11)]~~1(15) "Construction trade" means any trade or occupation involving:

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

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

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

~~[(12)]~~1(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

~~[(13)]~~1(17) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

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

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection ~~[(13)]~~1(17) by advertising on a website or social media, or any other means;

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

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

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

(A) performs or offers to perform construction consulting;

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

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

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

(b) "Contractor" does not include:

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

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

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

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

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

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

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

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

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

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

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

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

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

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

~~[(20)]~~[(24)] (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

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

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

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

## SB0036S03 compared with SB0036

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

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

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

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

- (i) irrigation;
- (ii) drainage;
- (iii) water power;
- (iv) water supply;
- (v) flood control;
- (vi) an inland waterway;
- (vii) a harbor;
- (viii) a railroad;
- (ix) a highway;
- (x) a tunnel;
- (xi) an airport;
- (xii) an airport runway;
- (xiii) a sewer;
- (xiv) a bridge;
- (xv) a refinery;

## SB0036S03 compared with SB0036

- (xvi) a pipeline;
- (xvii) a chemical plant;
- (xviii) an industrial plant;
- (xix) a pier;
- (xx) a foundation;
- (xxi) a power plant; or
- (xxii) a utility plant or installation.

(b) A general engineering contractor may not perform or superintend:

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

(ii) performance of:

- (A) plumbing work;
- (B) electrical work; or
- (C) mechanical work.

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

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

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

- (a) as the division specifies in rule;
- (b) by, as applicable, a qualified electrician or plumber;
- (c) as part of a planned program of training; and
- (d) to ensure that the end result complies with applicable standards.

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

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

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

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

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

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

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

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

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

~~[(34)]~~ [(38)] "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the

## SB0036S03 compared with SB0036

commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

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

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

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



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

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

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

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

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

[(48)] "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

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

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

(b) information on the location of alarm system components at the premises of a

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customer of the alarm business providing the alarm system;

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

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

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

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

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

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

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

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

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

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

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

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

- (a) submit an application prescribed by the division;
- (b) pay a fee as determined by the department under Section 63J-1-504;

## **SB0036S03 compared with SB0036**

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

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

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

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

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

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

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

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

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

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

(A) construction business practices;

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(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

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

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

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

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

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

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

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

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

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

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

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a

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building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

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

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

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

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

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

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

(D) State Tax Commission; and

(E) Internal Revenue Service.

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

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

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

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

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

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at

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

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

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

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

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

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

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

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

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

(ii) at least eight years of full-time experience approved by the division in collaboration

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with the Plumbers Licensing Board; or

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

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

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

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

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

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

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

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

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

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

(i) is a graduate electrical engineer of an accredited college or university approved by

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the division and has one year of practical electrical experience as a licensed apprentice electrician;

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

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

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

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

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

or

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

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

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

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

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

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



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

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

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

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

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

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

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

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

(k) An alarm company applicant shall:

(i) have a qualifying agent who:

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

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

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

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

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

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

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

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

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

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

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

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

~~[(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel]~~

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~~employed within the state or having direct responsibility for managing operations of the applicant within the state;~~

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

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

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

~~[(viii) (B) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel] are currently suffering from habitual drunkenness or from drug addiction or dependence;~~

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

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

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

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

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

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

~~[(x) (v) meet with the division and board.~~

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

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

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(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(iii)]~~ (iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

~~[(iv)]~~ (v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

~~[(v)]~~ (vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

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(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

~~[(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:]~~

~~[(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

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

~~[(6) The Department of Public Safety shall send to the division:]~~

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

~~[(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.]~~

~~[(7)(a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.]~~

~~[(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.]~~

~~[(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.]~~

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~~[(9)]~~(5) (a) An application for licensure under this chapter shall be denied if:

- (i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;
- (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;
- (iii) (A) the applicant is an individual or sole proprietorship; and  
(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection ~~[(9)(a)(ii)(B)]~~ (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or
- (iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and  
(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

- (i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;
- (ii) (A) the applicant is a partnership, corporation, or limited liability company; and  
(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or
- (iii) (A) the applicant is an individual or sole proprietorship; and

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(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection ~~[(9)(b)(ii)(B)]~~ [(5)(a)(ii)(B)] in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

~~[(10)]~~ [(6)] (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection ~~[(10)(a)(i)(A)]~~ [(6)(a)(i)(A)].

(ii) If the licensee has five or fewer owners described in Subsection ~~[(10)(a)(i)]~~ [(6)(a)(i)], the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection ~~[(10)]~~ [(6)] shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~

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### (6)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection ~~[(10)]~~ (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

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

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the information that would be required under Subsection ~~[(10)]~~ (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i) or an ownership status report described in Subsection ~~[(11)(a)(ii)]~~, (7)(a)(i) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

~~[(12)]~~ (8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection ~~[(10)]~~ (6) or ~~[(11)]~~ (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

~~[(13)]~~ (9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

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

Section 21. Section 58-55-302.1 is enacted to read:



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### **58-55-302.1. Criminal background check.**

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

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

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

(2) The division shall:

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

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

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

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

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

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

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

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

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

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section.

(6) (a) A new license issued under Section 58-55-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-55-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

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

Section 22. Section 58-55-303 is amended to read:

### **58-55-303. Term of license -- Expiration -- Renewal.**

(1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycle it administers.

(c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a license is automatically suspended 60 days after the licensee:

(A) becomes, after the time of licensing, an unincorporated entity that is subject to the ownership status report filing requirements of Subsection ~~[58-55-302(10)(a)(i)]~~

~~58-55-302(6)(a)(i)~~; or

(B) transfers its license to an unincorporated entity that is subject to the ownership status report filing requirements of Subsection ~~[58-55-302(10)(a)(i)]~~ ~~58-55-302(6)(a)(i)~~.

(ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the expiration of the 60-day period in Subsection (1)(c)(i):

(A) the licensee submits an application for renewal of the license; and

(B) the division renews the licensee's license pursuant to the licensee's application for renewal.

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(iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i), the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, make a final determination concerning the suspension.

(2) At the time of renewal, the licensee shall show satisfactory evidence of:

(a) continuing financial responsibility as required under Section 58-55-306;

(b) for a contractor licensee, completion of six hours of approved continuing education, as required in Section 58-55-302.5; and

(c) if the licensee is an apprentice electrician or plumber, journeyman electrician or plumber, master electrician or plumber, residential journeyman electrician or plumber, or residential master electrician or plumber, completion of the number of hours of continuing education specified under Section 58-55-302.7.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews the license in accordance with Section 58-1-308.

(4) The requirements of Subsection ~~58-55-302(9)~~ 58-55-302(5) shall also apply to applicants seeking to renew or reinstate a license.

(5) In addition to any other requirements imposed by law, if a license has been suspended or revoked for any reason, the applicant:

(a) shall pay in full all fines imposed by the division;

(b) resolve any outstanding citations or disciplinary actions with the division;

(c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;

(d) complete a new financial responsibility review as required under Section 58-55-306, using only titled assets; and

(e) pay in full any reimbursement amount as provided in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act.

Section 23. Section 58-55-503 is amended to read:

**58-55-503. Penalty for unlawful conduct -- Citations.**

(1) As used in this section:

(a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) "Qualifying violation" means a violation under:

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(i) Subsection 58-55-308(2);

(ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20) through (28);

(iii) Subsection 58-55-502(4)(a) or (11); or

(iv) Subsection 58-55-504(2).

~~(11)(2)~~ (a) ~~(i)~~ A person who violates ~~Subsection 58-55-308(2),~~ Subsection ~~58-55-501(1), (2), (3), (4), (5), (6),~~ 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), ~~(21), (22), (23), (24), (25), (26), (27), or~~ or (21) through (28), Subsection 58-55-308(2), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after ~~it~~ the citation is final, is guilty of a class A misdemeanor.

~~(ii)~~ As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

~~(2)~~ (3) A person who violates ~~the provisions of~~ Subsection 58-55-501(13) is guilty of:

(a) an infraction ~~unless the~~; or

(b) if the violator did so with the intent to deprive the person to whom money is to be paid of the money received, ~~in which case the violator is guilty~~ of theft~~;~~ as classified in Section 76-6-412.

~~(3)~~ (4) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

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(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

~~[(4)]~~ (5) (a) (i) If upon inspection or investigation, the division concludes that a person has ~~violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection 58-55-502(4)(a) or (11), Subsection 58-55-504(2),~~ committed a qualifying violation or violated any rule or order issued with respect to ~~[these subsections]~~ a qualifying violation, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(A) promptly issue a citation to the person according to this chapter and any pertinent rules~~[-];~~:

(B) attempt to negotiate a stipulated settlement~~[-];~~ or

(C) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who ~~is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ committed a qualifying violation, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine ~~[pursuant to this Subsection (4)]~~ and may, in addition to or in lieu of, be ordered to cease and desist from ~~violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ engaging in the qualifying violation.

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) ~~[(f)]~~ A citation shall:

(i) be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated~~[-];~~

(ii) ~~[A citation shall]~~ clearly state that the recipient must notify the division in writing within 20 calendar days ~~[of service of the citation]~~ after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act~~[-];~~ and

(iii) ~~[A citation shall]~~ clearly explain the consequences of failure to timely contest the

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citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year ~~following~~ after the date on which the violation that is the subject of the citation is reported to the division.

(h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ [(5)(h)(ii)] and ~~[(5)]~~, [(6)], the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ [(5)(a)], a fine of up to \$1,000;

(B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~, [(5)(a)], a fine of up to \$2,000; and

(C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ [(5)(a)], a fine of up to \$2,000 for each day of continued offense.

(ii) Except as provided in Subsection ~~[(5)]~~, [(6)], if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~, [(5)(a)], a fine of

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up to \$2,000;

(B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~, [(5)(a)], a fine of up to \$4,000; and

(C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~, [(5)(a)], a fine of up to \$4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection ~~[(4)(h)]~~, [(5)(h)], an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ qualifying violation; or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~, [(5)(i)(i)(B)(I)];

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection ~~[(4)(i)(i)(B)(I)]~~, [(5)(i)(i)(B)(I)] that the person committed a second or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (19), (23), (24), (25), (26), (27), (28); or Subsection 58-55-504(2)]~~ qualifying violation; and

(IV) after determining that the person committed a second or subsequent ~~[offense]~~ qualifying violation under Subsection ~~[(4)(i)(i)(B)(III)]~~, [(5)(i)(i)(B)(III)], the division issues a final order on the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~, [(5)(i)(i)(B)(I)].

(ii) In issuing a final order for a second or subsequent offense under Subsection ~~[(4)(i)(i)]~~, [(5)(i)(i)], the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)

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for each individual is considered a separate violation.

~~[(5)]~~ [(6)] If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

~~[(6)]~~ [(7)] If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

~~[(7)]~~ [(8)] (a) A penalty imposed by the director under Subsection ~~[(4)(h)]~~ [(5)] shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

### Section 24. Section 58-63-102 is amended to read:

#### **58-63-102. Definitions.**

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

(1) "Agreement for services" means a written and signed agreement between a security service provider and a client that:

- (a) contains clear language that addresses and assigns financial responsibility;
- (b) describes the length, duties, and scope of the security services that will be provided;

and

(c) describes the compensation that will be paid by the client for the security services, including the compensation for each security officer.

(2) "Armed courier service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed security officer employed by that service.



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(3) "Armed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is:

(i) guarding personal or real property; or

(ii) providing protection or security to the life and well being of humans or animals;

and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(4) "Armored car company" means a person engaged in business under contract to others who transports or offers to transport tangible personal property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that require secured delivery from one place to another under the control of an armored car security officer employed by the company using a specially equipped motor vehicle offering a high degree of security.

(5) "Armored car security officer" means an individual:

(a) employed by an armored car company;

(b) whose primary duty is to guard the tangible property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured delivery from one place to another; and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(6) "Board" means the Security Services Licensing Board created in Section 58-63-201.

(7) "Client" means a person, company, or entity that contracts for and receives security services from a contract security company or an armored car company.

(8) "Contract security company" means a company that ~~is registered with the Division of Corporations and Commercial Code and~~ is engaged in business to provide security services to another person, business, or entity on a contractual basis by assignment of an armed or unarmed private security officer.

~~(9) "Corporate officer" means an individual who is on file with the Division of Corporations and Commercial Code as:~~

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~~[(a) a corporate officer of a contract security company or an armored car company that is a corporation; or]~~

~~[(b) a sole proprietor of a contract security company or an armored car company that is not a corporation.]~~

~~[(10)]~~ (9) "Company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an armored car company or contract security company;

(b) an individual appointed as an officer of an armored car company or contract security company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an armored car company or contract security company; or

(d) a partner, as defined in Section 48-1d-102, of an armored car company or contract security company.

(10) "Company owner" means:

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

(i) is a corporation; and

(ii) is not publicly listed or traded; or

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

(11) "Company proprietor" means the sole proprietor of an armored car company or contract security company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(12) "Company trustee" means an individual with control of or power of administration over property held in trust.

(13) "Financial responsibility," when referring to a contract security company, means that a contract security company may only provide security services to a client if the contract security company:

(a) enters into an agreement for services with the client;

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(b) maintains a current general liability insurance policy with:

(i) at least an annual \$1,000,000 per occurrence limit;

(ii) at least an annual \$2,000,000 aggregate limit; and

(iii) the following riders:

(A) general liability;

(B) assault and battery;

(C) personal injury;

(D) false arrest;

(E) libel and slander;

(F) invasion of privacy;

(G) broad form property damage;

(H) damage to property in the care, custody, or control of the security service provider;

and

(I) errors and omissions;

(c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per occurrence limit and that covers each security officer employed by the contract security company; and

(d) maintains a federal employer identification number and an unemployment insurance employer account as required under state and federal law.

~~[(11)]~~ [(14)] "Identification card" means a personal pocket or wallet size card issued by the division to each armored car and armed or unarmed private security officer licensed under this chapter.

~~[(12)]~~ [(15)] "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

~~[(13)] "Owner" means an individual who is listed with the Division of Corporations and Commercial Code as a majority stockholder of a company, a general partner of a partnership, or the proprietor of a sole proprietorship.]~~

~~[(14)]~~ [(16)] "Peace officer" means a person who:

(a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications; and

(b) derives total or special law enforcement powers from, and is an employee of, the

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federal government, the state, or a political subdivision, agency, department, branch, or service of either, of a municipality, or a unit of local government.

~~[(15)]~~ [(17)] "Regular basis" means at least 20 hours per month.

~~[(16)]~~ [(18)] "Responsible management personnel" means ~~[an individual who is responsible for managing an applicant's operations.]~~

~~[(17)]~~ [(19)]:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

~~[(17)]~~ [(19)] (a) "Security officer" means an individual who is licensed as an armed or unarmed private security officer under this chapter and who:

(i) is employed by a contract security company securing, guarding, or otherwise protecting tangible personal property, real property, or the life and well being of human or animal life against:

(A) trespass or other unlawful intrusion or entry;

(B) larceny;

(C) vandalism or other abuse;

(D) arson or other criminal activity; or

(E) personal injury caused by another person or as a result of an act or omission by another person;

(ii) is controlling, regulating, or directing the flow of movements of an individual or vehicle; or

(iii) providing street patrol service.

(b) "Security officer" does not include an individual whose duties include taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials of individuals who are entering a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location if:

(i) the individual carries out these duties without the use of specialized equipment;

(ii) the authority of the individual is limited to denying entry or passage of another individual into or within the facility; and

(iii) the individual is not authorized to use physical force in the performance of the

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individual's duties under this Subsection ~~[(17)(b)]~~ [(19)(b)].

~~[(18)]~~ [(20)] "Security service provider" means a contract security company or an armored car company licensed under this chapter.

~~[(19)]~~ [(21)] "Security system" means equipment, a device, or an instrument installed for:

(a) detecting and signaling entry or intrusion by an individual into or onto, or exit from the premises protected by the system; or

(b) signaling the commission of criminal activity at the election of an individual having control of the features of the security system.

~~[(20)]~~ [(22)] "Specialized resource, motor vehicle, or equipment" means an item of tangible personal property specifically designed for use in law enforcement or in providing security or guard services, or that is specially equipped with a device or feature designed for use in providing law enforcement, security, or guard services, but does not include:

(a) standardized clothing, whether or not bearing a company name or logo, if the clothing does not bear the words "security" or "guard"; or

(b) an item of tangible personal property, other than a firearm or nonlethal weapon, that may be used without modification in providing security or guard services.

~~[(21)]~~ [(23)] "Street patrol service" means a contract security company that provides patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the company's duties and responsibilities.

~~[(22)]~~ [(24)] "Unarmed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is guarding personal or real property or providing protection or security to the life and well being of humans or animals;

(c) who does not wear, carry, possess, or have immediate access to a firearm in the performance of the individual's duties; and

(d) who wears clothing of distinctive design or fashion bearing a symbol, badge, emblem, insignia, or other device that identifies the individual as a security officer.

~~[(23)]~~ [(25)] "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-501.

~~[(24)]~~ [(26)] "Unprofessional conduct" means the same as that term is defined in

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Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

Section ~~{8}~~25. Section **58-63-302** is amended to read:

### **58-63-302. Qualifications for licensure.**

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

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

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

(c) have a qualifying agent who:

(i) [~~shall meet~~{+}] meets with the division and the board and [~~demonstrate~~]

demonstrates that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state [~~and~~];

(iii) is responsible management personnel or [~~an~~] a company owner of the applicant;

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

(iv) (v) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

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

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

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

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

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

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

~~[(d) if a corporation, provide:]~~

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

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

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

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

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

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

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

~~[(h)]~~ (e) have [good moral character in that ~~{}~~] officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel ~~{}~~ have] company officers, company owners, company proprietors, company trustees, and responsible management personnel who have not been convicted of:

(i) a felony; or

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

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

~~[(i)]~~ (f) document that none of the ~~[applicant's officers, directors, shareholders~~

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described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel] persons described in Subsection (1)(e):

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

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

~~(f)~~ (g) file and maintain with the division evidence of:

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

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

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

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

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

(B) State Tax Commission; and

(C) Internal Revenue Service; and

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

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

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

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

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

(i) a felony; or

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

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

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

(e) may not have been declared incompetent by a court of competent jurisdiction by



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reason of mental defect or disease and not been restored;

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

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

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

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

~~(j)~~;

(j) shall submit to and pass a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

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

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

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

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

(i) a felony; or

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

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

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

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

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dependence;

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

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

~~— (h) [:]~~;

(h) shall submit to and pass a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

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

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

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

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

(i) a felony; or

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

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

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

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

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

(g) shall successfully complete basic education and training requirements established by rule by the division in collaboration with the board and in accordance with Title 63G,

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### Chapter 3, Utah Administrative Rulemaking Act;

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

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

~~(j) ;~~

(j) shall submit to and pass a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

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

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

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

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

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

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

~~(b) the results of the FBI review concerning an applicant in a timely manner after~~

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~~receipt of information from the FBI.]~~

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

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

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

Section ~~{9}~~26. Section ~~{58-64-302}~~58-63-302.1 is ~~{amended to read:~~

~~}~~enacted to read:

### 58-63-302.1. Criminal background check.

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

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

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

(2) The division shall:

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

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

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

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

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

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and regional criminal records databases;

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

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

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

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

(6) (a) A new license issued under Section 58-63-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-68-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

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

Section 27. Section 58-64-302 is amended to read:

### **58-64-302. Qualifications for licensure.**

- (1) Each applicant for licensure as a deception detection examiner:
  - (a) shall submit an application in a form prescribed by the division;
  - (b) shall pay a fee determined by the department under Section 63J-1-504;
  - (c) may not have been convicted of a felony~~[, a misdemeanor involving moral turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a deception detection examiner is considered by the division to indicate that the best interests of

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the public will not be served by granting the applicant a license;

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

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

(f) shall have completed one of the following:

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

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

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

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

~~(h) ;~~

(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h)(i) shall have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

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

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

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

(c) may not have been convicted of a felony ~~;~~ ~~a misdemeanor involving moral turpitude;~~ or any other crime that when considered with the duties and responsibilities of a

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deception detection intern is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

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

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

(f) shall have completed one of the following:

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

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

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

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

~~— (h) ;~~

(h) shall submit to and pass a background check in accordance with Section 58-64-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

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

- (i) a licensed deception detection examiner agrees to supervise the intern; and
  - (ii) the applicant agrees to be supervised by that licensed deception detection examiner.
- (3) Each applicant for licensure as a deception detection examination administrator:
- (a) shall submit an application in a form prescribed by the division;
  - (b) shall pay a fee determined by the department under Section 63J-1-504;
  - (c) may not have been convicted of a felony ~~[-a misdemeanor involving moral~~

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~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a deception detection examination administrator is considered by the division to indicate that the best interests of the public will not be served by granting the applicant a license;

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

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

(f) shall have earned an associate degree from a state-accredited university or college or have an equivalent number of years' work experience; ~~and~~

~~— (g); and~~

(g) shall submit to and pass a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(g) (h) shall have successfully completed a training program and have obtained certification in deception detection examination administration provided by the manufacturer of a scientific or technology-based software application solution that is approved by the director.

~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c), or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:]~~

~~[(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and]~~

~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section:]~~

~~[(5) The Department of Public Safety shall send to the division:]~~

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

~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.]~~



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~~[(6)(a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.]~~

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

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

Section 28. Section 58-64-302.1 is enacted to read:

### 58-64-302.1. Criminal background check.

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

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

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

(2) The division shall:

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

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

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and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new license issued under Section 58-64-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Section 58-64-302 demonstrates the applicant or the applicant's officer, director, shareholder, general partner, proprietor, trustee, or other responsible management personnel has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.