

Senator Curtis S. Bramble proposes the following substitute bill:

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

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



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

38 Money Appropriated in this Bill:

39 None

40 Other Special Clauses:

41 None

42 Utah Code Sections Affected:

43 AMENDS:

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

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

69 ENACTS:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 the designated board members' recommended order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

232 (b) Each completed application shall:

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

236 (ii) include the applicant's:

237 (A) full legal name; and

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

241 (iii) be verified by the applicant; and

242 (iv) be accompanied by the appropriate fees.

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

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

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

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

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

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

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

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

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

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

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

274 training, experience, testing, or observation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (ii) the conviction was for:

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

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

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

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

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

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

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

434 (1) For purposes of this section:

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

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

440 (ii) a registered nurse;

441 (iii) a master esthetician; and

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

443 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

456 (e) "Hair removal review" means:

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

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

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

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

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

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

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

470 (iv) is available to:

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

472 and

473 (B) evaluate the patient, as necessary.

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

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

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

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

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

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

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

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

491 Subsection (2)(b);

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

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

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

499 (B) physiology of the skin;

500 (C) skin typing and analysis;

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

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

503 (F) infection control;

504 (G) laser and light physics training;

505 (H) laser technologies and applications;

506 (I) safety and maintenance of lasers;

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

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

509 (L) cardiopulmonary resuscitation (CPR).

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

511 Subsection (2):

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

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

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

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

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

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

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

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

531 (c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

553 identifying the supervisor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

590 (1) "Administering" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

630 (11) "Class B pharmacy":

631 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

667 (b) "Compounding" does not include:

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

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

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

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

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

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

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

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

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

686 (a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

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

708 body of humans or other animals; and

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

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

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

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

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

714 (i) known allergies;

715 (ii) rational therapy-contraindications;

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

717 (iv) reasonable directions for use;

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

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

722 (i) drug-drug;

723 (ii) drug-food;

724 (iii) drug-disease; and

725 (iv) adverse drug reactions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

801 (ii) eliminating or reducing a patient's symptoms; or
802 (iii) arresting or slowing a disease process.

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

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

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

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

814 (i) intracompany sales;

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

819 (A) hospitals;

820 (B) pharmacies;

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

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

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

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

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

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

832 manufacturer; and

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

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

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

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

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

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

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

847 (a) drugs are dispensed;

848 (b) pharmaceutical care is provided;

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

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

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

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

857 (54) "Pharmacy manager" means:

858 (a) a pharmacist-in-charge;

859 (b) a licensed pharmacist designated by a licensed pharmacy to consult on the
860 pharmacy's administration;

861 (c) an individual who manages the facility in which a licensed pharmacy is located;

862 (d) an individual who oversees the operations of a licensed pharmacy;

863 (e) an immediate supervisor of an individual described in Subsections (54)(a) through
864 (d); or

865 (f) another operations or site manager of a licensed pharmacy.

866 (55) "Pharmacy technician training program" means an approved technician training
867 program providing education for pharmacy technicians.

868 [~~55~~] (56) (a) "Practice as a dispensing medical practitioner" means the practice of
869 pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part
870 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
871 division rule adopted after consultation with the Board of pharmacy and the governing boards
872 of the practitioners described in Subsection (23)(a).

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

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

875 or

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

878 [~~56~~] (57) "Practice as a licensed pharmacy technician" means engaging in practice as
879 a pharmacy technician under the general supervision of a licensed pharmacist and in
880 accordance with a scope of practice defined by division rule made in collaboration with the
881 board.

882 [~~57~~] (58) "Practice of pharmacy" includes the following:

883 (a) providing pharmaceutical care;

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

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

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

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

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

893 (B) approved by the division, in collaboration with the board and, when appropriate,

894 the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device
895 is to be administered on an outpatient basis solely by a licensed pharmacist;

896 (d) participating in drug utilization review;

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

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

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

902 (h) providing drug product equivalents;

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

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

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

907 (l) telepharmacy;

908 (m) formulary management intervention;

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

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

912 ~~[(58)]~~ (59) "Practice of telepharmacy" means the practice of pharmacy through the use
913 of telecommunications and information technologies.

914 ~~[(59)]~~ (60) "Practice of telepharmacy across state lines" means the practice of
915 pharmacy through the use of telecommunications and information technologies that occurs
916 when the patient is physically located within one jurisdiction and the pharmacist is located in
917 another jurisdiction.

918 ~~[(60)]~~ (61) "Practitioner" means an individual currently licensed, registered, or
919 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the
920 course of professional practice.

921 ~~[(61)]~~ (62) "Prescribe" means to issue a prescription:

922 (a) orally or in writing; or

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

925 ~~[(62)]~~ (63) "Prescription" means an order issued:

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

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

930 ~~[(63)]~~ (64) "Prescription device" means an instrument, apparatus, implement, machine,
931 contrivance, implant, in vitro reagent, or other similar or related article, and any component
932 part or accessory, which is required under federal or state law to be prescribed by a practitioner
933 and dispensed by or through a person or entity licensed under this chapter or exempt from
934 licensure under this chapter.

935 ~~[(64)]~~ (65) "Prescription drug" means a drug that is required by federal or state law or
936 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

937 ~~[(65)]~~ (66) "Repackage":

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

940 (b) does not include:

941 (i) Subsection ~~[(65)(a)]~~ (66)(a) when completed by the pharmacist responsible for
942 dispensing the product to a patient; or

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

946 ~~[(66)]~~ (67) "Research using pharmaceuticals" means research:

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

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

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

955 (d) that includes any documentation required for the conduct of the research and the

956 handling of the controlled substance, prescription drug, or prescription device.

957 ~~[(67)]~~ (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription
958 drugs and devices to the general public.

959 ~~[(68)]~~ (69) (a) "Self-administered hormonal contraceptive" means a self-administered
960 hormonal contraceptive that is approved by the United States Food and Drug Administration to
961 prevent pregnancy.

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

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

966 ~~[(69)]~~ (70) "Self-audit" means an internal evaluation of a pharmacy to determine
967 compliance with this chapter.

968 ~~[(70)]~~ (71) "Supervising pharmacist" means a pharmacist who is overseeing the
969 operation of the pharmacy during a given day or shift.

970 ~~[(71)]~~ (72) "Supportive personnel" means unlicensed individuals who:

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

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

978 ~~[(72)]~~ (73) "Unlawful conduct" means the same as that term is defined in Sections
979 58-1-501 and 58-17b-501.

980 ~~[(73)]~~ (74) "Unprofessional conduct" means the same as that term is defined in
981 Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

982 ~~[(74)]~~ (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
983 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
984 for animals.

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

986 **58-17b-306. Qualifications for licensure as a pharmacy.**

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

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

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

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

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

999 (e) maintain operating standards established by division rule made in collaboration
1000 with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative
1001 Rulemaking Act;

1002 (f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint
1003 background check in accordance with Section 58-17b-307; and

1004 [~~f~~] (g) acknowledge the division's authority to inspect the licensee's business premises
1005 pursuant to Section 58-17b-103.

1006 (2) Each applicant applying for a class D license shall:

1007 (a) submit a written application in the form prescribed by the division;

1008 (b) pay a fee as determined by the department under Section 63J-1-504;

1009 (c) present to the division verification of licensure in the state where physically located
1010 and verification that such license is in good standing;

1011 (d) satisfy the division that the applicant and each of the applicant's pharmacy
1012 managers has not engaged in any act, practice, or omission, which when considered with the
1013 duties and responsibilities of a licensee under this section, indicates there is cause to believe
1014 that issuing a license to the applicant is inconsistent with the interest of the public's health,
1015 safety, or welfare;

1016 (e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint
1017 background check in accordance with Section 58-17b-307;

1018 ~~[(d)]~~ (f) provide a statement of the scope of pharmacy services that will be provided
1019 and a detailed description of the protocol as described by rule by which pharmacy care will be
1020 provided, including any collaborative practice arrangements with other health care
1021 practitioners;

1022 ~~[(e)]~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the
1023 applicant and physically located in Utah have the appropriate license issued by the division and
1024 in good standing;

1025 ~~[(f)]~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws
1026 and regulations of the jurisdiction in which the pharmacy is located; and

1027 ~~[(g)]~~ (i) if an applicant engages in compounding, submit the most recent inspection
1028 report:

1029 (i) conducted within two years before the application for licensure; and

1030 (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified
1031 Pharmacy Program; or

1032 (B) performed by the state licensing agency of the state in which the applicant is a
1033 resident and in accordance with the National Association of Boards of Pharmacy multistate
1034 inspection blueprint program.

1035 (3) Each license issued under this section shall be issued for a single, specific address,
1036 and is not transferable or assignable.

1037 Section 12. Section **58-17b-307** is amended to read:

1038 **58-17b-307. Qualification for licensure -- Criminal background checks.**

1039 (1) An individual applicant for licensure under this chapter shall:

1040 (a) submit fingerprint cards in a form acceptable to the division at the time the license
1041 application is filed; and

1042 (b) in accordance with this section and requirements established by rule made in
1043 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a
1044 fingerprint background check regarding the application conducted by the:

1045 (i) Utah Bureau of Criminal Identification; and

1046 (ii) Federal Bureau of Investigation.

1047 (2) An applicant for licensure as a pharmacy under this chapter shall submit the
1048 information described in Subsection (1) for each of the applicant's pharmacy managers.

1049 ~~[(2)]~~ (3) The division shall:

1050 (a) in addition to other fees authorized by this chapter, collect from each applicant
1051 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
1052 Identification is authorized to collect for the services provided under Section 53-10-108 and the
1053 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
1054 obtaining federal criminal history record information;

1055 (b) submit from each applicant the fingerprint card and the fees described in
1056 Subsection (2)(a) to the Bureau of Criminal Identification; and

1057 (c) obtain and retain in division records, a signed waiver approved by the Bureau of
1058 Criminal Identification in accordance with Section 53-10-108 for each ~~[applicant]~~ individual
1059 who requires a background check under this section.

1060 ~~[(3)]~~ (4) The Bureau of Criminal Identification shall, in accordance with the
1061 requirements of Section 53-10-108:

1062 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
1063 and regional criminal records databases;

1064 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
1065 criminal history background check; and

1066 (c) provide the results from the state, regional, and nationwide criminal history
1067 background checks to the division.

1068 ~~[(4)]~~ (5) For purposes of conducting the criminal background check required in
1069 Subsection (1), the division shall have direct access to criminal background information
1070 maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1071 ~~[(5)]~~ (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician
1072 license issued under this section is conditional, pending completion of the criminal background
1073 ~~[check]~~ checks.

1074 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
1075 criminal background check required in Subsection (1), discloses that the applicant or the
1076 applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is
1077 immediately and automatically revoked upon notice to the licensee by the division.

1078 ~~[(6)]~~ (7) (a) A person whose conditional license has been revoked under Subsection
1079 ~~[(5)]~~ (6) is entitled to a postrevocation hearing to challenge the revocation.

1080 (b) The division shall conduct a postrevocation hearing in accordance with Title 63G,
1081 Chapter 4, Administrative Procedures Act.

1082 [(7)] (8) The division may not disseminate outside of the division any criminal history
1083 record information that the division obtains from the Bureau of Criminal Identification or the
1084 Federal Bureau of Investigation under the criminal background check requirements of this
1085 section.

1086 Section 13. Section **58-17b-625** is amended to read:

1087 **58-17b-625. Administration of a long-acting injectable and naloxone.**

1088 (1) A pharmacist may, in accordance with this section, administer a drug described in
1089 Subsection (2).

1090 (2) Notwithstanding the provisions of Subsection [~~58-17b-102(57)(c)(ii)(B)~~]
1091 ~~58-17b-102(58)(c)(ii)(B)~~, the division shall make rules in collaboration with the board and,
1092 when appropriate, the Physicians Licensing Board created in Section ~~58-67-201~~, and in
1093 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
1094 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1095 (3) A pharmacist may not administer naloxone or a long-acting injectable
1096 intramuscularly unless the pharmacist:

1097 (a) completes the training described in Subsection (2);

1098 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
1099 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
1100 Administrative Rulemaking Act; and

1101 (c) is directed by the physician, as that term is defined in Section ~~58-67-102~~ or Section
1102 ~~58-68-102~~, who issues the prescription to administer the drug.

1103 Section 14. Section **58-31b-102** is amended to read:

1104 **58-31b-102. Definitions.**

1105 In addition to the definitions in Section ~~58-1-102~~, as used in this chapter:

1106 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
1107 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
1108 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
1109 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
1110 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1111 (2) "Applicant" means an individual who applies for licensure or certification under
1112 this chapter by submitting a completed application for licensure or certification and the
1113 required fees to the department.

1114 (3) "Approved education program" means a nursing education program that is
1115 accredited by an accrediting body for nursing education that is approved by the United States
1116 Department of Education.

1117 (4) "Board" means the Board of Nursing created in Section 58-31b-201.

1118 (5) "Diagnosis" means the identification of and discrimination between physical and
1119 psychosocial signs and symptoms essential to the effective execution and management of
1120 health care.

1121 (6) "Examinee" means an individual who applies to take or does take any examination
1122 required under this chapter for licensure.

1123 (7) "Licensee" means an individual who is licensed or certified under this chapter.

1124 (8) "Long-term care facility" means any of the following facilities licensed by the
1125 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
1126 Inspection Act:

1127 (a) a nursing care facility;

1128 (b) a small health care facility;

1129 (c) an intermediate care facility for people with an intellectual disability;

1130 (d) an assisted living facility Type I or II; or

1131 (e) a designated swing bed unit in a general hospital.

1132 (9) "Medication aide certified" means a certified nurse aide who:

1133 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

1134 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
1135 that is approved by the division in collaboration with the board, in administering routine
1136 medications to patients or residents of long-term care facilities; and

1137 (c) is certified by the division as a medication aide certified.

1138 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
1139 under the supervision, as defined by the division by rule made in accordance with Title 63G,
1140 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
1141 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to

1142 an individual who:

1143 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
1144 disability; and

1145 (ii) is in a regulated long-term care facility.

1146 (b) "Practice as a medication aide certified":

1147 (i) includes:

1148 (A) providing direct personal assistance or care; and

1149 (B) administering routine medications to patients in accordance with a formulary and
1150 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
1151 Utah Administrative Rulemaking Act; and

1152 (ii) does not include assisting a resident of an assisted living facility, a long term care
1153 facility, or an intermediate care facility for people with an intellectual disability to self
1154 administer a medication, as regulated by the Department of Health by rule made in accordance
1155 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1156 (11) "Practice of advanced practice registered nursing" means the practice of nursing
1157 within the generally recognized scope and standards of advanced practice registered nursing as
1158 defined by rule and consistent with professionally recognized preparation and education
1159 standards of an advanced practice registered nurse by a person licensed under this chapter as an
1160 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

1161 (a) maintenance and promotion of health and prevention of disease;

1162 (b) diagnosis, treatment, correction, consultation, and referral;

1163 (c) prescription or administration of prescription drugs or devices including:

1164 (i) local anesthesia;

1165 (ii) Schedule III-V controlled substances; and

1166 (iii) [~~Subject to Section 58-31b-803,~~] Schedule II controlled substances; or

1167 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
1168 related services upon the request of a licensed health care professional by an advanced practice
1169 registered nurse specializing as a certified registered nurse anesthetist, including:

1170 (i) preanesthesia preparation and evaluation including:

1171 (A) performing a preanesthetic assessment of the patient;

1172 (B) ordering and evaluating appropriate lab and other studies to determine the health of

- 1173 the patient; and
- 1174 (C) selecting, ordering, or administering appropriate medications;
- 1175 (ii) anesthesia induction, maintenance, and emergence, including:
- 1176 (A) selecting and initiating the planned anesthetic technique;
- 1177 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
- 1178 (C) administering general, regional, and local anesthesia;
- 1179 (iii) postanesthesia follow-up care, including:
- 1180 (A) evaluating the patient's response to anesthesia and implementing corrective
- 1181 actions; and
- 1182 (B) selecting, ordering, or administering the medications and studies listed in this
- 1183 Subsection (11)(d);
- 1184 (iv) other related services within the scope of practice of a certified registered nurse
- 1185 anesthetist, including:
- 1186 (A) emergency airway management;
- 1187 (B) advanced cardiac life support; and
- 1188 (C) the establishment of peripheral, central, and arterial invasive lines; and
- 1189 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
- 1190 professional":
- 1191 (A) means a health care professional practicing within the scope of the health care
- 1192 professional's license, requests anesthesia services for a specific patient; and
- 1193 (B) does not require an advanced practice registered nurse specializing as a certified
- 1194 registered nurse anesthetist to obtain additional authority to select, administer, or provide
- 1195 preoperative, intraoperative, or postoperative anesthesia care and services.
- 1196 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
- 1197 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
- 1198 responses to care and treatment, and requires substantial specialized or general knowledge,
- 1199 judgment, and skill based upon principles of the biological, physical, behavioral, and social
- 1200 sciences. "Practice of nursing" includes:
- 1201 (a) initiating and maintaining comfort measures;
- 1202 (b) promoting and supporting human functions and responses;
- 1203 (c) establishing an environment conducive to well-being;

- 1204 (d) providing health counseling and teaching;
- 1205 (e) collaborating with health care professionals on aspects of the health care regimen;
- 1206 (f) performing delegated procedures only within the education, knowledge, judgment,
- 1207 and skill of the licensee;
- 1208 (g) delegating nursing tasks that may be performed by others, including an unlicensed
- 1209 assistive personnel; and
- 1210 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
- 1211 the individual performs the task.

1212 (13) "Practice of practical nursing" means the performance of nursing acts in the
1213 generally recognized scope of practice of licensed practical nurses as defined by division rule
1214 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
1215 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
1216 practical nurse and under the direction of a registered nurse, licensed physician, or other
1217 specified health care professional as defined by division rule made in accordance with Title
1218 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 1219 (a) contributing to the assessment of the health status of individuals and groups;
- 1220 (b) participating in the development and modification of the strategy of care;
- 1221 (c) implementing appropriate aspects of the strategy of care;
- 1222 (d) maintaining safe and effective nursing care rendered to a patient directly or
- 1223 indirectly; and
- 1224 (e) participating in the evaluation of responses to interventions.

1225 (14) "Practice of registered nursing" means performing acts of nursing as provided in
1226 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
1227 the generally recognized scope of practice of registered nurses as defined by division rule made
1228 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
1229 nursing acts include:

- 1230 (a) assessing the health status of individuals and groups;
- 1231 (b) identifying health care needs;
- 1232 (c) establishing goals to meet identified health care needs;
- 1233 (d) planning a strategy of care;
- 1234 (e) prescribing nursing interventions to implement the strategy of care;

- 1235 (f) implementing the strategy of care;
- 1236 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
- 1237 indirectly;
- 1238 (h) evaluating responses to interventions;
- 1239 (i) teaching the theory and practice of nursing; and
- 1240 (j) managing and supervising the practice of nursing.
- 1241 (15) "Registered nurse apprentice" means an individual licensed under Subsection
- 1242 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the
- 1243 indirect supervision of an individual licensed under:
 - 1244 (a) Subsection 58-31b-301(2)(c), (e), or (f);
 - 1245 (b) Chapter 67, Utah Medical Practice Act; or
 - 1246 (c) Chapter 68, Utah Osteopathic Medical Practice Act.
- 1247 (16) "Routine medications":
 - 1248 (a) means established medications administered to a medically stable individual as
 - 1249 determined by a licensed health care practitioner or in consultation with a licensed medical
 - 1250 practitioner; and
 - 1251 (b) is limited to medications that are administered by the following routes:
 - 1252 (i) oral;
 - 1253 (ii) sublingual;
 - 1254 (iii) buccal;
 - 1255 (iv) eye;
 - 1256 (v) ear;
 - 1257 (vi) nasal;
 - 1258 (vii) rectal;
 - 1259 (viii) vaginal;
 - 1260 (ix) skin ointments, topical including patches and transdermal;
 - 1261 (x) premeasured medication delivered by aerosol/nebulizer; and
 - 1262 (xi) medications delivered by metered hand-held inhalers.
 - 1263 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
 - 1264 and 58-31b-501.
 - 1265 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of

1266 title, who is delegated a task by a licensed nurse as permitted by division rule made in
1267 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
1268 of the profession.

1269 (19) "Unprofessional conduct" means the same as that term is defined in Sections
1270 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance
1271 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1272 Section 15. Section 58-31b-502 is amended to read:

1273 **58-31b-502. Unprofessional conduct.**

1274 (1) "Unprofessional conduct" includes:

1275 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
1276 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
1277 because of the licensee's or person with a certification's position or practice as a nurse or
1278 practice as a medication aide certified;

1279 (b) failure to provide nursing service or service as a medication aide certified in a
1280 manner that demonstrates respect for the patient's human dignity and unique personal character
1281 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
1282 status, age, sex, or the nature of the patient's health problem;

1283 (c) engaging in sexual relations with a patient during any:

1284 (i) period when a generally recognized professional relationship exists between the
1285 person licensed or certified under this chapter and the patient; or

1286 (ii) extended period when a patient has reasonable cause to believe a professional
1287 relationship exists between the person licensed or certified under the provisions of this chapter
1288 and the patient;

1289 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
1290 information about a patient or exploiting the licensee's or the person with a certification's
1291 professional relationship between the licensee or holder of a certification under this chapter and
1292 the patient; or

1293 (ii) exploiting the patient by use of the licensee's or person with a certification's
1294 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

1295 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

1296 (f) unauthorized taking or personal use of nursing supplies from an employer;

- 1297 (g) unauthorized taking or personal use of a patient's personal property;
- 1298 (h) unlawful or inappropriate delegation of nursing care;
- 1299 (i) failure to exercise appropriate supervision of persons providing patient care services
- 1300 under supervision of the licensed nurse;
- 1301 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
- 1302 person to practice as a nurse;
- 1303 (k) failure to file or record any medical report as required by law, impeding or
- 1304 obstructing the filing or recording of such a report, or inducing another to fail to file or record
- 1305 such a report;
- 1306 (l) breach of a statutory, common law, regulatory, or ethical requirement of
- 1307 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 1308 (m) failure to pay a penalty imposed by the division;
- 1309 ~~[(n) prescribing a Schedule II controlled substance without complying with the~~
- 1310 ~~requirements in Section 58-31b-803, if applicable;]~~
- 1311 ~~[(n)] (n) violating Section 58-31b-801;~~
- 1312 ~~[(p)] (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b,~~
- 1313 ~~Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy,~~
- 1314 ~~if applicable;~~
- 1315 ~~[(q)] (p) falsely making an entry in, or altering, a medical record with the intent to~~
- 1316 ~~conceal:~~
- 1317 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
- 1318 or an individual under the direction or control of an individual licensed under this chapter; or
- 1319 (ii) conduct described in Subsections (1)(a) through ~~[(m)] (m)~~ or Subsection
- 1320 58-1-501(1); or
- 1321 ~~[(r)] (q) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis~~
- 1322 ~~Act.~~
- 1323 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
- 1324 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
- 1325 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
- 1326 the use of medical cannabis.
- 1327 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in

1328 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
1329 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1330 Section 16. Section **58-31b-803** is amended to read:

1331 **58-31b-803. Advanced practice registered nurse prescriptive authority.**

1332 (1) Except as provided in Subsection (2), a licensed advanced practice registered nurse
1333 may prescribe or administer a Schedule II controlled substance.

1334 (2) This section does not apply to an advanced practice registered nurse specializing as
1335 a certified registered nurse anesthetist under Subsection ~~58-31b-102~~(11)(d).

1336 [~~(2) Except as provided in Subsection (3), an advanced practice registered nurse may~~
1337 ~~prescribe or administer a Schedule II controlled substance.]~~

1338 [~~(3) An advanced practice registered nurse described in Subsection (4) may not~~
1339 ~~prescribe or administer a Schedule II controlled substance unless the advanced practice~~
1340 ~~registered nurse:]~~

1341 [~~(a) receives a board certification from a nationally recognized organization;]~~

1342 [~~(b) completes at least 30 hours of instruction, or the equivalent number of credit~~
1343 ~~hours, pertaining to advanced pharmacology during a graduate education program;]~~

1344 [~~(c) when obtaining licensure with the division, demonstrates completion of at least~~
1345 ~~seven hours of continuing education pertaining to prescribing opioids; and]~~

1346 [~~(d) participates in a prescribing mentorship under which the advanced practice~~
1347 ~~registered nurse:]~~

1348 [~~(i) is mentored by:]~~

1349 [~~(A) a physician licensed in accordance with this title; or]~~

1350 [~~(B) an advanced practice registered nurse who has been licensed at least three years;~~
1351 ~~and]~~

1352 [~~(ii) periodically provides the mentor described in Subsection (3)(d)(i) timesheets that,~~
1353 ~~in total, demonstrate 1,000 hours of clinical experience.]~~

1354 [~~(4) Subsection (3) applies to an advanced practice registered nurse who:]~~

1355 [~~(a) is engaged in independent solo practice; and]~~

1356 [~~(b) (i) has been licensed as an advanced practice registered nurse for less than one~~
1357 ~~year; or]~~

1358 [~~(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice~~

1359 registered nurse.]

1360 Section 17. Section **58-53-302** is amended to read:

1361 **58-53-302. Qualifications for licensure.**

1362 (1) Each applicant for licensure as a landscape architect shall:

1363 (a) submit an application in a form prescribed by the division;

1364 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1365 [~~(c) provide satisfactory evidence of good moral character;~~]

1366 [~~(c)~~] (c) (i) have graduated and received an earned bachelors or masters degree from a
1367 landscape architecture program meeting criteria established by rule by the division in
1368 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1369 Rulemaking Act; or

1370 (ii) have completed not less than eight years of supervised practical experience in
1371 landscape architecture which meets the requirements established by rule by the division in
1372 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1373 Rulemaking Act; and

1374 [~~(e)~~] (d) have successfully passed examinations established by rule by the division in
1375 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1376 Rulemaking Act.

1377 (2) Satisfactory completion of each year of a landscape architectural program described
1378 in Subsection [~~(+)(d)(i)~~] (1)(c)(i) is equivalent to one year of experience for purposes of
1379 Subsection [~~(+)(d)(ii)~~] (1)(c)(ii).

1380 Section 18. Section **58-54-302** is amended to read:

1381 **58-54-302. Requirements for licensure.**

1382 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
1383 radiology practical technician shall:

1384 (a) submit an application in a form prescribed by the division in collaboration with the
1385 board; and

1386 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#).

1387 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1388 requirements of Subsection (1):

1389 (a) be a graduate of an accredited educational program in radiologic technology or

1390 certified by the American Registry of Radiologic Technologists or any equivalent educational
1391 program approved by the division in collaboration with the board; and

1392 (b) have passed an examination approved by the division in collaboration with the
1393 board.

1394 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1395 the requirements of Subsection (1), have passed a basic examination and one or more specialty
1396 examinations that are competency based, using a task analysis of the scope of practice of
1397 radiology practical technicians in the state. The basic examination and the specialty
1398 examination shall be approved by the division in collaboration with the board and the licensing
1399 board of the profession within which the radiology practical technician will be practicing.

1400 ~~[(4) The division shall provide for administration of the radiology practical technician
1401 examination not less than monthly at offices designated by the division and located:]~~

1402 ~~[(a) in Salt Lake City; and]~~

1403 ~~[(b) within each local health department jurisdictional area.]~~

1404 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);]~~ (4)(b), each applicant for
1405 licensure as a radiologist assistant shall:

1406 (i) meet the requirements of Subsections (1) and (2);

1407 (ii) have a Bachelor of Science degree; and

1408 (iii) be certified as:

1409 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1410 (B) a radiology practitioner assistant by the Certification Board of Radiology

1411 Practitioner Assistants.

1412 (b) An individual who meets the requirements of Subsections ~~[(5)(a)(i)]~~ (4)(a)(i) and
1413 (iii), but not Subsection ~~[(5)(a)(ii)]~~ (4)(a)(ii), may be licensed as a radiologist assistant under
1414 this chapter until May 31, 2013, at which time, the individual must have completed the
1415 Bachelor of Science degree in order to retain the license of radiologist assistant.

1416 Section 19. Section **58-55-102** is amended to read:

1417 **58-55-102. Definitions.**

1418 In addition to the definitions in Section **58-1-102**, as used in this chapter:

1419 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,
1420 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm

1421 system, except as provided in Subsection (1)(b).

1422 (b) "Alarm business" or "alarm company" does not include:

1423 (i) a person engaged in the manufacture or sale of alarm systems unless:

1424 (A) that person is also engaged in the installation, maintenance, alteration, repair,
1425 replacement, servicing, or monitoring of alarm systems;

1426 (B) the manufacture or sale occurs at a location other than a place of business
1427 established by the person engaged in the manufacture or sale; or

1428 (C) the manufacture or sale involves site visits at the place or intended place of
1429 installation of an alarm system; or

1430 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
1431 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
1432 of the alarm system owned by that owner.

1433 (2) "Alarm company agent":

1434 (a) except as provided in Subsection (2)(b), means any individual employed within this
1435 state by an alarm business; and

1436 (b) does not include an individual who:

1437 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
1438 servicing, or monitoring of an alarm system; and

1439 (ii) does not, during the normal course of the individual's employment with an alarm
1440 business, use or have access to sensitive alarm system information.

1441 (3) "Alarm company officer" means:

1442 (a) a governing person, as defined in Section [48-3a-102](#), of an alarm company;

1443 (b) an individual appointed as an officer of an alarm company that is a corporation in
1444 accordance with Section [16-10a-830](#);

1445 (c) a general partner, as defined in Section [48-2e-102](#), of an alarm company; or

1446 (d) a partner, as defined in Section [48-1d-102](#), of an alarm company.

1447 (4) "Alarm company owner" means:

1448 (a) a shareholder, as defined in Section [16-10a-102](#), who owns directly, or indirectly
1449 through an entity controlled by the individual, 5% or more of the outstanding shares of an
1450 alarm company that:

1451 (i) is a corporation; and

1452 (ii) is not publicly listed or traded; or

1453 (b) an individual who owns directly, or indirectly through an entity controlled by the
1454 individual, 5% or more of the equity of an alarm company that is not a corporation.

1455 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
1456 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1457 (6) "Alarm company trustee" means an individual with control of or power of
1458 administration over property held in trust.

1459 [~~3~~] (7) (a) "Alarm system" means equipment and devices assembled for the purpose
1460 of:

1461 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
1462 premises; or

1463 (ii) signaling a robbery or attempted robbery on protected premises.

1464 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
1465 part of and interfaces with an alarm system for the purposes of detecting and deterring
1466 unauthorized intrusion or entry into or onto certain premises.

1467 [~~4~~] (8) "Apprentice electrician" means a person licensed under this chapter as an
1468 apprentice electrician who is learning the electrical trade under the immediate supervision of a
1469 master electrician, residential master electrician, a journeyman electrician, or a residential
1470 journeyman electrician.

1471 [~~5~~] (9) "Apprentice plumber" means a person licensed under this chapter as an
1472 apprentice plumber who is learning the plumbing trade under the immediate supervision of a
1473 master plumber, residential master plumber, journeyman plumber, or a residential journeyman
1474 plumber.

1475 [~~6~~] (10) "Approved continuing education" means instruction provided through
1476 courses under a program established under Subsection 58-55-302.5(2).

1477 [~~7~~] (11) (a) "Approved preclicensure course provider" means a provider that is the
1478 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
1479 Contractors, or the Utah Home Builders Association, and that meets the requirements
1480 established by rule by the commission with the concurrence of the director, to teach the
1481 25-hour course described in Subsection 58-55-302(1)(e)(iii).

1482 (b) "Approved preclicensure course provider" may only include a provider that, in

1483 addition to any other locations, offers the 25-hour course described in Subsection
1484 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake
1485 County, Utah County, Davis County, or Weber County.

1486 ~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and
1487 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

1488 ~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

1489 (a) piping and components with a means for conveying, either continuously or
1490 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
1491 appliance;

1492 (b) the electric control and combustion air supply and venting systems, including air
1493 ducts; and

1494 (c) components intended to achieve control of quantity, flow, and pressure.

1495 ~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under
1496 Section 58-55-103.

1497 ~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

1498 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
1499 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
1500 or other project, development, or improvement to other than personal property; and

1501 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
1502 defined in Section 15A-1-302; or

1503 (b) installation or repair of a residential or commercial natural gas appliance or
1504 combustion system.

1505 ~~[(12)]~~ (16) "Construction trades instructor" means a person licensed under this chapter
1506 to teach one or more construction trades in both a classroom and project environment, where a
1507 project is intended for sale to or use by the public and is completed under the direction of the
1508 instructor, who has no economic interest in the project.

1509 ~~[(13)]~~ (17) (a) "Contractor" means any person who for compensation other than wages
1510 as an employee undertakes any work in the construction, plumbing, or electrical trade for
1511 which licensure is required under this chapter and includes:

1512 (i) a person who builds any structure on the person's own property for the purpose of
1513 sale or who builds any structure intended for public use on the person's own property;

1514 (ii) any person who represents that the person is a contractor, or will perform a service
1515 described in this Subsection [~~(13)~~] (17) by advertising on a website or social media, or any
1516 other means;

1517 (iii) any person engaged as a maintenance person, other than an employee, who
1518 regularly engages in activities set forth under the definition of "construction trade";

1519 (iv) any person engaged in, or offering to engage in, any construction trade for which
1520 licensure is required under this chapter; or

1521 (v) a construction manager, construction consultant, construction assistant, or any other
1522 person who, for a fee:

1523 (A) performs or offers to perform construction consulting;

1524 (B) performs or offers to perform management of construction subcontractors;

1525 (C) provides or offers to provide a list of subcontractors or suppliers; or

1526 (D) provides or offers to provide management or counseling services on a construction
1527 project.

1528 (b) "Contractor" does not include:

1529 (i) an alarm company or alarm company agent; or

1530 (ii) a material supplier who provides consulting to customers regarding the design and
1531 installation of the material supplier's products.

1532 [~~(14)~~] (18) (a) "Electrical trade" means the performance of any electrical work involved
1533 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
1534 buildings, or appendages or appurtenances.

1535 (b) "Electrical trade" does not include:

1536 (i) transporting or handling electrical materials;

1537 (ii) preparing clearance for raceways for wiring;

1538 (iii) work commonly done by unskilled labor on any installations under the exclusive
1539 control of electrical utilities;

1540 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
1541 hazard; or

1542 (v) work involving class two or class three power-limited circuits as defined in the
1543 National Electrical Code.

1544 [~~(15)~~] (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#),

1545 except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or
1546 an incline platform lift.

1547 ~~[(16)]~~ (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed
1548 under this chapter that is engaged in the business of erecting, constructing, installing, altering,
1549 servicing, repairing, or maintaining an elevator.

1550 ~~[(17)]~~ (21) "Elevator mechanic" means an individual who is licensed under this chapter
1551 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,
1552 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator
1553 contractor.

1554 ~~[(18)]~~ (22) "Employee" means an individual as defined by the division by rule giving
1555 consideration to the definition adopted by the Internal Revenue Service and the Department of
1556 Workforce Services.

1557 ~~[(19)]~~ (23) "Engage in a construction trade" means to:

1558 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
1559 in a construction trade; or

1560 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
1561 to believe one is or will act as a contractor.

1562 ~~[(20)]~~ (24) (a) "Financial responsibility" means a demonstration of a current and
1563 expected future condition of financial solvency evidencing a reasonable expectation to the
1564 division and the board that an applicant or licensee can successfully engage in business as a
1565 contractor without jeopardy to the public health, safety, and welfare.

1566 (b) Financial responsibility may be determined by an evaluation of the total history
1567 concerning the licensee or applicant including past, present, and expected condition and record
1568 of financial solvency and business conduct.

1569 ~~[(21)]~~ (25) "Gas appliance" means any device that uses natural gas to produce light,
1570 heat, power, steam, hot water, refrigeration, or air conditioning.

1571 ~~[(22)]~~ (26) (a) "General building contractor" means a person licensed under this
1572 chapter as a general building contractor qualified by education, training, experience, and
1573 knowledge to perform or superintend construction of structures for the support, shelter, and
1574 enclosure of persons, animals, chattels, or movable property of any kind or any of the
1575 components of that construction except plumbing, electrical work, mechanical work, work

1576 related to the operating integrity of an elevator, and manufactured housing installation, for
1577 which the general building contractor shall employ the services of a contractor licensed in the
1578 particular specialty, except that a general building contractor engaged in the construction of
1579 single-family and multifamily residences up to four units may perform the mechanical work
1580 and hire a licensed plumber or electrician as an employee.

1581 (b) The division may by rule exclude general building contractors from engaging in the
1582 performance of other construction specialties in which there is represented a substantial risk to
1583 the public health, safety, and welfare, and for which a license is required unless that general
1584 building contractor holds a valid license in that specialty classification.

1585 [~~(23)~~] (27) (a) "General electrical contractor" means a person licensed under this
1586 chapter as a general electrical contractor qualified by education, training, experience, and
1587 knowledge to perform the fabrication, construction, and installation of generators,
1588 transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or
1589 apparatus that uses electrical energy.

1590 (b) The scope of work of a general electrical contractor may be further defined by rules
1591 made by the commission, with the concurrence of the director, in accordance with Title 63G,
1592 Chapter 3, Utah Administrative Rulemaking Act.

1593 [~~(24)~~] (28) (a) "General engineering contractor" means a person licensed under this
1594 chapter as a general engineering contractor qualified by education, training, experience, and
1595 knowledge to perform or superintend construction of fixed works or components of fixed
1596 works requiring specialized engineering knowledge and skill in any of the following:

- 1597 (i) irrigation;
- 1598 (ii) drainage;
- 1599 (iii) water power;
- 1600 (iv) water supply;
- 1601 (v) flood control;
- 1602 (vi) an inland waterway;
- 1603 (vii) a harbor;
- 1604 (viii) a railroad;
- 1605 (ix) a highway;
- 1606 (x) a tunnel;

- 1607 (xi) an airport;
- 1608 (xii) an airport runway;
- 1609 (xiii) a sewer;
- 1610 (xiv) a bridge;
- 1611 (xv) a refinery;
- 1612 (xvi) a pipeline;
- 1613 (xvii) a chemical plant;
- 1614 (xviii) an industrial plant;
- 1615 (xix) a pier;
- 1616 (xx) a foundation;
- 1617 (xxi) a power plant; or
- 1618 (xxii) a utility plant or installation.
- 1619 (b) A general engineering contractor may not perform or superintend:
 - 1620 (i) construction of a structure built primarily for the support, shelter, and enclosure of
 - 1621 persons, animals, and chattels; or
 - 1622 (ii) performance of:
 - 1623 (A) plumbing work;
 - 1624 (B) electrical work; or
 - 1625 (C) mechanical work.
- 1626 [~~25~~] (29) (a) "General plumbing contractor" means a person licensed under this
- 1627 chapter as a general plumbing contractor qualified by education, training, experience, and
- 1628 knowledge to perform the fabrication or installation of material and fixtures to create and
- 1629 maintain sanitary conditions in a building by providing permanent means for a supply of safe
- 1630 and pure water, a means for the timely and complete removal from the premises of all used or
- 1631 contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life
- 1632 and the occupation of such premises, and a safe and adequate supply of gases for lighting,
- 1633 heating, and industrial purposes.
- 1634 (b) The scope of work of a general plumbing contractor may be further defined by rules
- 1635 made by the commission, with the concurrence of the director, in accordance with Title 63G,
- 1636 Chapter 3, Utah Administrative Rulemaking Act.
- 1637 [~~26~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection,

1638 and evaluation of the work of a person:

1639 (a) as the division specifies in rule;

1640 (b) by, as applicable, a qualified electrician or plumber;

1641 (c) as part of a planned program of training; and

1642 (d) to ensure that the end result complies with applicable standards.

1643 [~~(27)~~] (31) "Individual" means a natural person.

1644 [~~(28)~~] (32) "Journeyman electrician" means a person licensed under this chapter as a
1645 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
1646 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

1647 [~~(29)~~] (33) "Journeyman plumber" means a person licensed under this chapter as a
1648 journeyman plumber having the qualifications, training, experience, and technical knowledge
1649 to engage in the plumbing trade.

1650 [~~(30)~~] (34) "Master electrician" means a person licensed under this chapter as a master
1651 electrician having the qualifications, training, experience, and knowledge to properly plan,
1652 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
1653 for light, heat, power, and other purposes.

1654 [~~(31)~~] (35) "Master plumber" means a person licensed under this chapter as a master
1655 plumber having the qualifications, training, experience, and knowledge to properly plan and
1656 layout projects and supervise persons in the plumbing trade.

1657 [~~(32)~~] (36) "Person" means a natural person, sole proprietorship, joint venture,
1658 corporation, limited liability company, association, or organization of any type.

1659 [~~(33)~~] (37) (a) "Plumbing trade" means the performance of any mechanical work
1660 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
1661 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and
1662 fittings for the:

1663 (i) delivery of the water supply;

1664 (ii) discharge of liquid and water carried waste;

1665 (iii) building drainage system within the walls of the building; and

1666 (iv) delivery of gases for lighting, heating, and industrial purposes.

1667 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
1668 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the

1669 safe and adequate supply of gases, together with their devices, appurtenances, and connections
1670 where installed within the outside walls of the building.

1671 ~~[(34)]~~ (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
1672 licensed electrician apprentices that are allowed to be under the immediate supervision of a
1673 licensed supervisor as established by the provisions of this chapter and by rules made by the
1674 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1675 Utah Administrative Rulemaking Act.

1676 ~~[(35)]~~ (39) "Residential and small commercial contractor" means a person licensed
1677 under this chapter as a residential and small commercial contractor qualified by education,
1678 training, experience, and knowledge to perform or superintend the construction of
1679 single-family residences, multifamily residences up to four units, and commercial construction
1680 of not more than three stories above ground and not more than 20,000 square feet, or any of the
1681 components of that construction except plumbing, electrical work, mechanical work, and
1682 manufactured housing installation, for which the residential and small commercial contractor
1683 shall employ the services of a contractor licensed in the particular specialty, except that a
1684 residential and small commercial contractor engaged in the construction of single-family and
1685 multifamily residences up to four units may perform the mechanical work and hire a licensed
1686 plumber or electrician as an employee.

1687 ~~[(36)]~~ (40) "Residential building," as it relates to the license classification of residential
1688 journeyman plumber and residential master plumber, means a single or multiple family
1689 dwelling of up to four units.

1690 ~~[(37)]~~ (41) (a) "Residential electrical contractor" means a person licensed under this
1691 chapter as a residential electrical contractor qualified by education, training, experience, and
1692 knowledge to perform the fabrication, construction, and installation of services, disconnecting
1693 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
1694 appliances, and fixtures in a residential unit.

1695 (b) The scope of work of a residential electrical contractor may be further defined by
1696 rules made by the commission, with the concurrence of the director, in accordance with Title
1697 63G, Chapter 3, Utah Administrative Rulemaking Act.

1698 ~~[(38)]~~ (42) "Residential journeyman electrician" means a person licensed under this
1699 chapter as a residential journeyman electrician having the qualifications, training, experience,

1700 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
1701 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1702 [~~(39)~~] (43) "Residential journeyman plumber" means a person licensed under this
1703 chapter as a residential journeyman plumber having the qualifications, training, experience, and
1704 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1705 [~~(40)~~] (44) "Residential master electrician" means a person licensed under this chapter
1706 as a residential master electrician having the qualifications, training, experience, and
1707 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
1708 electrical apparatus and equipment for light, heat, power, and other purposes on residential
1709 projects.

1710 [~~(41)~~] (45) "Residential master plumber" means a person licensed under this chapter as
1711 a residential master plumber having the qualifications, training, experience, and knowledge to
1712 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
1713 plumbing of residential buildings.

1714 [~~(42)~~] (46) (a) "Residential plumbing contractor" means a person licensed under this
1715 chapter as a residential plumbing contractor qualified by education, training, experience, and
1716 knowledge to perform the fabrication or installation of material and fixtures to create and
1717 maintain sanitary conditions in residential buildings by providing permanent means for a
1718 supply of safe and pure water, a means for the timely and complete removal from the premises
1719 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
1720 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
1721 for lighting, heating, and residential purposes.

1722 (b) The scope of work of a residential plumbing contractor may be further defined by
1723 rules made by the commission, with the concurrence of the director, in accordance with Title
1724 63G, Chapter 3, Utah Administrative Rulemaking Act.

1725 [~~(43)~~] (47) "Residential project," as it relates to an electrician or electrical contractor,
1726 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
1727 rules and regulations governing this work, including the National Electrical Code, and in which
1728 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1729 (48) "Responsible management personnel" means:

1730 (a) a qualifying agent;

1731 (b) an operations manager; or

1732 (c) a site manager.

1733 [~~(44)~~] (49) "Sensitive alarm system information" means:

1734 (a) a pass code or other code used in the operation of an alarm system;

1735 (b) information on the location of alarm system components at the premises of a
1736 customer of the alarm business providing the alarm system;

1737 (c) information that would allow the circumvention, bypass, deactivation, or other
1738 compromise of an alarm system of a customer of the alarm business providing the alarm
1739 system; and

1740 (d) any other similar information that the division by rule determines to be information
1741 that an individual employed by an alarm business should use or have access to only if the
1742 individual is licensed as provided in this chapter.

1743 [~~(45)~~] (50) (a) "Specialty contractor" means a person licensed under this chapter under
1744 a specialty contractor classification established by rule, who is qualified by education, training,
1745 experience, and knowledge to perform those construction trades and crafts requiring
1746 specialized skill, the regulation of which are determined by the division to be in the best
1747 interest of the public health, safety, and welfare.

1748 (b) A specialty contractor may perform work in crafts or trades other than those in
1749 which the specialty contractor is licensed if they are incidental to the performance of the
1750 specialty contractor's licensed craft or trade.

1751 [~~(46)~~] (51) "Unincorporated entity" means an entity that is not:

1752 (a) an individual;

1753 (b) a corporation; or

1754 (c) publicly traded.

1755 [~~(47)~~] (52) "Unlawful conduct" means the same as that term is defined in Sections
1756 58-1-501 and 58-55-501.

1757 [~~(48)~~] (53) "Unprofessional conduct" means the same as that term is defined in
1758 Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

1759 [~~(49)~~] (54) "Wages" means amounts due to an employee for labor or services whether
1760 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
1761 calculating the amount.

1762 Section 20. Section **58-55-302** is amended to read:

1763 **58-55-302. Qualifications for licensure.**

1764 (1) Each applicant for a license under this chapter shall:

1765 (a) submit an application prescribed by the division;

1766 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1767 (c) meet the examination requirements established by this section and by rule by the
1768 commission with the concurrence of the director, which requirements include:

1769 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
1770 contractor, no division-administered examination is required;

1771 (ii) for licensure as a general building contractor, general engineering contractor,
1772 residential and small commercial contractor, general plumbing contractor, residential plumbing
1773 contractor, general electrical contractor, or residential electrical contractor, the only required
1774 division-administered examination is a division-administered examination that covers
1775 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
1776 have been previously completed as part of applying for any other license under this chapter,
1777 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
1778 course described in Subsection (1)(e)(iv); and

1779 (iii) if required in Section [58-55-304](#), an individual qualifier must pass the required
1780 division-administered examination if the applicant is a business entity;

1781 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1782 (e) if an applicant for a contractor's license:

1783 (i) produce satisfactory evidence of financial responsibility, except for a construction
1784 trades instructor for whom evidence of financial responsibility is not required;

1785 (ii) produce satisfactory evidence of:

1786 (A) except as provided in Subsection (2)(a), and except that no employment experience
1787 is required for licensure as a specialty contractor, two years full-time paid employment
1788 experience in the construction industry, which employment experience, unless more
1789 specifically described in this section, may be related to any contracting classification and does
1790 not have to include supervisory experience; and

1791 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
1792 necessary for the protection of the public health, safety, and welfare;

1793 (iii) except as otherwise provided by rule by the commission with the concurrence of
1794 the director, complete a 25-hour course established by rule by the commission with the
1795 concurrence of the director, which is taught by an approved prelicensure course provider, and
1796 which course may include:

1797 (A) construction business practices;

1798 (B) bookkeeping fundamentals;

1799 (C) mechanics lien fundamentals;

1800 (D) other aspects of business and construction principles considered important by the
1801 commission with the concurrence of the director; and

1802 (E) for no additional fee, a provider-administered examination at the end of the
1803 25-hour course;

1804 (iv) complete a five-hour business and law course established by rule by the
1805 commission with the concurrence of the director, which is taught by an approved prelicensure
1806 course provider, if an applicant for licensure as a general building contractor, general
1807 engineering contractor, residential and small commercial contractor, general plumbing
1808 contractor, residential plumbing contractor, general electrical contractor, or residential
1809 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
1810 completed before July 1, 2019, the applicant does not need to take the business and law course;

1811 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
1812 license or a licensed master residential electrician if an applicant for a residential electrical
1813 contractor's license;

1814 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
1815 a licensed master residential plumber if an applicant for a residential plumbing contractor's
1816 license; or

1817 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
1818 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1819 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
1820 individuals who hold an ownership interest in the applicant as of the day on which the
1821 application is filed that includes for each individual:

1822 (A) the individual's name, address, birth date, and social security number or other
1823 satisfactory evidence of the applicant's identity permitted under rules made by the division in

1824 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1825 (B) whether the individual will engage in a construction trade; and

1826 (f) if an applicant for a construction trades instructor license, satisfy any additional
1827 requirements established by rule.

1828 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
1829 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
1830 evidence of two years full-time paid employment experience as a building inspector, which
1831 shall include at least one year full-time experience as a licensed combination inspector.

1832 (b) The applicant shall file the following with the division before the division issues
1833 the license:

1834 (i) proof of workers' compensation insurance which covers employees of the applicant
1835 in accordance with applicable Utah law;

1836 (ii) proof of public liability insurance in coverage amounts and form established by rule
1837 except for a construction trades instructor for whom public liability insurance is not required;
1838 and

1839 (iii) proof of registration as required by applicable law with the:

1840 (A) Department of Commerce;

1841 (B) Division of Corporations and Commercial Code;

1842 (C) Unemployment Insurance Division in the Department of Workforce Services, for
1843 purposes of Title 35A, Chapter 4, Employment Security Act;

1844 (D) State Tax Commission; and

1845 (E) Internal Revenue Service.

1846 (3) In addition to the general requirements for each applicant in Subsection (1),
1847 applicants shall comply with the following requirements to be licensed in the following
1848 classifications:

1849 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1850 (A) has been a licensed journeyman plumber for at least two years and had two years of
1851 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1852 (B) has received at least an associate of applied science degree or similar degree
1853 following the completion of a course of study approved by the division and had one year of
1854 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1855 (C) meets the qualifications for expedited licensure as established by rules made by the
1856 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1857 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1858 and skills to be a licensed master plumber.

1859 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
1860 least four years of practical experience as a licensed apprentice under the supervision of a
1861 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
1862 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
1863 master plumber license under this chapter, and satisfies the requirements of this Subsection
1864 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

1865 (iii) An individual holding a valid plumbing contractor's license or residential
1866 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
1867 2008:

1868 (A) considered to hold a current master plumber license under this chapter if licensed
1869 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
1870 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
1871 58-55-303; and

1872 (B) considered to hold a current residential master plumber license under this chapter if
1873 licensed as a residential plumbing contractor and a residential journeyman plumber, and
1874 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
1875 that license under Section 58-55-303.

1876 (b) A master residential plumber applicant shall produce satisfactory evidence that the
1877 applicant:

1878 (i) has been a licensed residential journeyman plumber for at least two years and had
1879 two years of supervisory experience as a licensed residential journeyman plumber in
1880 accordance with division rule; or

1881 (ii) meets the qualifications for expedited licensure as established by rules made by the
1882 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1883 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1884 and skills to be a licensed master residential plumber.

1885 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1886 (i) successful completion of the equivalent of at least four years of full-time training
1887 and instruction as a licensed apprentice plumber under supervision of a licensed master
1888 plumber or journeyman plumber and in accordance with a planned program of training
1889 approved by the division;

1890 (ii) at least eight years of full-time experience approved by the division in collaboration
1891 with the Plumbers Licensing Board; or

1892 (iii) meeting the qualifications for expedited licensure as established by rules made by
1893 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1894 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1895 and skills to be a licensed journeyman plumber.

1896 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1897 (i) completion of the equivalent of at least three years of full-time training and
1898 instruction as a licensed apprentice plumber under the supervision of a licensed residential
1899 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
1900 accordance with a planned program of training approved by the division;

1901 (ii) completion of at least six years of full-time experience in a maintenance or repair
1902 trade involving substantial plumbing work; or

1903 (iii) meeting the qualifications for expedited licensure as established by rules made by
1904 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1905 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1906 and skills to be a licensed residential journeyman plumber.

1907 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
1908 in accordance with the following:

1909 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
1910 under the immediate supervision of a licensed master plumber, licensed residential master
1911 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

1912 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
1913 apprentice plumber may work without supervision for a period not to exceed eight hours in any
1914 24-hour period; and

1915 (iii) rules made by the commission, with the concurrence of the director, in accordance
1916 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of

1917 apprentices allowed under the immediate supervision of a licensed supervisor, including the
1918 ratio of apprentices in their fourth year of training or later that are allowed to be under the
1919 immediate supervision of a licensed supervisor.

1920 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1921 (i) is a graduate electrical engineer of an accredited college or university approved by
1922 the division and has one year of practical electrical experience as a licensed apprentice
1923 electrician;

1924 (ii) is a graduate of an electrical trade school, having received an associate of applied
1925 sciences degree following successful completion of a course of study approved by the division,
1926 and has two years of practical experience as a licensed journeyman electrician;

1927 (iii) has four years of practical experience as a journeyman electrician; or

1928 (iv) meets the qualifications for expedited licensure as established by rules made by the
1929 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1930 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1931 and skills to be a licensed master electrician.

1932 (g) A master residential electrician applicant shall produce satisfactory evidence that
1933 the applicant:

1934 (i) has at least two years of practical experience as a residential journeyman electrician;
1935 or

1936 (ii) meets the qualifications for expedited licensure as established by rules made by the
1937 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1938 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1939 and skills to be a master residential electrician.

1940 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
1941 applicant:

1942 (i) has successfully completed at least four years of full-time training and instruction as
1943 a licensed apprentice electrician under the supervision of a master electrician or journeyman
1944 electrician and in accordance with a planned training program approved by the division;

1945 (ii) has at least eight years of full-time experience approved by the division in
1946 collaboration with the Electricians Licensing Board; or

1947 (iii) meets the qualifications for expedited licensure as established by rules made by the

1948 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1949 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1950 and skills to be a licensed journeyman electrician.

1951 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
1952 that the applicant:

1953 (i) has successfully completed two years of training in an electrical training program
1954 approved by the division;

1955 (ii) has four years of practical experience in wiring, installing, and repairing electrical
1956 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
1957 journeyman, residential master, or residential journeyman electrician; or

1958 (iii) meets the qualifications for expedited licensure as established by rules made by the
1959 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1960 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1961 and skills to be a licensed residential journeyman electrician.

1962 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
1963 be in accordance with the following:

1964 (i) A licensed apprentice electrician shall be under the immediate supervision of a
1965 licensed master, journeyman, residential master, or residential journeyman electrician;

1966 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
1967 apprentice electrician may work without supervision for a period not to exceed eight hours in
1968 any 24-hour period;

1969 (iii) rules made by the commission, with the concurrence of the director, in accordance
1970 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
1971 apprentices allowed under the immediate supervision of a licensed supervisor, including the
1972 ratio of apprentices in their fourth year of training or later that are allowed to be under the
1973 immediate supervision of a licensed supervisor; and

1974 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
1975 residential project, or more if established by rules made by the commission, in concurrence
1976 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1977 Act.

1978 (k) An alarm company applicant shall:

1979 (i) have a qualifying agent who:
1980 (A) is an ~~[officer, director, partner, proprietor, or manager of the applicant who:]~~ alarm
1981 company officer, alarm company owner, alarm company proprietor, an alarm company trustee,
1982 or other responsible management personnel;
1983 ~~[(A)]~~ (B) demonstrates 6,000 hours of experience in the alarm company business;
1984 ~~[(B)]~~ (C) demonstrates 2,000 hours of experience as a manager or administrator in the
1985 alarm company business or in a construction business; and
1986 ~~[(C)]~~ (D) passes an examination component established by rule by the commission
1987 with the concurrence of the director;
1988 (ii) provide the name, address, date of birth, social security number, fingerprint card,
1989 and consent to a background check in accordance with Section [58-55-302.1](#) and requirements
1990 established by division rule made in accordance with Title 63G, Chapter 3, Utah
1991 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
1992 company proprietor, alarm company trustee, and responsible management personnel with direct
1993 responsibility for managing operations of the applicant within the state;
1994 ~~[(ii) if a corporation, provide:]~~
1995 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
1996 ~~of all corporate officers, directors, and those responsible management personnel employed~~
1997 ~~within the state or having direct responsibility for managing operations of the applicant within~~
1998 ~~the state; and]~~
1999 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2000 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~
2001 ~~shall not be required if the stock is publicly listed and traded;]~~
2002 ~~[(iii) if a limited liability company, provide:]~~
2003 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2004 ~~of all company officers, and those responsible management personnel employed within the~~
2005 ~~state or having direct responsibility for managing operations of the applicant within the state;~~
2006 ~~and]~~
2007 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2008 ~~of all individuals owning 5% or more of the equity of the company;]~~
2009 ~~[(iv) if a partnership, provide the names, addresses, dates of birth, social security~~

2010 numbers, and fingerprint cards of all general partners, and those responsible management
2011 personnel employed within the state or having direct responsibility for managing operations of
2012 the applicant within the state;]

2013 [~~(v)~~ if a proprietorship, provide the names, addresses, dates of birth, social security
2014 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
2015 employed within the state or having direct responsibility for managing operations of the
2016 applicant within the state;]

2017 [~~(vi)~~ if a trust, provide the names, addresses, dates of birth, social security numbers,
2018 and fingerprint cards of the trustee, and those responsible management personnel employed
2019 within the state or having direct responsibility for managing operations of the applicant within
2020 the state;]

2021 [~~(vii)~~ (iii) document that none of the [~~applicant's officers, directors, shareholders~~
2022 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible~~
2023 ~~management personnel~~] persons described in Subsection (3)(k)(ii):

2024 (A) have been declared by any court of competent jurisdiction incompetent by reason
2025 of mental defect or disease and not been restored; or

2026 [~~(viii)~~ (B) [~~document that none of the applicant's officers, directors, shareholders~~
2027 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management~~
2028 ~~personnel~~] are currently suffering from habitual drunkenness or from drug addiction or
2029 dependence;

2030 [~~(ix)~~ (iv) file and maintain with the division evidence of:

2031 (A) comprehensive general liability insurance in form and in amounts to be established
2032 by rule by the commission with the concurrence of the director;

2033 (B) workers' compensation insurance that covers employees of the applicant in
2034 accordance with applicable Utah law; and

2035 (C) registration as is required by applicable law with the:

2036 (I) Division of Corporations and Commercial Code;

2037 (II) Unemployment Insurance Division in the Department of Workforce Services, for
2038 purposes of Title 35A, Chapter 4, Employment Security Act;

2039 (III) State Tax Commission; and

2040 (IV) Internal Revenue Service; and

- 2041 [~~(x)~~] (v) meet with the division and board.
- 2042 (l) Each applicant for licensure as an alarm company agent shall:
- 2043 (i) submit an application in a form prescribed by the division accompanied by
- 2044 fingerprint cards;
- 2045 (ii) pay a fee determined by the department under Section [63J-1-504](#);
- 2046 (iii) submit to and pass a criminal background check in accordance with Section
- 2047 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2048 Chapter 3, Utah Administrative Rulemaking Act;
- 2049 [~~(iii)~~] (iv) not have been declared by any court of competent jurisdiction incompetent
- 2050 by reason of mental defect or disease and not been restored;
- 2051 [~~(iv)~~] (v) not be currently suffering from habitual drunkenness or from drug addiction
- 2052 or dependence; and
- 2053 [~~(v)~~] (vi) meet with the division and board if requested by the division or the board.
- 2054 (m) (i) Each applicant for licensure as an elevator mechanic shall:
- 2055 (A) provide documentation of experience and education credits of not less than three
- 2056 years work experience in the elevator industry, in construction, maintenance, or service and
- 2057 repair; and
- 2058 (B) satisfactorily complete a written examination administered by the division
- 2059 established by rule under Section [58-1-203](#); or
- 2060 (C) provide certificates of completion of an apprenticeship program for elevator
- 2061 mechanics, having standards substantially equal to those of this chapter and registered with the
- 2062 United States Department of Labor Bureau Apprenticeship and Training or a state
- 2063 apprenticeship council.
- 2064 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
- 2065 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
- 2066 repairing, or maintaining an elevator, the contractor may:
- 2067 (I) notify the division of the unavailability of licensed personnel; and
- 2068 (II) request the division issue a temporary elevator mechanic license to an individual
- 2069 certified by the contractor as having an acceptable combination of documented experience and
- 2070 education to perform the work described in this Subsection (3)(m)(ii)(A).
- 2071 (B) (I) The division may issue a temporary elevator mechanic license to an individual

2072 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
2073 the appropriate fee as determined by the department under Section [63J-1-504](#).

2074 (II) The division shall specify the time period for which the license is valid and may
2075 renew the license for an additional time period upon its determination that a shortage of
2076 licensed elevator mechanics continues to exist.

2077 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2078 division may make rules establishing when Federal Bureau of Investigation records shall be
2079 checked for applicants as an alarm company or alarm company agent under this section and
2080 Section [58-55-302.1](#).

2081 [~~(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide~~
2082 ~~an appropriate number of copies of fingerprint cards to the Department of Public Safety with~~
2083 ~~the division's request to:]~~

2084 [~~(a) conduct a search of records of the Department of Public Safety for criminal history~~
2085 ~~information relating to each applicant for licensure as an alarm company or alarm company~~
2086 ~~agent and each applicant's officers, directors, shareholders described in Subsection~~
2087 ~~(3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

2088 [~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2089 ~~requiring a check of records of the Federal Bureau of Investigation for criminal history~~
2090 ~~information under this section:]~~

2091 [~~(6) The Department of Public Safety shall send to the division:]~~

2092 [~~(a) a written record of criminal history, or certification of no criminal history record,~~
2093 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2094 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2095 ~~records; and]~~

2096 [~~(b) the results of the Federal Bureau of Investigation review concerning an applicant~~
2097 ~~in a timely manner after receipt of information from the Federal Bureau of Investigation:]~~

2098 [~~(7) (a) The division shall charge each applicant for licensure as an alarm company or~~
2099 ~~alarm company agent a fee, in accordance with Section [63J-1-504](#), equal to the cost of~~
2100 ~~performing the records reviews under this section:]~~

2101 [~~(b) The division shall pay the Department of Public Safety the costs of all records~~
2102 ~~reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the~~

2103 ~~costs of records reviews under this section.]~~

2104 ~~[(8) Information obtained by the division from the reviews of criminal history records~~
2105 ~~of the Department of Public Safety and the Federal Bureau of Investigation shall be used or~~
2106 ~~disseminated by the division only for the purpose of determining if an applicant for licensure as~~
2107 ~~an alarm company or alarm company agent is qualified for licensure.]~~

2108 ~~[(9) (5) (a) An application for licensure under this chapter shall be denied if:~~

2109 ~~(i) the applicant has had a previous license, which was issued under this chapter,~~
2110 ~~suspended or revoked within two years before the date of the applicant's application;~~

2111 ~~(ii) (A) the applicant is a partnership, corporation, or limited liability company; and~~

2112 ~~(B) any corporate officer, director, shareholder holding 25% or more of the stock in the~~
2113 ~~applicant, partner, member, agent acting as a qualifier, or any person occupying a similar~~
2114 ~~status, performing similar functions, or directly or indirectly controlling the applicant has~~
2115 ~~served in any similar capacity with any person or entity which has had a previous license,~~
2116 ~~which was issued under this chapter, suspended or revoked within two years before the date of~~
2117 ~~the applicant's application;~~

2118 ~~(iii) (A) the applicant is an individual or sole proprietorship; and~~

2119 ~~(B) any owner or agent acting as a qualifier has served in any capacity listed in~~
2120 ~~Subsection ~~[(9)(a)(ii)(B)] (5)(a)(ii)(B) in any entity which has had a previous license, which~~~~
2121 ~~was issued under this chapter, suspended or revoked within two years before the date of the~~
2122 ~~applicant's application; or~~

2123 ~~(iv) (A) the applicant includes an individual who was an owner, director, or officer of~~
2124 ~~an unincorporated entity at the time the entity's license under this chapter was revoked; and~~

2125 ~~(B) the application for licensure is filed within 60 months after the revocation of the~~
2126 ~~unincorporated entity's license.~~

2127 ~~(b) An application for licensure under this chapter shall be reviewed by the appropriate~~
2128 ~~licensing board prior to approval if:~~

2129 ~~(i) the applicant has had a previous license, which was issued under this chapter,~~
2130 ~~suspended or revoked more than two years before the date of the applicant's application;~~

2131 ~~(ii) (A) the applicant is a partnership, corporation, or limited liability company; and~~

2132 ~~(B) any corporate officer, director, shareholder holding 25% or more of the stock in the~~
2133 ~~applicant, partner, member, agent acting as a qualifier, or any person occupying a similar~~

2134 status, performing similar functions, or directly or indirectly controlling the applicant has
2135 served in any similar capacity with any person or entity which has had a previous license,
2136 which was issued under this chapter, suspended or revoked more than two years before the date
2137 of the applicant's application; or

2138 (iii) (A) the applicant is an individual or sole proprietorship; and

2139 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2140 Subsection ~~[(9)(b)(ii)(B)]~~ (5)(a)(ii)(B) in any entity which has had a previous license, which
2141 was issued under this chapter, suspended or revoked more than two years before the date of the
2142 applicant's application.

2143 ~~[(10)]~~ (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership
2144 status report with the division every 30 days after the day on which the license is issued if the
2145 licensee has more than five owners who are individuals who:

2146 (A) own an interest in the contractor that is an unincorporated entity;

2147 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
2148 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
2149 unincorporated entity; and

2150 (C) engage, or will engage, in a construction trade in the state as owners of the
2151 contractor described in Subsection ~~[(10)(a)(i)(A)]~~ (6)(a)(i)(A).

2152 (ii) If the licensee has five or fewer owners described in Subsection ~~[(10)(a)(i)]~~
2153 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal
2154 of licensure.

2155 (b) An ownership status report required under this Subsection ~~[(10)]~~ (6) shall:

2156 (i) specify each addition or deletion of an owner:

2157 (A) for the first ownership status report, after the day on which the unincorporated
2158 entity is licensed under this chapter; and

2159 (B) for a subsequent ownership status report, after the day on which the previous
2160 ownership status report is filed;

2161 (ii) be in a format prescribed by the division that includes for each owner, regardless of
2162 the owner's percentage ownership in the unincorporated entity, the information described in
2163 Subsection (1)(e)(vi);

2164 (iii) list the name of:

2165 (A) each officer or manager of the unincorporated entity; and
2166 (B) each other individual involved in the operation, supervision, or management of the
2167 unincorporated entity; and
2168 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
2169 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~
2170 (6)(b)(i).
2171 (c) The division may, at any time, audit an ownership status report under this
2172 Subsection ~~[(10)]~~ (6):
2173 (i) to determine if financial responsibility has been demonstrated or maintained as
2174 required under Section 58-55-306; and
2175 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
2176 Subsection 58-55-502(8) or (9).
2177 ~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under
2178 this chapter by providing an individual who owns an interest in the unincorporated entity to
2179 engage in a construction trade in Utah shall file with the division:
2180 (i) before the individual who owns an interest in the unincorporated entity engages in a
2181 construction trade in Utah, a current list of the one or more individuals who hold an ownership
2182 interest in the unincorporated entity that includes for each individual:
2183 (A) the individual's name, address, birth date, and social security number; and
2184 (B) whether the individual will engage in a construction trade; and
2185 (ii) every 30 days after the day on which the unincorporated entity provides the list
2186 described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the
2187 information that would be required under Subsection ~~[(10)]~~ (6) if the unincorporated entity
2188 were a licensed contractor.
2189 (b) When filing an ownership list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i) or an
2190 ownership status report described in Subsection ~~[(11)(a)(ii)]~~, (7)(a)(i) an unincorporated entity
2191 shall pay a fee set by the division in accordance with Section 63J-1-504.
2192 ~~[(12)]~~ (8) This chapter may not be interpreted to create or support an express or
2193 implied independent contractor relationship between an unincorporated entity described in
2194 Subsection ~~[(10)]~~ (6) or ~~[(11)]~~ (7) and the owners of the unincorporated entity for any purpose,
2195 including income tax withholding.

2196 ~~[(13)]~~ (9) (a) A social security number provided under Subsection (1)(e)(vi) or
2197 (3)(k)(ii) is a private record under Subsection [63G-2-302](#)(1)(i).
2198 (b) The division may designate an applicant's evidence of identity under Subsection
2199 (1)(e)(iv) as a private record in accordance with Section [63G-2-302](#).
2200 Section 21. Section **58-55-302.1** is enacted to read:
2201 **58-55-302.1. Criminal background check.**
2202 (1) An applicant for licensure under this chapter who requires a criminal background
2203 check shall:
2204 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2205 application is filed; and
2206 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2207 Identification and the Federal Bureau of Investigation regarding the application.
2208 (2) The division shall:
2209 (a) in addition to other fees authorized by this chapter, collect from each applicant
2210 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2211 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the
2212 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2213 obtaining federal criminal history record information;
2214 (b) submit from each applicant the fingerprint card and the fees described in
2215 Subsection (2)(a) to the Bureau of Criminal Identification; and
2216 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2217 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.
2218 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2219 Section [53-10-108](#):
2220 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2221 and regional criminal records databases;
2222 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2223 criminal history background check; and
2224 (c) provide the results from the state, regional, and nationwide criminal history
2225 background checks to the division.
2226 (4) For purposes of conducting a criminal background check required under this

2227 section, the division shall have direct access to criminal background information maintained
 2228 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2229 (5) The division may not disseminate outside of the division any criminal history
 2230 record information that the division obtains from the Bureau of Criminal Identification or the
 2231 Federal Bureau of Investigation under the criminal background check requirements of this
 2232 section.

2233 (6) (a) A new license issued under Section 58-55-302 is conditional pending
 2234 completion of the criminal background check.

2235 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
 2236 criminal background check required in Section 58-55-302 demonstrates the applicant or the
 2237 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
 2238 responsible management personnel has failed to accurately disclose a criminal history, the
 2239 license is immediately and automatically revoked upon notice to the licensee by the division.

2240 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
 2241 entitled to a postrevocation hearing to challenge the revocation.

2242 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
 2243 Chapter 4, Administrative Procedures Act.

2244 Section 22. Section **58-55-303** is amended to read:

2245 **58-55-303. Term of license -- Expiration -- Renewal.**

2246 (1) (a) Each license issued under this chapter shall be issued in accordance with a
 2247 two-year renewal cycle established by rule.

2248 (b) The division may by rule extend or shorten a renewal period by as much as one year
 2249 to stagger the renewal cycle it administers.

2250 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding
 2251 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a
 2252 license is automatically suspended 60 days after the licensee:

2253 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the
 2254 ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~]

2255 58-55-302(6)(a)(i); or

2256 (B) transfers its license to an unincorporated entity that is subject to the ownership
 2257 status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

2258 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the
2259 expiration of the 60-day period in Subsection (1)(c)(i):
2260 (A) the licensee submits an application for renewal of the license; and
2261 (B) the division renews the licensee's license pursuant to the licensee's application for
2262 renewal.

2263 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),
2264 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
2265 make a final determination concerning the suspension.

2266 (2) At the time of renewal, the licensee shall show satisfactory evidence of:
2267 (a) continuing financial responsibility as required under Section 58-55-306;
2268 (b) for a contractor licensee, completion of six hours of approved continuing education,
2269 as required in Section 58-55-302.5; and
2270 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
2271 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
2272 residential master electrician or plumber, completion of the number of hours of continuing
2273 education specified under Section 58-55-302.7.

2274 (3) Each license automatically expires on the expiration date shown on the license
2275 unless the licensee renews the license in accordance with Section 58-1-308.

2276 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to
2277 applicants seeking to renew or reinstate a license.

2278 (5) In addition to any other requirements imposed by law, if a license has been
2279 suspended or revoked for any reason, the applicant:
2280 (a) shall pay in full all fines imposed by the division;
2281 (b) resolve any outstanding citations or disciplinary actions with the division;
2282 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
2283 (d) complete a new financial responsibility review as required under Section
2284 58-55-306, using only titled assets; and
2285 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
2286 Residence Lien Restriction and Lien Recovery Fund Act.

2287 Section 23. Section 58-55-503 is amended to read:
2288 **58-55-503. Penalty for unlawful conduct -- Citations.**

2289 (1) As used in this section:

2290 (a) "Person" means, in reference to Subsection [58-55-504\(2\)](#), an individual, and does
2291 not include a sole proprietorship, joint venture, corporation, limited liability company,
2292 association, or organization of any type.

2293 (b) "Qualifying violation" means a violation under:

2294 (i) Subsection [58-55-308\(2\)](#);

2295 (ii) Subsections [58-55-501\(1\)](#) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)
2296 through (28);

2297 (iii) Subsection [58-55-502\(4\)\(a\)](#) or (11); or

2298 (iv) Subsection [58-55-504\(2\)](#).

2299 (2) (a) [(†)] A person who violates [~~Subsection [58-55-308\(2\)](#);~~] Subsection
2300 [~~[58-55-501\(1\)](#), (2), (3), (4), (5), (6);~~] [58-55-501\(1\)](#) through (7), (9), (10), (12), (14), (15),
2301 (16)(e), [(21), (22), (23), (24), (25), (26), (27), or] or (21) through (28), Subsection
2302 [58-55-308\(2\)](#), or Subsection [58-55-504\(2\)](#), or who fails to comply with a citation issued under
2303 this section after [it] the citation is final, is guilty of a class A misdemeanor.

2304 [(ii) ~~As used in this section in reference to Subsection [58-55-504\(2\)](#), "person" means an
2305 individual and does not include a sole proprietorship, joint venture, corporation, limited
2306 liability company, association, or organization of any type.~~]

2307 (b) A person who violates the provisions of Subsection [58-55-501\(8\)](#) may not be
2308 awarded and may not accept a contract for the performance of the work.

2309 [(2)] (3) A person who violates [~~the provisions of~~] Subsection [58-55-501\(13\)](#) is guilty
2310 of:

2311 (a) an infraction [~~unless the~~]; or

2312 (b) if the violator did so with the intent to deprive the person to whom money is to be
2313 paid of the money received, [~~in which case the violator is guilty~~] of theft[;] as classified in
2314 Section [76-6-412](#).

2315 [(3)] (4) Grounds for immediate suspension of a licensee's license by the division and
2316 the commission include:

2317 (a) the issuance of a citation for violation of Subsection [58-55-308\(2\)](#), Section
2318 [58-55-501](#), or Subsection [58-55-504\(2\)](#); and

2319 (b) the failure by a licensee to make application to, report to, or notify the division with

2320 respect to any matter for which application, notification, or reporting is required under this
2321 chapter or rules adopted under this chapter, including:

2322 (i) applying to the division for a new license to engage in a new specialty classification
2323 or to do business under a new form of organization or business structure;

2324 (ii) filing a current financial statement with the division; and

2325 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2326 ~~[(4)]~~ (5) (a) (i) If upon inspection or investigation, the division concludes that a person
2327 has ~~[violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),~~
2328 ~~(10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection~~
2329 ~~58-55-502(4)(a) or (11), Subsection 58-55-504(2),]~~ committed a qualifying violation or
2330 violated any rule or order issued with respect to ~~[these subsections]~~ a qualifying violation, and
2331 that disciplinary action is appropriate, the director or the director's designee from within the
2332 division shall:

2333 (A) promptly issue a citation to the person according to this chapter and any pertinent
2334 rules~~[-];~~;

2335 (B) attempt to negotiate a stipulated settlement~~[-];~~ or

2336 (C) notify the person to appear before an adjudicative proceeding conducted under
2337 Title 63G, Chapter 4, Administrative Procedures Act.

2338 (ii) A person who ~~[is in violation of the provisions of Subsection 58-55-308(2),~~
2339 ~~Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24),~~
2340 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ committed a qualifying violation, as
2341 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an
2342 adjudicative proceeding, may be assessed a fine ~~[pursuant to this Subsection (4)]~~ and may, in
2343 addition to or in lieu of, be ordered to cease and desist from ~~[violating Subsection~~
2344 ~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24),~~
2345 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ engaging in the qualifying violation.

2346 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
2347 58-55-401 may not be assessed through a citation.

2348 (b) [(†)] A citation shall:

2349 (i) be in writing and describe with particularity the nature of the violation, including a
2350 reference to the provision of the chapter, rule, or order alleged to have been violated~~[-];~~

2351 (ii) ~~[A citation shall]~~ clearly state that the recipient must notify the division in writing
 2352 within 20 calendar days ~~[of service of the citation]~~ after the day on which the citation is served
 2353 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,
 2354 Administrative Procedures Act[-]; and

2355 (iii) ~~[A citation shall]~~ clearly explain the consequences of failure to timely contest the
 2356 citation or to make payment of any fines assessed by the citation within the time specified in
 2357 the citation.

2358 (c) A citation issued under this section, or a copy of a citation, may be served upon a
 2359 person upon whom a summons may be served:

2360 (i) in accordance with the Utah Rules of Civil Procedure;

2361 (ii) personally or upon the person's agent by a division investigator or by a person
 2362 specially designated by the director; or

2363 (iii) by mail.

2364 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
 2365 to whom the citation was issued fails to request a hearing to contest the citation, the citation
 2366 becomes the final order of the division and is not subject to further agency review.

2367 (ii) The period to contest a citation may be extended by the division for cause.

2368 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
 2369 the license of a licensee who fails to comply with a citation after the citation becomes final.

2370 (f) The failure of an applicant for licensure to comply with a citation after the citation
 2371 becomes final is a ground for denial of license.

2372 (g) A citation may not be issued under this section after the expiration of one year
 2373 ~~[following]~~ after the date on which the violation that is the subject of the citation is reported to
 2374 the division.

2375 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5);]~~ (6), the
 2376 director or the director's designee shall assess a fine in accordance with the following:

2377 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of
 2378 up to \$1,000;

2379 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine
 2380 of up to \$2,000; and

2381 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a

2382 fine of up to \$2,000 for each day of continued offense.

2383 (ii) Except as provided in Subsection ~~[(5);~~ (6), if a person violates Subsection
2384 ~~58-55-501~~(16)(e) or (28), the director or the director's designee shall assess a fine in
2385 accordance with the following:

2386 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);~~ (5)(a), a fine of
2387 up to \$2,000;

2388 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);~~ (5)(a), a fine
2389 of up to \$4,000; and

2390 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);~~ (5)(a),
2391 a fine of up to \$4,000 for each day of continued offense.

2392 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
2393 Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

2394 (A) the division previously issued a final order determining that a person committed a
2395 first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),~~
2396 ~~(3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection~~
2397 ~~58-55-504(2)]~~ qualifying violation; or

2398 (B) (I) the division initiated an action for a first or second offense;

2399 (II) a final order has not been issued by the division in the action initiated under
2400 Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

2401 (III) the division determines during an investigation that occurred after the initiation of
2402 the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second
2403 or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~
2404 ~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28),~~
2405 ~~or Subsection 58-55-504(2)]~~ qualifying violation; and

2406 (IV) after determining that the person committed a second or subsequent ~~[offense]~~
2407 qualifying violation under Subsection ~~[(4)(i)(i)(B)(III)]~~ (5)(i)(i)(B)(III), the division issues a
2408 final order on the action initiated under Subsection ~~[(4)(i)(i)(B)(I);~~ (5)(i)(i)(B)(I).

2409 (ii) In issuing a final order for a second or subsequent offense under Subsection
2410 ~~[(4)(i)(i);~~ (5)(i)(i), the division shall comply with the requirements of this section.

2411 (j) In addition to any other licensure sanction or fine imposed under this section, the
2412 division shall revoke the license of a licensee that violates Subsection ~~58-55-501~~(23) or (24)

2413 two or more times within a 12-month period, unless, with respect to a violation of Subsection
2414 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
2415 legal working status of the individual who was the subject of the violation using a status
2416 verification system, as defined in Section 13-47-102.

2417 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
2418 for each individual is considered a separate violation.

2419 [(5)] (6) If a person violates Section 58-55-501, the division may not treat the violation
2420 as a subsequent violation of a previous violation if the violation occurs five years or more after
2421 the day on which the person committed the previous violation.

2422 [(6)] (7) If, after an investigation, the division determines that a person has committed
2423 multiple of the same type of violation of Section 58-55-501, the division may treat each
2424 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
2425 each violation.

2426 [(7)] (8) (a) A penalty imposed by the director under Subsection [(4)(b)] (5) shall be
2427 deposited into the Commerce Service Account created by Section 13-1-2.

2428 (b) A penalty that is not paid may be collected by the director by either referring the
2429 matter to a collection agency or bringing an action in the district court of the county in which
2430 the person against whom the penalty is imposed resides or in the county where the office of the
2431 director is located.

2432 (c) A county attorney or the attorney general of the state shall provide legal assistance
2433 and advice to the director in an action to collect a penalty.

2434 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
2435 fees and costs to the prevailing party.

2436 Section 24. Section 58-63-102 is amended to read:

2437 **58-63-102. Definitions.**

2438 In addition to the definitions in Section 58-1-102, as used in this chapter:

2439 (1) "Agreement for services" means a written and signed agreement between a security
2440 service provider and a client that:

- 2441 (a) contains clear language that addresses and assigns financial responsibility;
- 2442 (b) describes the length, duties, and scope of the security services that will be provided;

2443 and

2444 (c) describes the compensation that will be paid by the client for the security services,
2445 including the compensation for each security officer.

2446 (2) "Armed courier service" means a person engaged in business as a contract security
2447 company who transports or offers to transport tangible personal property from one place or
2448 point to another under the control of an armed security officer employed by that service.

2449 (3) "Armed private security officer" means an individual:

2450 (a) employed by a contract security company;

2451 (b) whose primary duty is:

2452 (i) guarding personal or real property; or

2453 (ii) providing protection or security to the life and well being of humans or animals;

2454 and

2455 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2456 performance of the individual's duties.

2457 (4) "Armored car company" means a person engaged in business under contract to
2458 others who transports or offers to transport tangible personal property, currency, valuables,
2459 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that
2460 require secured delivery from one place to another under the control of an armored car security
2461 officer employed by the company using a specially equipped motor vehicle offering a high
2462 degree of security.

2463 (5) "Armored car security officer" means an individual:

2464 (a) employed by an armored car company;

2465 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
2466 SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured
2467 delivery from one place to another; and

2468 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2469 performance of the individual's duties.

2470 (6) "Board" means the Security Services Licensing Board created in Section
2471 58-63-201.

2472 (7) "Client" means a person, company, or entity that contracts for and receives security
2473 services from a contract security company or an armored car company.

2474 (8) "Contract security company" means a company that ~~is registered with the Division~~

2475 ~~of Corporations and Commercial Code and]~~ is engaged in business to provide security services
 2476 to another person, business, or entity on a contractual basis by assignment of an armed or
 2477 unarmed private security officer.

2478 ~~[(9) "Corporate officer" means an individual who is on file with the Division of~~
 2479 ~~Corporations and Commercial Code as:]~~

2480 ~~[(a) a corporate officer of a contract security company or an armored car company that~~
 2481 ~~is a corporation; or]~~

2482 ~~[(b) a sole proprietor of a contract security company or an armored car company that is~~
 2483 ~~not a corporation.]~~

2484 ~~[(10)]~~ (9) "Company officer" means:

2485 (a) a governing person, as defined in Section 48-3a-102, of an armored car company or
 2486 contract security company;

2487 (b) an individual appointed as an officer of an armored car company or contract
 2488 security company that is a corporation in accordance with Section 16-10a-830;

2489 (c) a general partner, as defined in Section 48-2e-102, of an armored car company or
 2490 contract security company; or

2491 (d) a partner, as defined in Section 48-1d-102, of an armored car company or contract
 2492 security company.

2493 (10) "Company owner" means:

2494 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
 2495 through an entity controlled by the individual, 5% or more of the outstanding shares of an
 2496 armored car company or contract security company that:

2497 (i) is a corporation; and

2498 (ii) is not publicly listed or traded; or

2499 (b) an individual who owns directly, or indirectly through an entity controlled by the
 2500 individual, 5% or more of the equity of an armored car company or contract security company
 2501 that is not a corporation.

2502 (11) "Company proprietor" means the sole proprietor of an armored car company or
 2503 contract security company that is registered as a sole proprietorship with the Division of
 2504 Corporations and Commercial Code.

2505 (12) "Company trustee" means an individual with control of or power of administration

2506 over property held in trust.

2507 (13) "Financial responsibility," when referring to a contract security company, means
2508 that a contract security company may only provide security services to a client if the contract
2509 security company:

- 2510 (a) enters into an agreement for services with the client;
- 2511 (b) maintains a current general liability insurance policy with:
 - 2512 (i) at least an annual \$1,000,000 per occurrence limit;
 - 2513 (ii) at least an annual \$2,000,000 aggregate limit; and
 - 2514 (iii) the following riders:
 - 2515 (A) general liability;
 - 2516 (B) assault and battery;
 - 2517 (C) personal injury;
 - 2518 (D) false arrest;
 - 2519 (E) libel and slander;
 - 2520 (F) invasion of privacy;
 - 2521 (G) broad form property damage;
 - 2522 (H) damage to property in the care, custody, or control of the security service provider;

2523 and

- 2524 (I) errors and omissions;
- 2525 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
2526 occurrence limit and that covers each security officer employed by the contract security
2527 company; and
- 2528 (d) maintains a federal employer identification number and an unemployment
2529 insurance employer account as required under state and federal law.

2530 [(H)] (14) "Identification card" means a personal pocket or wallet size card issued by
2531 the division to each armored car and armed or unarmed private security officer licensed under
2532 this chapter.

2533 [(H)] (15) "Law enforcement agency" means the same as that term is defined in
2534 Section 53-1-102.

2535 [(13)] "Owner" means an individual who is listed with the Division of Corporations and
2536 Commercial Code as a majority stockholder of a company, a general partner of a partnership,

2537 ~~or the proprietor of a sole proprietorship.]~~

2538 ~~[(14)]~~ (16) "Peace officer" means a person who:

2539 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer
2540 Classifications; and

2541 (b) derives total or special law enforcement powers from, and is an employee of, the
2542 federal government, the state, or a political subdivision, agency, department, branch, or service
2543 of either, of a municipality, or a unit of local government.

2544 ~~[(15)]~~ (17) "Regular basis" means at least 20 hours per month.

2545 ~~[(16)]~~ (18) "Responsible management personnel" means ~~[an individual who is~~
2546 ~~responsible for managing an applicant's operations.]:~~

2547 (a) a qualifying agent;

2548 (b) an operations manager; or

2549 (c) a site manager.

2550 ~~[(17)]~~ (19) (a) "Security officer" means an individual who is licensed as an armed or
2551 unarmed private security officer under this chapter and who:

2552 (i) is employed by a contract security company securing, guarding, or otherwise
2553 protecting tangible personal property, real property, or the life and well being of human or
2554 animal life against:

2555 (A) trespass or other unlawful intrusion or entry;

2556 (B) larceny;

2557 (C) vandalism or other abuse;

2558 (D) arson or other criminal activity; or

2559 (E) personal injury caused by another person or as a result of an act or omission by
2560 another person;

2561 (ii) is controlling, regulating, or directing the flow of movements of an individual or
2562 vehicle; or

2563 (iii) providing street patrol service.

2564 (b) "Security officer" does not include an individual whose duties include taking
2565 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
2566 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
2567 convention center, fairgrounds, public assembly facility, or mass gathering location if:

2568 (i) the individual carries out these duties without the use of specialized equipment;

2569 (ii) the authority of the individual is limited to denying entry or passage of another
2570 individual into or within the facility; and

2571 (iii) the individual is not authorized to use physical force in the performance of the
2572 individual's duties under this Subsection [~~(17)(b).~~] (19)(b).

2573 [~~(18)~~] (20) "Security service provider" means a contract security company or an
2574 armored car company licensed under this chapter.

2575 [~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed
2576 for:

2577 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
2578 the premises protected by the system; or

2579 (b) signaling the commission of criminal activity at the election of an individual having
2580 control of the features of the security system.

2581 [~~(20)~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of
2582 tangible personal property specifically designed for use in law enforcement or in providing
2583 security or guard services, or that is specially equipped with a device or feature designed for
2584 use in providing law enforcement, security, or guard services, but does not include:

2585 (a) standardized clothing, whether or not bearing a company name or logo, if the
2586 clothing does not bear the words "security" or "guard"; or

2587 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
2588 may be used without modification in providing security or guard services.

2589 [~~(21)~~] (23) "Street patrol service" means a contract security company that provides
2590 patrols by means of foot, vehicle, or other method of transportation using public streets,
2591 thoroughfares, or property in the performance of the company's duties and responsibilities.

2592 [~~(22)~~] (24) "Unarmed private security officer" means an individual:

2593 (a) employed by a contract security company;

2594 (b) whose primary duty is guarding personal or real property or providing protection or
2595 security to the life and well being of humans or animals;

2596 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
2597 performance of the individual's duties; and

2598 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,

2599 emblem, insignia, or other device that identifies the individual as a security officer.

2600 ~~[(23)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
2601 58-1-501 and 58-63-501.

2602 ~~[(24)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
2603 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

2604 Section 25. Section 58-63-302 is amended to read:

2605 **58-63-302. Qualifications for licensure.**

2606 (1) Each applicant for licensure as an armored car company or a contract security
2607 company shall:

2608 (a) submit an application in a form prescribed by the division;

2609 (b) pay a fee determined by the department under Section 63J-1-504;

2610 (c) have a qualifying agent who:

2611 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates
2612 that the applicant and the qualifying agent meet the requirements of this section;

2613 (ii) is a resident of the state ~~[and]~~;

2614 (iii) is responsible management personnel or ~~[an]~~ a company owner of the applicant;

2615 ~~[(iii)]~~ (iv) exercises material day-to-day authority in the conduct of the applicant's
2616 business by making substantive technical and administrative decisions and whose primary
2617 employment is with the applicant;

2618 ~~[(iv)]~~ (v) is not concurrently acting as a qualifying agent or employee of another
2619 armored car company or contract security company and is not engaged in any other
2620 employment on a regular basis;

2621 ~~[(v)]~~ (vi) is not involved in any activity that would conflict with the qualifying agent's
2622 duties and responsibilities under this chapter to ensure that the qualifying agent's and the
2623 applicant's performance under this chapter does not jeopardize the health or safety of the
2624 general public;

2625 ~~[(vi)]~~ (vii) is not an employee of a government agency;

2626 ~~[(vii)]~~ (viii) passes an examination component established by rule by the division in
2627 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
2628 Rulemaking Act; and

2629 ~~[(viii)]~~ (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,

2630 supervisor, or administrator of an armored car company or a contract security company; or

2631 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
2632 collaboration with the board with a federal, United States military, state, county, or municipal
2633 law enforcement agency;

2634 (d) provide the name, address, date of birth, social security number, fingerprint card,
2635 and consent to a criminal background check in accordance with Section 58-55-302.1 and
2636 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah
2637 Administrative Rulemaking Act, for each company officer, company owner, company
2638 proprietor, company trustee, and responsible management personnel with direct responsibility
2639 for managing operations of the applicant within the state;

2640 ~~[(d) if a corporation, provide:]~~

2641 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~
2642 ~~officers, directors, and responsible management personnel; and]~~

2643 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~
2644 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~
2645 ~~the division if the stock is publicly listed and traded;]~~

2646 ~~[(e) if a limited liability company, provide:]~~

2647 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~
2648 ~~officers, and responsible management personnel; and]~~

2649 ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~
2650 ~~owning 5% or more of the equity of the company;]~~

2651 ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~
2652 ~~numbers of all general partners, and responsible management personnel;]~~

2653 ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~
2654 ~~numbers of the proprietor, and responsible management personnel;]~~

2655 ~~[(h) (e) have [good moral character in that officers, directors, shareholders described~~
2656 ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~
2657 company officers, company owners, company proprietors, company trustees, and responsible
2658 management personnel who have not been convicted of:

2659 (i) a felony; or

2660 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

2661 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of a contract
 2662 security company or an armored car company by the division and the board indicates that the
 2663 best interests of the public are not served by granting the applicant a license;

2664 ~~[(i)]~~ (f) document that none of the ~~[applicant's officers, directors, shareholders~~
 2665 ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~
 2666 ~~personnel]~~ persons described in Subsection (1)(e):

2667 (i) have been declared by a court of competent jurisdiction incompetent by reason of
 2668 mental defect or disease and not been restored; ~~and~~ or

2669 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

2670 ~~[(j)]~~ (g) file and maintain with the division evidence of:

2671 (i) comprehensive general liability insurance in a form and in amounts established by
 2672 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter
 2673 3, Utah Administrative Rulemaking Act;

2674 (ii) workers' compensation insurance that covers employees of the applicant in
 2675 accordance with applicable Utah law;

2676 (iii) registration with the Division of Corporations and Commercial Code; and

2677 (iv) registration as required by applicable law with the:

2678 (A) Unemployment Insurance Division in the Department of Workforce Services, for
 2679 purposes of Title 35A, Chapter 4, Employment Security Act;

2680 (B) State Tax Commission; and

2681 (C) Internal Revenue Service; and

2682 ~~[(k)]~~ (h) meet with the division and board if requested by the division or board.

2683 (2) Each applicant for licensure as an armed private security officer ~~[shall]~~:

2684 (a) shall submit an application in a form prescribed by the division;

2685 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2686 (c) ~~[have good moral character in that the applicant has not]~~ may not have been
 2687 convicted of:

2688 (i) a felony; or

2689 ~~[(ii) a misdemeanor involving moral turpitude; or]~~

2690 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an armed
 2691 private security officer by the division and the board indicates that the best interests of the

2692 public are not served by granting the applicant a license;

2693 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
2694 Sec. 922(g);

2695 (e) may not have been declared incompetent by a court of competent jurisdiction by
2696 reason of mental defect or disease and not been restored;

2697 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
2698 dependence;

2699 (g) shall successfully complete basic education and training requirements established
2700 by rule by the division in collaboration with the board and in accordance with Title 63G,
2701 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
2702 hours of classroom or online curriculum;

2703 (h) shall successfully complete firearms training requirements established by rule by
2704 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
2705 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

2706 (i) shall pass the examination requirement established by rule by the division in
2707 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
2708 Administrative Rulemaking Act;

2709 (j) shall submit to and pass a background check in accordance with Section
2710 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
2711 Chapter 3, Utah Administrative Rulemaking Act; and

2712 [~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.

2713 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

2714 (a) shall submit an application in a form prescribed by the division;

2715 (b) shall pay a fee determined by the department under Section 63J-1-504;

2716 (c) [~~have good moral character in that the applicant has not~~] may not have been
2717 convicted of:

2718 (i) a felony; or

2719 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2720 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an

2721 unarmed private security officer by the division and the board indicates that the best interests of
2722 the public are not served by granting the applicant a license;

- 2723 (d) may not have been declared incompetent by a court of competent jurisdiction by
 2724 reason of mental defect or disease and not been restored;
- 2725 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
 2726 dependence;
- 2727 (f) shall successfully complete basic education and training requirements established
 2728 by rule by the division in collaboration with the board and in accordance with Title 63G,
 2729 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
 2730 hours of classroom or online curriculum;
- 2731 (g) shall pass the examination requirement established by rule by the division in
 2732 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
 2733 Administrative Rulemaking Act;
- 2734 (h) shall submit to and pass a background check in accordance with Section
 2735 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
 2736 Chapter 3, Utah Administrative Rulemaking Act; and
- 2737 ~~[(h)]~~ (i) shall meet with the division and board if requested by the division or board.
- 2738 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:
- 2739 (a) shall submit an application in a form prescribed by the division;
- 2740 (b) shall pay a fee determined by the department under Section 63J-1-504;
- 2741 (c) [~~have good moral character in that the applicant has not~~] may not have been
 2742 convicted of:
- 2743 (i) a felony; or
- 2744 [~~(ii) a misdemeanor involving moral turpitude; or~~]
- 2745 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of an
 2746 armored car security officer by the division and the board indicates that the best interests of the
 2747 public are not served by granting the applicant a license;
- 2748 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
 2749 Sec. 922(g);
- 2750 (e) may not have been declared incompetent by a court of competent jurisdiction by
 2751 reason of mental defect or disease and not been restored;
- 2752 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
 2753 dependence;

2754 (g) shall successfully complete basic education and training requirements established
2755 by rule by the division in collaboration with the board and in accordance with Title 63G,
2756 Chapter 3, Utah Administrative Rulemaking Act;

2757 (h) shall successfully complete firearms training requirements established by rule by
2758 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
2759 Administrative Rulemaking Act;

2760 (i) shall pass the examination requirements established by rule by the division in
2761 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
2762 Administrative Rulemaking Act;

2763 (j) shall submit to and pass a background check in accordance with Section
2764 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
2765 Chapter 3, Utah Administrative Rulemaking Act; and

2766 [(j)] (k) shall meet with the division and board if requested by the division or the board.

2767 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2768 division may make a rule establishing when the division shall request a Federal Bureau of
2769 Investigation records' review for an applicant who is applying for licensure or licensure renewal
2770 under this chapter.

2771 [~~(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),~~
2772 ~~(3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint~~
2773 ~~cards to the Department of Public Safety with the division's request to:]~~

2774 [~~(a) conduct a search of records of the Department of Public Safety for criminal history~~
2775 ~~information relating to each applicant for licensure under this chapter and each applicant's~~
2776 ~~officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and~~
2777 ~~responsible management personnel; and]~~

2778 [~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2779 ~~requiring a check of records of the FBI for criminal history information under this section.]~~

2780 [~~(7) The Department of Public Safety shall send the division:]~~

2781 [~~(a) a written record of criminal history, or certification of no criminal history record,~~
2782 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2783 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2784 ~~records; and]~~

2785 ~~[(b) the results of the FBI review concerning an applicant in a timely manner after~~
2786 ~~receipt of information from the FBI.]~~

2787 ~~[(8)(a) The division shall charge each applicant a fee, in accordance with Section~~
2788 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2789 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
2790 ~~reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews~~
2791 ~~under this chapter.]~~

2792 ~~[(9) The division shall use or disseminate the information it obtains from the reviews~~
2793 ~~of criminal history records of the Department of Public Safety and the FBI only to determine if~~
2794 ~~an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]~~

2795 Section 26. Section **58-63-302.1** is enacted to read:

2796 **58-63-302.1. Criminal background check.**

2797 (1) An applicant for licensure under this chapter who requires a criminal background
2798 check shall:

2799 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2800 application is filed; and

2801 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2802 Identification and the Federal Bureau of Investigation regarding the application.

2803 (2) The division shall:

2804 (a) in addition to other fees authorized by this chapter, collect from each applicant
2805 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2806 Identification is authorized to collect for the services provided under Section 53-10-108 and the
2807 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2808 obtaining federal criminal history record information;

2809 (b) submit from each applicant the fingerprint card and the fees described in
2810 Subsection (2)(a) to the Bureau of Criminal Identification; and

2811 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2812 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2813 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2814 Section 53-10-108:

2815 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state

2816 and regional criminal records databases;

2817 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2818 criminal history background check; and

2819 (c) provide the results from the state, regional, and nationwide criminal history
2820 background checks to the division.

2821 (4) For purposes of conducting a criminal background check required under this
2822 section, the division shall have direct access to criminal background information maintained
2823 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2824 (5) The division may not disseminate outside of the division any criminal history
2825 record information that the division obtains from the Bureau of Criminal Identification or the
2826 Federal Bureau of Investigation under the criminal background check requirements of this
2827 section.

2828 (6) (a) A new license issued under Section 58-63-302 is conditional pending
2829 completion of the criminal background check.

2830 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2831 criminal background check required in Section 58-68-302 demonstrates the applicant or the
2832 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2833 responsible management personnel has failed to accurately disclose a criminal history, the
2834 license is immediately and automatically revoked upon notice to the licensee by the division.

2835 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2836 entitled to a postrevocation hearing to challenge the revocation.

2837 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
2838 Chapter 4, Administrative Procedures Act.

2839 Section 27. Section **58-64-302** is amended to read:

2840 **58-64-302. Qualifications for licensure.**

2841 (1) Each applicant for licensure as a deception detection examiner:

2842 (a) shall submit an application in a form prescribed by the division;

2843 (b) shall pay a fee determined by the department under Section **63J-1-504**;

2844 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
2845 ~~turpitude,~~ or any other crime that when considered with the duties and responsibilities of a
2846 deception detection examiner is considered by the division to indicate that the best interests of

2847 the public will not be served by granting the applicant a license;

2848 (d) may not have been declared by any court of competent jurisdiction incompetent by
2849 reason of mental defect or disease and not been restored;

2850 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
2851 dependence;

2852 (f) shall have completed one of the following:

2853 (i) have earned a bachelor's degree from a four year university or college meeting
2854 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
2855 Utah Administrative Rulemaking Act;

2856 (ii) have completed not less than 8,000 hours of investigation experience approved by
2857 the division; or

2858 (iii) have completed a combination of university or college education and investigation
2859 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
2860 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
2861 Subsection (1)(f)(i) or (1)(f)(ii);

2862 (g) shall have successfully completed a training program in deception detection
2863 meeting criteria established by rule made by the division~~[, and]~~ in accordance with Title 63G,
2864 Chapter 3, Utah Administrative Rulemaking Act;

2865 (h) shall submit to and pass a background check in accordance with Section
2866 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,
2867 Chapter 3, Utah Administrative Rulemaking Act; and

2868 ~~[(h)]~~ (i) shall have performed satisfactorily as a licensed deception detection intern for
2869 a period of not less than one year and shall have satisfactorily conducted not less than 100
2870 deception detection examinations under the supervision of a licensed deception detection
2871 examiner.

2872 (2) Each applicant for licensure as a deception detection intern:

2873 (a) shall submit an application in a form prescribed by the division;

2874 (b) shall pay a fee determined by the department under Section 63J-1-504;

2875 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~
2876 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a
2877 deception detection intern is considered by the division to indicate that the best interests of the

2878 public will not be served by granting the applicant a license;

2879 (d) may not have been declared by any court of competent jurisdiction incompetent by
2880 reason of mental defect or disease and not been restored;

2881 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
2882 dependence;

2883 (f) shall have completed one of the following:

2884 (i) have earned a bachelor's degree from a four year university or college meeting
2885 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
2886 Utah Administrative Rulemaking Act;

2887 (ii) have completed not less than 8,000 hours of investigation experience approved by
2888 the division; or

2889 (iii) have completed a combination of university or college education and investigation
2890 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
2891 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
2892 Subsection (2)(f)(i) or (2)(f)(ii);

2893 (g) shall have successfully completed a training program in deception detection
2894 meeting criteria established by rule made by the division~~[, and]~~ in accordance with Title 63G,
2895 Chapter 3, Utah Administrative Rulemaking Act;

2896 (h) shall submit to and pass a background check in accordance with Section
2897 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,
2898 Chapter 3, Utah Administrative Rulemaking Act; and

2899 ~~[(h)]~~ (i) shall provide the division with an intern supervision agreement in a form
2900 prescribed by the division under which:

2901 (i) a licensed deception detection examiner agrees to supervise the intern; and

2902 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

2903 (3) Each applicant for licensure as a deception detection examination administrator:

2904 (a) shall submit an application in a form prescribed by the division;

2905 (b) shall pay a fee determined by the department under Section 63J-1-504;

2906 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~
2907 ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a
2908 deception detection examination administrator is considered by the division to indicate that the

2909 best interests of the public will not be served by granting the applicant a license;

2910 (d) may not have been declared by a court of competent jurisdiction incompetent by
2911 reason of mental defect or disease and not been restored;

2912 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
2913 dependence;

2914 (f) shall have earned an associate degree from a state-accredited university or college or
2915 have an equivalent number of years' work experience; [and]

2916 (g) shall submit to and pass a background check in accordance with Section
2917 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
2918 [Chapter 3, Utah Administrative Rulemaking Act](#); and

2919 ~~[(g)]~~ (h) shall have successfully completed a training program and have obtained
2920 certification in deception detection examination administration provided by the manufacturer
2921 of a scientific or technology-based software application solution that is approved by the
2922 director.

2923 ~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c),~~
2924 ~~or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the~~
2925 ~~Department of Public Safety with the division's request to:]~~

2926 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~
2927 ~~information relating to each applicant for licensure under this chapter; and]~~

2928 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2929 ~~requiring a check of records of the F.B.I. for criminal history information under this section.]~~

2930 ~~[(5) The Department of Public Safety shall send to the division:]~~

2931 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~
2932 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2933 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2934 ~~records; and]~~

2935 ~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after~~
2936 ~~receipt of information from the F.B.I.]~~

2937 ~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section~~
2938 ~~[63J-1-504](#), equal to the cost of performing the records reviews under this section.]~~

2939 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~

2940 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews
2941 under this chapter.]

2942 [~~(7) Information obtained by the division from the reviews of criminal history records~~
2943 ~~of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division~~
2944 ~~only for the purpose of determining if an applicant for licensure under this chapter is qualified~~
2945 ~~for licensure.~~]

2946 Section 28. Section **58-64-302.1** is enacted to read:

2947 **58-64-302.1. Criminal background check.**

2948 (1) An applicant for licensure under this chapter who requires a criminal background
2949 check shall:

2950 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2951 application is filed; and

2952 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2953 Identification and the Federal Bureau of Investigation regarding the application.

2954 (2) The division shall:

2955 (a) in addition to other fees authorized by this chapter, collect from each applicant
2956 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2957 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the
2958 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2959 obtaining federal criminal history record information;

2960 (b) submit from each applicant the fingerprint card and the fees described in
2961 Subsection (2)(a) to the Bureau of Criminal Identification; and

2962 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2963 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

2964 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2965 Section [53-10-108](#):

2966 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2967 and regional criminal records databases;

2968 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2969 criminal history background check; and

2970 (c) provide the results from the state, regional, and nationwide criminal history

2971 background checks to the division.

2972 (4) For purposes of conducting a criminal background check required under this
2973 section, the division shall have direct access to criminal background information maintained
2974 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2975 (5) The division may not disseminate outside of the division any criminal history
2976 record information that the division obtains from the Bureau of Criminal Identification or the
2977 Federal Bureau of Investigation under the criminal background check requirements of this
2978 section.

2979 (6) (a) A new license issued under Section 58-64-302 is conditional pending
2980 completion of the criminal background check.

2981 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2982 criminal background check required in Section 58-64-302 demonstrates the applicant or the
2983 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2984 responsible management personnel has failed to accurately disclose a criminal history, the
2985 license is immediately and automatically revoked upon notice to the licensee by the division.

2986 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2987 entitled to a postrevocation hearing to challenge the revocation.

2988 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
2989 Chapter 4, Administrative Procedures Act.