

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 ▶ removes provisions prohibiting the division from issuing or renewing a nurse's
- 32 license for past criminal convictions;
- 33 ▶ modifies licensing requirements for certain funeral service establishments and
- 34 professionals, landscape architects, security personnel, and deception detection
- 35 examiners;
- 36 ▶ modifies background check requirements for licensed pharmacies, alarm companies,
- 37 security car companies, and deception detector examiners;
- 38 ▶ grants administrative rulemaking authority; and
- 39 ▶ makes technical changes.

40 Money Appropriated in this Bill:

41 None

42 Other Special Clauses:

43 None

44 Utah Code Sections Affected:

45 AMENDS:

46 **58-1-108**, as last amended by Laws of Utah 2008, Chapter 382

47 **58-1-109**, as last amended by Laws of Utah 2016, Chapter 238

48 **58-1-201**, as last amended by Laws of Utah 2013, Chapter 262

49 **58-1-202**, as last amended by Laws of Utah 2022, Chapter 415

50 **58-1-301**, as last amended by Laws of Utah 2022, Chapters 413, 415

51 **58-1-301.5**, as last amended by Laws of Utah 2022, Chapters 221, 438 and 466

52 **58-1-501**, as last amended by Laws of Utah 2020, Chapters 289, 339

53 **58-1-506**, as last amended by Laws of Utah 2016, Chapter 75

54 **58-9-306**, as last amended by Laws of Utah 2007, Chapter 144

55 **58-17b-102**, as last amended by Laws of Utah 2021, Chapters 127, 340

56 **58-17b-306**, as last amended by Laws of Utah 2017, Chapter 384

- 57 [58-17b-307](#), as last amended by Laws of Utah 2018, Chapter 318
- 58 [58-17b-625](#), as last amended by Laws of Utah 2021, Chapter 340
- 59 [58-31b-102](#), as last amended by Laws of Utah 2022, Chapter 277
- 60 [58-31b-302](#), as last amended by Laws of Utah 2022, Chapter 277
- 61 [58-31b-502](#), as last amended by Laws of Utah 2022, Chapter 290
- 62 [58-31b-803](#), as last amended by Laws of Utah 2022, Chapter 274
- 63 [58-53-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 64 [58-54-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 65 [58-55-102](#), as last amended by Laws of Utah 2022, Chapters 415, 446
- 66 [58-55-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 67 [58-55-303](#), as last amended by Laws of Utah 2013, Chapter 57
- 68 [58-55-503](#), as last amended by Laws of Utah 2022, Chapter 415
- 69 [58-63-102](#), as last amended by Laws of Utah 2022, Chapter 415
- 70 [58-63-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 71 [58-64-302](#), as last amended by Laws of Utah 2020, Chapters 154, 339

72 ENACTS:

- 73 [58-55-302.1](#), Utah Code Annotated 1953
- 74 [58-63-302.1](#), Utah Code Annotated 1953
- 75 [58-64-302.1](#), Utah Code Annotated 1953



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

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

79 **58-1-108. Adjudicative proceedings.**

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

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

88 is proposed.

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

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

94 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
95 **orders -- Appeal of orders.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

147 (9) The content of all orders shall comply with the requirements of Subsection
148 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

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

150 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**
151 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**
152 **professional school that teaches continuing education prohibited.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

198 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
199 63A-3-107.

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

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

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

207 **58-1-202. Boards -- Duties, functions, and responsibilities.**

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

210 (a) recommending to the director appropriate rules and statutory changes to improve
211 the health, safety, and financial welfare of the public, including changes to remove regulations

212 that are no longer necessary or effective in protecting the public and enhancing commerce;
213 (b) recommending to the director policy and budgetary matters;
214 (c) approving and establishing a passing score for applicant examinations;
215 (d) screening applicants and recommending licensing, renewal, reinstatement, and
216 relicensure actions to the director in writing;
217 (e) assisting the director in establishing standards of supervision for students or persons
218 in training to become qualified to obtain a license in the [~~occupation or~~] profession [it] the
219 board represents; and
220 (f) in accordance with Section 58-1-109, acting as presiding officer in conducting
221 hearings associated with adjudicative proceedings and in issuing recommended orders when so
222 designated by the director.

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

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

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

- 229 (i) require a board's approval to amend a practice act; [~~and~~] or
- 230 (ii) apply to technical or clarifying amendments to a practice act.

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

232 **58-1-301. License application -- Licensing procedure.**

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

235 (b) Each completed application shall:

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

239 (ii) include the applicant's:

240 (A) full legal name; and

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

243 Administrative Rulemaking Act;

244 (iii) be verified by the applicant; and

245 (iv) be accompanied by the appropriate fees.

246 (c) An applicant's social security number is a private record under Subsection

247 [63G-2-302](#)(1)(i).

248 (d) The division may designate an applicant's evidence of identity under Subsection

249 (1)(b)(ii)(B) as a private record in accordance with Section [63G-2-302](#).

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

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

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

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

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

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

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

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

274 a time-based licensing requirement at demonstrating proficiency and protecting the health and
275 safety of the public.

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

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

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

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

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

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

296 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

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

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

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

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

305 Practice Act;

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

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

308 (g) Section [58-55-302](#), as Section [58-55-302](#) applies to alarm companies and alarm
309 company agents, and Section [58-55-302.1](#);

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

312 (i) Sections [58-61-304](#) and [58-61-304.1](#);

313 (j) ~~[Section]~~ Sections [58-63-302](#) and [58-63-302.1](#);

314 (k) ~~[Section]~~ Sections [58-64-302](#) and [58-64-302.1](#);

315 (l) Sections [58-67-302](#) and [58-67-302.1](#); and

316 (m) Sections [58-68-302](#) and [58-68-302.1](#).

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

318 (a) shall meet the requirements of Section [53-10-108](#); and

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

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

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

326 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

335 (b) (i) impersonating another licensee or practicing ~~[an occupation or]~~ a profession

336 under a false or assumed name, except as permitted by law; or

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

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

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

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

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

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

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

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

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

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

367 includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

429 (ii) the conviction was for:

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

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

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

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

436 **58-1-506. Supervision of cosmetic medical procedures.**

437 (1) For purposes of this section:

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

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

443 (ii) a registered nurse;

444 (iii) a master esthetician; and

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

446 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

459 (e) "Hair removal review" means:

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

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

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

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

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

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

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

473 (iv) is available to:

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

475 and

476 (B) evaluate the patient, as necessary.

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

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

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

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

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

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

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

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

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

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

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

502 (B) physiology of the skin;

503 (C) skin typing and analysis;

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

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

506 (F) infection control;

507 (G) laser and light physics training;

508 (H) laser technologies and applications;

509 (I) safety and maintenance of lasers;

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

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

512 (L) cardiopulmonary resuscitation (CPR).

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

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

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

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

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

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

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

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

534 (c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

572 **58-9-306. License by endorsement.**

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

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

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

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

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

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

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

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

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

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

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

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

591 **58-17b-102. Definitions.**

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

593 (1) "Administering" means:

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

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

601 (2) "Adulterated drug or device" means a drug or device considered adulterated under
602 21 U.S.C. Sec. 351 (2003).

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

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

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

613 (5) "Automated pharmacy systems" includes mechanical systems which perform
614 operations or activities, other than compounding or administration, relative to the storage,

615 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
616 all transaction information.

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

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

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

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

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

633 (11) "Class B pharmacy":

634 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

670 (b) "Compounding" does not include:

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

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

676 (iii) the preparation of a prescription drug, sterile product, or device which has been

677 withdrawn from the market for safety reasons.

678 (19) "Confidential information" has the same meaning as "protected health
679 information" under the Standards for Privacy of Individually Identifiable Health Information,
680 45 C.F.R. Parts 160 and 164.

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

682 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
683 417, Sec. 3a(ff) which is incorporated by reference.

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

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

689 (a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

717 (i) known allergies;

718 (ii) rational therapy-contraindications;

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

720 (iv) reasonable directions for use;

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

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

725 (i) drug-drug;

726 (ii) drug-food;

727 (iii) drug-disease; and

728 (iv) adverse drug reactions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

768 (38) "Misbranded drug or device" means a drug or device considered misbranded under
769 21 U.S.C. Sec. 352 (2003).

- 770 (39) (a) "Nonprescription drug" means a drug which:
771 (i) may be sold without a prescription; and
772 (ii) is labeled for use by the consumer in accordance with federal law.
773 (b) "Nonprescription drug" includes homeopathic remedies.
- 774 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
775 person in Utah.
- 776 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.
- 777 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located
778 outside the state that is licensed and in good standing in another state, that:
779 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
780 this state pursuant to a lawfully issued prescription;
781 (b) provides information to a patient in this state on drugs or devices which may
782 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
783 or
784 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic
785 effects of drugs.
- 786 (43) "Patient counseling" means the written and oral communication by the pharmacist
787 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
788 drugs, devices, and dietary supplements.
- 789 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in
790 which:
791 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
792 the facility or agency for administration to patients of that facility or agency;
793 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
794 or pharmacy intern with whom the facility has established a prescription drug supervising
795 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
796 or agency staff as required, and oversees drug control, accounting, and destruction; and
797 (c) prescription drugs are professionally administered in accordance with the order of a
798 practitioner by an employee or agent of the facility or agency.
- 799 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
800 prescribing practitioner, and in accordance with division rule:

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

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

805 (iii) arresting or slowing a disease process.

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

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

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

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

817 (i) intracompany sales;

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

822 (A) hospitals;

823 (B) pharmacies;

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

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

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

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

- 832 (B) the quantity of the drug does not exceed an amount reasonably required for
833 immediate dispensing to eliminate the risk of harm;
- 834 (iv) the distribution of a prescription drug or device as a sample by representatives of a
835 manufacturer; and
- 836 (v) the distribution of prescription drugs, if:
- 837 (A) the facility's total distribution-related sales of prescription drugs does not exceed
838 5% of the facility's total prescription drug sales; and
- 839 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.
- 840 (48) "Pharmacist" means an individual licensed by this state to engage in the practice
841 of pharmacy.
- 842 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
843 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
844 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
845 in full and actual charge of the pharmacy and all personnel.
- 846 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
847 more years of licensed experience. The preceptor serves as a teacher, example of professional
848 conduct, and supervisor of interns in the professional practice of pharmacy.
- 849 (51) "Pharmacy" means any place where:
- 850 (a) drugs are dispensed;
- 851 (b) pharmaceutical care is provided;
- 852 (c) drugs are processed or handled for eventual use by a patient; or
- 853 (d) drugs are used for the purpose of analysis or research.
- 854 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
855 provides a pharmacy benefits management service as defined in Section [31A-46-102](#) on behalf
856 of a self-insured employer, insurance company, health maintenance organization, or other plan
857 sponsor, as defined by rule.
- 858 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice
859 as a pharmacy intern.
- 860 (54) "Pharmacy manager" means:
- 861 (a) a pharmacist-in-charge;
- 862 (b) a licensed pharmacist designated by a licensed pharmacy to consult on the

863 pharmacy's administration;

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

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

866 (e) an immediate supervisor of an individual described in Subsections (54)(a) through

867 (d); or

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

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

871 ~~[(55)]~~ (56) (a) "Practice as a dispensing medical practitioner" means the practice of
872 pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part
873 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
874 division rule adopted after consultation with the Board of pharmacy and the governing boards
875 of the practitioners described in Subsection (23)(a).

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

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

878 or

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

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

885 ~~[(57)]~~ (58) "Practice of pharmacy" includes the following:

886 (a) providing pharmaceutical care;

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

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

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

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

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

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

899 (d) participating in drug utilization review;

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

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

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

905 (h) providing drug product equivalents;

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

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

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

910 (l) telepharmacy;

911 (m) formulary management intervention;

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

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

915 [~~58~~] (59) "Practice of telepharmacy" means the practice of pharmacy through the use
916 of telecommunications and information technologies.

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

921 [~~60~~] (61) "Practitioner" means an individual currently licensed, registered, or
922 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the
923 course of professional practice.

924 [~~61~~] (62) "Prescribe" means to issue a prescription:

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

928 [~~(62)~~] (63) "Prescription" means an order issued:

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

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

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

938 [~~(64)~~] (65) "Prescription drug" means a drug that is required by federal or state law or
939 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

940 [~~(65)~~] (66) "Repackage":

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

943 (b) does not include:

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

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

949 [~~(66)~~] (67) "Research using pharmaceuticals" means research:

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

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

955 (c) that uses the controlled substance, prescription drug, or prescription device in

956 accordance with standard research protocols and techniques, including, if required, those
957 approved by an institutional review committee; and

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

960 ~~[(67)]~~ (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription
961 drugs and devices to the general public.

962 ~~[(68)]~~ (69) (a) "Self-administered hormonal contraceptive" means a self-administered
963 hormonal contraceptive that is approved by the United States Food and Drug Administration to
964 prevent pregnancy.

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

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

969 ~~[(69)]~~ (70) "Self-audit" means an internal evaluation of a pharmacy to determine
970 compliance with this chapter.

971 ~~[(70)]~~ (71) "Supervising pharmacist" means a pharmacist who is overseeing the
972 operation of the pharmacy during a given day or shift.

973 ~~[(71)]~~ (72) "Supportive personnel" means unlicensed individuals who:

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

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

981 ~~[(72)]~~ (73) "Unlawful conduct" means the same as that term is defined in Sections
982 58-1-501 and 58-17b-501.

983 ~~[(73)]~~ (74) "Unprofessional conduct" means the same as that term is defined in
984 Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

985 ~~[(74)]~~ (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
986 dispenses drugs intended for use by animals or for sale to veterinarians for the administration

987 for animals.

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

989 **58-17b-306. Qualifications for licensure as a pharmacy.**

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

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

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

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

999 (d) demonstrate the licensee's operations will be in accordance with all federal, state,
1000 and local laws relating to the type of activity engaged in by the licensee, including regulations
1001 of the Federal Drug Enforcement Administration and Food and Drug Administration;

1002 (e) maintain operating standards established by division rule made in collaboration
1003 with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative
1004 Rulemaking Act;

1005 (f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint
1006 background check in accordance with Section [58-17b-307](#); and

1007 [~~(f)~~] (g) acknowledge the division's authority to inspect the licensee's business premises
1008 pursuant to Section [58-17b-103](#).

1009 (2) Each applicant applying for a class D license shall:

1010 (a) submit a written application in the form prescribed by the division;

1011 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1012 (c) present to the division verification of licensure in the state where physically located
1013 and verification that such license is in good standing;

1014 (d) satisfy the division that the applicant and each of the applicant's pharmacy
1015 managers has not engaged in any act, practice, or omission, which when considered with the
1016 duties and responsibilities of a licensee under this section, indicates there is cause to believe
1017 that issuing a license to the applicant is inconsistent with the interest of the public's health,

1018 safety, or welfare;

1019 (e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint
1020 background check in accordance with Section 58-17b-307;

1021 ~~(f)~~ (f) provide a statement of the scope of pharmacy services that will be provided
1022 and a detailed description of the protocol as described by rule by which pharmacy care will be
1023 provided, including any collaborative practice arrangements with other health care
1024 practitioners;

1025 ~~(g)~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the
1026 applicant and physically located in Utah have the appropriate license issued by the division and
1027 in good standing;

1028 ~~(h)~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws
1029 and regulations of the jurisdiction in which the pharmacy is located; and

1030 ~~(i)~~ (i) if an applicant engages in compounding, submit the most recent inspection
1031 report:

1032 (i) conducted within two years before the application for licensure; and

1033 (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified
1034 Pharmacy Program; or

1035 (B) performed by the state licensing agency of the state in which the applicant is a
1036 resident and in accordance with the National Association of Boards of Pharmacy multistate
1037 inspection blueprint program.

1038 (3) Each license issued under this section shall be issued for a single, specific address,
1039 and is not transferable or assignable.

1040 Section 12. Section **58-17b-307** is amended to read:

1041 **58-17b-307. Qualification for licensure -- Criminal background checks.**

1042 (1) An individual applicant for licensure under this chapter shall:

1043 (a) submit fingerprint cards in a form acceptable to the division at the time the license
1044 application is filed; and

1045 (b) in accordance with this section and requirements established by rule made in
1046 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a
1047 fingerprint background check regarding the application conducted by the:

1048 (i) Utah Bureau of Criminal Identification; and

1049 (ii) Federal Bureau of Investigation.

1050 (2) An applicant for licensure as a pharmacy under this chapter shall submit the
1051 information described in Subsection (1) for each of the applicant's pharmacy managers.

1052 [~~2~~] (3) The division shall:

1053 (a) in addition to other fees authorized by this chapter, collect from each applicant
1054 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
1055 Identification is authorized to collect for the services provided under Section 53-10-108 and the
1056 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
1057 obtaining federal criminal history record information;

1058 (b) submit from each applicant the fingerprint card and the fees described in
1059 Subsection (2)(a) to the Bureau of Criminal Identification; and

1060 (c) obtain and retain in division records, a signed waiver approved by the Bureau of
1061 Criminal Identification in accordance with Section 53-10-108 for each [~~applicant~~] individual
1062 who requires a background check under this section.

1063 [~~3~~] (4) The Bureau of Criminal Identification shall, in accordance with the
1064 requirements of Section 53-10-108:

1065 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
1066 and regional criminal records databases;

1067 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
1068 criminal history background check; and

1069 (c) provide the results from the state, regional, and nationwide criminal history
1070 background checks to the division.

1071 [~~4~~] (5) For purposes of conducting the criminal background check required in
1072 Subsection (1), the division shall have direct access to criminal background information
1073 maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1074 [~~5~~] (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician
1075 license issued under this section is conditional, pending completion of the criminal background
1076 [~~check~~] checks.

1077 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
1078 criminal background check required in Subsection [~~(1)~~] (1) discloses that the applicant or the
1079 applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is

1080 immediately and automatically revoked upon notice to the licensee by the division.

1081 ~~[(6)]~~ (7) (a) A person whose conditional license has been revoked under Subsection
1082 ~~[(5)]~~ (6) is entitled to a postrevocation hearing to challenge the revocation.

1083 (b) The division shall conduct a postrevocation hearing in accordance with Title 63G,
1084 Chapter 4, Administrative Procedures Act.

1085 ~~[(7)]~~ (8) The division may not disseminate outside of the division any criminal history
1086 record information that the division obtains from the Bureau of Criminal Identification or the
1087 Federal Bureau of Investigation under the criminal background check requirements of this
1088 section.

1089 Section 13. Section **58-17b-625** is amended to read:

1090 **58-17b-625. Administration of a long-acting injectable and naloxone.**

1091 (1) A pharmacist may, in accordance with this section, administer a drug described in
1092 Subsection (2).

1093 (2) Notwithstanding the provisions of Subsection ~~[58-17b-102(57)(c)(ii)(B)]~~
1094 ~~58-17b-102(58)(c)(ii)(B)~~, the division shall make rules in collaboration with the board and,
1095 when appropriate, the Physicians Licensing Board created in Section ~~58-67-201~~, and in
1096 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
1097 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1098 (3) A pharmacist may not administer naloxone or a long-acting injectable
1099 intramuscularly unless the pharmacist:

1100 (a) completes the training described in Subsection (2);

1101 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
1102 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
1103 Administrative Rulemaking Act; and

1104 (c) is directed by the physician, as that term is defined in Section ~~58-67-102~~ or Section
1105 ~~58-68-102~~, who issues the prescription to administer the drug.

1106 Section 14. Section **58-31b-102** is amended to read:

1107 **58-31b-102. Definitions.**

1108 In addition to the definitions in Section ~~58-1-102~~, as used in this chapter:

1109 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
1110 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a

1111 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
1112 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
1113 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1114 (2) "Applicant" means an individual who applies for licensure or certification under
1115 this chapter by submitting a completed application for licensure or certification and the
1116 required fees to the department.

1117 (3) "Approved education program" means a nursing education program that is
1118 accredited by an accrediting body for nursing education that is approved by the United States
1119 Department of Education.

1120 (4) "Board" means the Board of Nursing created in Section [58-31b-201](#).

1121 (5) "Diagnosis" means the identification of and discrimination between physical and
1122 psychosocial signs and symptoms essential to the effective execution and management of
1123 health care.

1124 (6) "Examinee" means an individual who applies to take or does take any examination
1125 required under this chapter for licensure.

1126 (7) "Licensee" means an individual who is licensed or certified under this chapter.

1127 (8) "Long-term care facility" means any of the following facilities licensed by the
1128 Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
1129 Inspection Act:

1130 (a) a nursing care facility;

1131 (b) a small health care facility;

1132 (c) an intermediate care facility for people with an intellectual disability;

1133 (d) an assisted living facility Type I or II; or

1134 (e) a designated swing bed unit in a general hospital.

1135 (9) "Medication aide certified" means a certified nurse aide who:

1136 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

1137 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training

1138 that is approved by the division in collaboration with the board, in administering routine

1139 medications to patients or residents of long-term care facilities; and

1140 (c) is certified by the division as a medication aide certified.

1141 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing

1142 under the supervision, as defined by the division by rule made in accordance with Title 63G,
1143 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
1144 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
1145 an individual who:

1146 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
1147 disability; and

1148 (ii) is in a regulated long-term care facility.

1149 (b) "Practice as a medication aide certified":

1150 (i) includes:

1151 (A) providing direct personal assistance or care; and

1152 (B) administering routine medications to patients in accordance with a formulary and
1153 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
1154 Utah Administrative Rulemaking Act; and

1155 (ii) does not include assisting a resident of an assisted living facility, a long term care
1156 facility, or an intermediate care facility for people with an intellectual disability to self
1157 administer a medication, as regulated by the Department of Health by rule made in accordance
1158 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1159 (11) "Practice of advanced practice registered nursing" means the practice of nursing
1160 within the generally recognized scope and standards of advanced practice registered nursing as
1161 defined by rule and consistent with professionally recognized preparation and education
1162 standards of an advanced practice registered nurse by a person licensed under this chapter as an
1163 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

1164 (a) maintenance and promotion of health and prevention of disease;

1165 (b) diagnosis, treatment, correction, consultation, and referral;

1166 (c) prescription or administration of prescription drugs or devices including:

1167 (i) local anesthesia;

1168 (ii) Schedule III-V controlled substances; and

1169 (iii) [~~Subject to Section 58-31b-803,~~] Schedule II controlled substances; or

1170 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
1171 related services upon the request of a licensed health care professional by an advanced practice
1172 registered nurse specializing as a certified registered nurse anesthetist, including:

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

- 1204 (a) initiating and maintaining comfort measures;
- 1205 (b) promoting and supporting human functions and responses;
- 1206 (c) establishing an environment conducive to well-being;
- 1207 (d) providing health counseling and teaching;
- 1208 (e) collaborating with health care professionals on aspects of the health care regimen;
- 1209 (f) performing delegated procedures only within the education, knowledge, judgment,
- 1210 and skill of the licensee;

- 1211 (g) delegating nursing tasks that may be performed by others, including an unlicensed
- 1212 assistive personnel; and
- 1213 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
- 1214 the individual performs the task.

1215 (13) "Practice of practical nursing" means the performance of nursing acts in the

1216 generally recognized scope of practice of licensed practical nurses as defined by division rule

1217 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as

1218 provided in this Subsection (13) by an individual licensed under this chapter as a licensed

1219 practical nurse and under the direction of a registered nurse, licensed physician, or other

1220 specified health care professional as defined by division rule made in accordance with Title

1221 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 1222 (a) contributing to the assessment of the health status of individuals and groups;
- 1223 (b) participating in the development and modification of the strategy of care;
- 1224 (c) implementing appropriate aspects of the strategy of care;
- 1225 (d) maintaining safe and effective nursing care rendered to a patient directly or
- 1226 indirectly; and
- 1227 (e) participating in the evaluation of responses to interventions.

1228 (14) "Practice of registered nursing" means performing acts of nursing as provided in

1229 this Subsection (14) by an individual licensed under this chapter as a registered nurse within

1230 the generally recognized scope of practice of registered nurses as defined by division rule made

1231 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered

1232 nursing acts include:

- 1233 (a) assessing the health status of individuals and groups;
- 1234 (b) identifying health care needs;

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

1266 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
1267 and 58-31b-501.

1268 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
1269 title, who is delegated a task by a licensed nurse as permitted by division rule made in
1270 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
1271 of the profession.

1272 (19) "Unprofessional conduct" means the same as that term is defined in Sections
1273 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance
1274 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1275 Section 15. Section 58-31b-302 is amended to read:

1276 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
1277 **checks.**

1278 (1) An applicant for certification as a medication aide shall:

1279 (a) submit an application to the division on a form prescribed by the division;

1280 (b) pay a fee to the division as determined under Section 63J-1-504;

1281 (c) have a high school diploma or its equivalent;

1282 (d) have a current certification as a nurse aide, in good standing, from the Department
1283 of Health and Human Services;

1284 (e) have a minimum of 2,000 hours of experience within the two years prior to
1285 application, working as a certified nurse aide in a long-term care facility;

1286 (f) obtain letters of recommendation from a long-term care facility administrator and
1287 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

1288 (g) be in a condition of physical and mental health that will permit the applicant to
1289 practice safely as a medication aide certified;

1290 (h) have completed an approved education program or an equivalent as determined by
1291 the division in collaboration with the board;

1292 (i) have passed the examinations as required by division rule made in collaboration
1293 with the board; and

1294 (j) meet with the board, if requested, to determine the applicant's qualifications for
1295 certification.

1296 (2) An applicant for licensure as a licensed practical nurse shall:

- 1297 (a) submit to the division an application in a form prescribed by the division;
- 1298 (b) pay to the division a fee determined under Section 63J-1-504;
- 1299 (c) have a high school diploma or its equivalent;
- 1300 (d) be in a condition of physical and mental health that will permit the applicant to
- 1301 practice safely as a licensed practical nurse;
- 1302 (e) have completed an approved practical nursing education program or an equivalent
- 1303 as determined by the board;
- 1304 (f) have passed the examinations as required by division rule made in collaboration
- 1305 with the board; and
- 1306 (g) meet with the board, if requested, to determine the applicant's qualifications for
- 1307 licensure.
- 1308 (3) An applicant for a registered nurse apprentice license shall:
- 1309 (a) submit to the division an application form prescribed by the division;
- 1310 (b) pay to the division a fee determined under Section 63J-1-504;
- 1311 (c) have a high school diploma or its equivalent;
- 1312 (d) be in a condition of physical and mental health that will allow the applicant to
- 1313 practice safely as a registered nurse apprentice;
- 1314 (e) as determined by an approved registered nursing education program, be:
- 1315 (i) in good standing with the program; and
- 1316 (ii) in the last semester, quarter, or competency experience;
- 1317 (f) have written permission from the program in which the applicant is enrolled; and
- 1318 (g) meet with the board, if requested, to determine the applicant's qualifications for
- 1319 licensure.
- 1320 (4) An applicant for licensure as a registered nurse shall:
- 1321 (a) submit to the division an application form prescribed by the division;
- 1322 (b) pay to the division a fee determined under Section 63J-1-504;
- 1323 (c) have a high school diploma or its equivalent;
- 1324 (d) be in a condition of physical and mental health that will allow the applicant to
- 1325 practice safely as a registered nurse;
- 1326 (e) have completed an approved registered nursing education program;
- 1327 (f) have passed the examinations as required by division rule made in collaboration

1328 with the board; and

1329 (g) meet with the board, if requested, to determine the applicant's qualifications for
1330 licensure.

1331 (5) Applicants for licensure as an advanced practice registered nurse shall:

1332 (a) submit to the division an application on a form prescribed by the division;

1333 (b) pay to the division a fee determined under Section 63J-1-504;

1334 (c) be in a condition of physical and mental health which will allow the applicant to
1335 practice safely as an advanced practice registered nurse;

1336 (d) hold a current registered nurse license in good standing issued by the state or be
1337 qualified at the time for licensure as a registered nurse;

1338 (e) (i) have earned a graduate degree in:

1339 (A) an advanced practice registered nurse nursing education program; or

1340 (B) a related area of specialized knowledge as determined appropriate by the division
1341 in collaboration with the board; or

1342 (ii) have completed a nurse anesthesia program in accordance with Subsection
1343 (5)(f)(ii);

1344 (f) have completed:

1345 (i) course work in patient assessment, diagnosis and treatment, and
1346 pharmacotherapeutics from an education program approved by the division in collaboration
1347 with the board; or

1348 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
1349 Nurse Anesthesia Educational Programs;

1350 (g) to practice within the psychiatric mental health nursing specialty, demonstrate, as
1351 described in division rule, that the applicant, after completion of a doctorate or master's degree
1352 required for licensure, is in the process of completing the applicant's clinical practice
1353 requirements in psychiatric mental health nursing, including in psychotherapy;

1354 (h) have passed the examinations as required by division rule made in collaboration
1355 with the board;

1356 (i) be currently certified by a program approved by the division in collaboration with
1357 the board and submit evidence satisfactory to the division of the certification; and

1358 (j) meet with the board, if requested, to determine the applicant's qualifications for

1359 licensure.

1360 (6) For each applicant for licensure or certification under this chapter except an
1361 applicant under Subsection 58-31b-301(2)(b):

1362 (a) the applicant shall:

1363 (i) submit fingerprint cards in a form acceptable to the division at the time the
1364 application is filed; and

1365 (ii) consent to a fingerprint background check conducted by the Bureau of Criminal
1366 Identification and the Federal Bureau of Investigation regarding the application;

1367 (b) the division shall:

1368 (i) in addition to other fees authorized by this chapter, collect from each applicant
1369 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
1370 Identification is authorized to collect for the services provided under Section 53-10-108 and the
1371 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
1372 obtaining federal criminal history record information;

1373 (ii) submit from each applicant the fingerprint card and the fees described in this
1374 Subsection (6)(b) to the Bureau of Criminal Identification; and

1375 (iii) obtain and retain in division records a signed waiver approved by the Bureau of
1376 Criminal Identification in accordance with Section 53-10-108 for each applicant; and

1377 (c) the Bureau of Criminal Identification shall, in accordance with the requirements of
1378 Section 53-10-108:

1379 (i) check the fingerprints submitted under Subsection (6)(b) against the applicable state
1380 and regional criminal records databases;

1381 (ii) forward the fingerprints to the Federal Bureau of Investigation for a national
1382 criminal history background check; and

1383 (iii) provide the results from the state, regional, and nationwide criminal history
1384 background checks to the division.

1385 (7) For purposes of conducting the criminal background checks required in Subsection
1386 (6), the division shall have direct access to criminal background information maintained
1387 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1388 (8) (a) (i) Any new nurse license or certification issued under this section shall be
1389 conditional, pending completion of the criminal background check.

1390 (ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
1391 criminal background check discloses the applicant has failed to accurately disclose a criminal
1392 history, the license or certification shall be immediately and automatically revoked upon notice
1393 to the licensee by the division.

1394 (b) (i) An individual whose conditional license or certification has been revoked under
1395 Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

1396 (ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter
1397 4, Administrative Procedures Act.

1398 (9) If an individual has been charged with a violent felony, as defined in Subsection
1399 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or
1400 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
1401 successful completion of probation, ~~the individual is disqualified for licensure under this~~
1402 ~~chapter and:~~

1403 ~~[(a) if the individual is licensed under this chapter, the division:]~~

1404 ~~[(i) the division shall act upon the license as required under Section 58-1-401 [; and].~~

1405 ~~[(ii) may not renew or subsequently issue a license to the individual under this chapter;~~
1406 ~~and]~~

1407 ~~[(b) if the individual is not licensed under this chapter, the division may not issue a~~
1408 ~~license to the individual under this chapter.]~~

1409 (10) If an individual has been charged with a felony other than a violent felony, as
1410 defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted,
1411 entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held
1412 in abeyance pending the successful completion of probation, the division shall determine
1413 whether the felony disqualifies the individual for licensure under this chapter and act upon the
1414 license, as required, in accordance with Section 58-1-401.

1415 (11) The division may not disseminate outside of the division any criminal history
1416 record information that the division obtains from the Bureau of Criminal Identification or the
1417 Federal Bureau of Investigation under the criminal background check requirements of this
1418 section.

1419 Section 16. Section 58-31b-502 is amended to read:

1420 **58-31b-502. Unprofessional conduct.**

- 1421 (1) "Unprofessional conduct" includes:
- 1422 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
1423 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
1424 because of the licensee's or person with a certification's position or practice as a nurse or
1425 practice as a medication aide certified;
- 1426 (b) failure to provide nursing service or service as a medication aide certified in a
1427 manner that demonstrates respect for the patient's human dignity and unique personal character
1428 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
1429 status, age, sex, or the nature of the patient's health problem;
- 1430 (c) engaging in sexual relations with a patient during any:
- 1431 (i) period when a generally recognized professional relationship exists between the
1432 person licensed or certified under this chapter and the patient; or
- 1433 (ii) extended period when a patient has reasonable cause to believe a professional
1434 relationship exists between the person licensed or certified under the provisions of this chapter
1435 and the patient;
- 1436 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
1437 information about a patient or exploiting the licensee's or the person with a certification's
1438 professional relationship between the licensee or holder of a certification under this chapter and
1439 the patient; or
- 1440 (ii) exploiting the patient by use of the licensee's or person with a certification's
1441 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 1442 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 1443 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 1444 (g) unauthorized taking or personal use of a patient's personal property;
- 1445 (h) unlawful or inappropriate delegation of nursing care;
- 1446 (i) failure to exercise appropriate supervision of persons providing patient care services
1447 under supervision of the licensed nurse;
- 1448 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
1449 person to practice as a nurse;
- 1450 (k) failure to file or record any medical report as required by law, impeding or
1451 obstructing the filing or recording of such a report, or inducing another to fail to file or record

1452 such a report;

1453 (l) breach of a statutory, common law, regulatory, or ethical requirement of
1454 confidentiality with respect to a person who is a patient, unless ordered by a court;

1455 (m) failure to pay a penalty imposed by the division;

1456 ~~[(n) prescribing a Schedule II controlled substance without complying with the~~
1457 ~~requirements in Section 58-31b-803, if applicable;]~~

1458 ~~[(o)]~~ (n) violating Section 58-31b-801;

1459 ~~[(p)]~~ (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b,
1460 Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy,
1461 if applicable;

1462 ~~[(q)]~~ (p) falsely making an entry in, or altering, a medical record with the intent to
1463 conceal:

1464 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
1465 or an individual under the direction or control of an individual licensed under this chapter; or

1466 (ii) conduct described in Subsections (1)(a) through ~~[(r)]~~ (m) or Subsection
1467 58-1-501(1); or

1468 ~~[(s)]~~ (q) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis
1469 Act.

1470 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
1471 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
1472 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
1473 the use of medical cannabis.

1474 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
1475 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
1476 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1477 Section 17. Section 58-31b-803 is amended to read:

1478 **58-31b-803. Advanced practice registered nurse prescriptive authority.**

1479 (1) Except as provided in Subsection (2), a licensed advanced practice registered nurse
1480 may prescribe or administer a Schedule II controlled substance.

1481 (2) This section does not apply to an advanced practice registered nurse specializing as
1482 a certified registered nurse anesthetist under Subsection 58-31b-102(11)(d).

1483 ~~[(2) Except as provided in Subsection (3), an advanced practice registered nurse may~~
 1484 ~~prescribe or administer a Schedule II controlled substance.]~~

1485 ~~[(3) An advanced practice registered nurse described in Subsection (4) may not~~
 1486 ~~prescribe or administer a Schedule II controlled substance unless the advanced practice~~
 1487 ~~registered nurse:]~~

1488 ~~[(a) receives a board certification from a nationally recognized organization;]~~

1489 ~~[(b) completes at least 30 hours of instruction, or the equivalent number of credit~~
 1490 ~~hours, pertaining to advanced pharmacology during a graduate education program;]~~

1491 ~~[(c) when obtaining licensure with the division, demonstrates completion of at least~~
 1492 ~~seven hours of continuing education pertaining to prescribing opioids; and]~~

1493 ~~[(d) participates in a prescribing mentorship under which the advanced practice~~
 1494 ~~registered nurse:]~~

1495 ~~[(i) is mentored by:]~~

1496 ~~[(A) a physician licensed in accordance with this title; or]~~

1497 ~~[(B) an advanced practice registered nurse who has been licensed at least three years;~~
 1498 ~~and]~~

1499 ~~[(ii) periodically provides the mentor described in Subsection (3)(d)(i) timesheets that,~~
 1500 ~~in total, demonstrate 1,000 hours of clinical experience.]~~

1501 ~~[(4) Subsection (3) applies to an advanced practice registered nurse who:]~~

1502 ~~[(a) is engaged in independent solo practice; and]~~

1503 ~~[(b) (i) has been licensed as an advanced practice registered nurse for less than one~~
 1504 ~~year; or]~~

1505 ~~[(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice~~
 1506 ~~registered nurse:]~~

1507 Section 18. Section **58-53-302** is amended to read:

1508 **58-53-302. Qualifications for licensure.**

1509 (1) Each applicant for licensure as a landscape architect shall:

1510 (a) submit an application in a form prescribed by the division;

1511 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1512 ~~[(c) provide satisfactory evidence of good moral character;]~~

1513 ~~[(d)]~~ (c) (i) have graduated and received an earned bachelors or masters degree from a

1514 landscape architecture program meeting criteria established by rule by the division in
1515 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1516 Rulemaking Act; or

1517 (ii) have completed not less than eight years of supervised practical experience in
1518 landscape architecture which meets the requirements established by rule by the division in
1519 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1520 Rulemaking Act; and

1521 ~~[(e)]~~ (d) have successfully passed examinations established by rule by the division in
1522 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
1523 Rulemaking Act.

1524 (2) Satisfactory completion of each year of a landscape architectural program described
1525 in Subsection ~~[(1)(d)(i)]~~ (1)(c)(i) is equivalent to one year of experience for purposes of
1526 Subsection ~~[(1)(d)(ii)]~~ (1)(c)(ii).

1527 Section 19. Section **58-54-302** is amended to read:

1528 **58-54-302. Requirements for licensure.**

1529 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
1530 radiology practical technician shall:

1531 (a) submit an application in a form prescribed by the division in collaboration with the
1532 board; and

1533 (b) pay a fee as determined by the department pursuant to Section [63J-1-504](#).

1534 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1535 requirements of Subsection (1):

1536 (a) be a graduate of an accredited educational program in radiologic technology or
1537 certified by the American Registry of Radiologic Technologists or any equivalent educational
1538 program approved by the division in collaboration with the board; and

1539 (b) have passed an examination approved by the division in collaboration with the
1540 board.

1541 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1542 the requirements of Subsection (1), have passed a basic examination and one or more specialty
1543 examinations that are competency based, using a task analysis of the scope of practice of
1544 radiology practical technicians in the state. The basic examination and the specialty

1545 examination shall be approved by the division in collaboration with the board and the licensing
1546 board of the profession within which the radiology practical technician will be practicing.

1547 ~~[(4) The division shall provide for administration of the radiology practical technician~~
1548 ~~examination not less than monthly at offices designated by the division and located:]~~

1549 ~~[(a) in Salt Lake City; and]~~

1550 ~~[(b) within each local health department jurisdictional area.]~~

1551 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);~~ (4)(b), each applicant for
1552 licensure as a radiologist assistant shall:

1553 (i) meet the requirements of Subsections (1) and (2);

1554 (ii) have a Bachelor of Science degree; and

1555 (iii) be certified as:

1556 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1557 (B) a radiology practitioner assistant by the Certification Board of Radiology

1558 Practitioner Assistants.

1559 (b) An individual who meets the requirements of Subsections ~~[(5)(a)(i)]~~ (4)(a)(i) and
1560 (iii), but not Subsection ~~[(5)(a)(ii)]~~ (4)(a)(ii), may be licensed as a radiologist assistant under
1561 this chapter until May 31, 2013, at which time, the individual must have completed the
1562 Bachelor of Science degree in order to retain the license of radiologist assistant.

1563 Section 20. Section **58-55-102** is amended to read:

1564 **58-55-102. Definitions.**

1565 In addition to the definitions in Section **58-1-102**, as used in this chapter:

1566 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,
1567 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm
1568 system, except as provided in Subsection (1)(b).

1569 (b) "Alarm business" or "alarm company" does not include:

1570 (i) a person engaged in the manufacture or sale of alarm systems unless:

1571 (A) that person is also engaged in the installation, maintenance, alteration, repair,
1572 replacement, servicing, or monitoring of alarm systems;

1573 (B) the manufacture or sale occurs at a location other than a place of business
1574 established by the person engaged in the manufacture or sale; or

1575 (C) the manufacture or sale involves site visits at the place or intended place of

1576 installation of an alarm system; or
1577 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
1578 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
1579 of the alarm system owned by that owner.

1580 (2) "Alarm company agent":
1581 (a) except as provided in Subsection (2)(b), means any individual employed within this
1582 state by an alarm business; and
1583 (b) does not include an individual who:
1584 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
1585 servicing, or monitoring of an alarm system; and
1586 (ii) does not, during the normal course of the individual's employment with an alarm
1587 business, use or have access to sensitive alarm system information.

1588 (3) "Alarm company officer" means:
1589 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;
1590 (b) an individual appointed as an officer of an alarm company that is a corporation in
1591 accordance with Section 16-10a-830;
1592 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or
1593 (d) a partner, as defined in Section 48-1d-102, of an alarm company.

1594 (4) "Alarm company owner" means:
1595 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
1596 through an entity controlled by the individual, 5% or more of the outstanding shares of an
1597 alarm company that:
1598 (i) is a corporation; and
1599 (ii) is not publicly listed or traded; or
1600 (b) an individual who owns directly, or indirectly through an entity controlled by the
1601 individual, 5% or more of the equity of an alarm company that is not a corporation.

1602 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
1603 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1604 (6) "Alarm company trustee" means an individual with control of or power of
1605 administration over property held in trust.

1606 [~~3~~] (7) (a) "Alarm system" means equipment and devices assembled for the purpose

1607 of:

1608 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
1609 premises; or

1610 (ii) signaling a robbery or attempted robbery on protected premises.

1611 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
1612 part of and interfaces with an alarm system for the purposes of detecting and deterring
1613 unauthorized intrusion or entry into or onto certain premises.

1614 ~~[(4)]~~ (8) "Apprentice electrician" means a person licensed under this chapter as an
1615 apprentice electrician who is learning the electrical trade under the immediate supervision of a
1616 master electrician, residential master electrician, a journeyman electrician, or a residential
1617 journeyman electrician.

1618 ~~[(5)]~~ (9) "Apprentice plumber" means a person licensed under this chapter as an
1619 apprentice plumber who is learning the plumbing trade under the immediate supervision of a
1620 master plumber, residential master plumber, journeyman plumber, or a residential journeyman
1621 plumber.

1622 ~~[(6)]~~ (10) "Approved continuing education" means instruction provided through
1623 courses under a program established under Subsection [58-55-302.5\(2\)](#).

1624 ~~[(7)]~~ (11) (a) "Approved preclicensure course provider" means a provider that is the
1625 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
1626 Contractors, or the Utah Home Builders Association, and that meets the requirements
1627 established by rule by the commission with the concurrence of the director, to teach the
1628 25-hour course described in Subsection [58-55-302\(1\)\(e\)\(iii\)](#).

1629 (b) "Approved preclicensure course provider" may only include a provider that, in
1630 addition to any other locations, offers the 25-hour course described in Subsection
1631 [58-55-302\(1\)\(e\)\(iii\)](#) at least six times each year in one or more counties other than Salt Lake
1632 County, Utah County, Davis County, or Weber County.

1633 ~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and
1634 Licensing Board, or Plumbers Licensing Board created in Section [58-55-201](#).

1635 ~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

1636 (a) piping and components with a means for conveying, either continuously or
1637 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the

1638 appliance;

1639 (b) the electric control and combustion air supply and venting systems, including air

1640 ducts; and

1641 (c) components intended to achieve control of quantity, flow, and pressure.

1642 ~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under

1643 Section [58-55-103](#).

1644 ~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

1645 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition

1646 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation

1647 or other project, development, or improvement to other than personal property; and

1648 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as

1649 defined in Section [15A-1-302](#); or

1650 (b) installation or repair of a residential or commercial natural gas appliance or

1651 combustion system.

1652 ~~[(12)]~~ (16) "Construction trades instructor" means a person licensed under this chapter

1653 to teach one or more construction trades in both a classroom and project environment, where a

1654 project is intended for sale to or use by the public and is completed under the direction of the

1655 instructor, who has no economic interest in the project.

1656 ~~[(13)]~~ (17) (a) "Contractor" means any person who for compensation other than wages

1657 as an employee undertakes any work in the construction, plumbing, or electrical trade for

1658 which licensure is required under this chapter and includes:

1659 (i) a person who builds any structure on the person's own property for the purpose of

1660 sale or who builds any structure intended for public use on the person's own property;

1661 (ii) any person who represents that the person is a contractor, or will perform a service

1662 described in this Subsection ~~[(13)]~~, (17) by advertising on a website or social media, or any

1663 other means;

1664 (iii) any person engaged as a maintenance person, other than an employee, who

1665 regularly engages in activities set forth under the definition of "construction trade";

1666 (iv) any person engaged in, or offering to engage in, any construction trade for which

1667 licensure is required under this chapter; or

1668 (v) a construction manager, construction consultant, construction assistant, or any other

1669 person who, for a fee:

1670 (A) performs or offers to perform construction consulting;

1671 (B) performs or offers to perform management of construction subcontractors;

1672 (C) provides or offers to provide a list of subcontractors or suppliers; or

1673 (D) provides or offers to provide management or counseling services on a construction
1674 project.

1675 (b) "Contractor" does not include:

1676 (i) an alarm company or alarm company agent; or

1677 (ii) a material supplier who provides consulting to customers regarding the design and
1678 installation of the material supplier's products.

1679 ~~[(14)]~~ (18) (a) "Electrical trade" means the performance of any electrical work involved
1680 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
1681 buildings, or appendages or appurtenances.

1682 (b) "Electrical trade" does not include:

1683 (i) transporting or handling electrical materials;

1684 (ii) preparing clearance for raceways for wiring;

1685 (iii) work commonly done by unskilled labor on any installations under the exclusive
1686 control of electrical utilities;

1687 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
1688 hazard; or

1689 (v) work involving class two or class three power-limited circuits as defined in the
1690 National Electrical Code.

1691 ~~[(15)]~~ (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#),
1692 except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or
1693 an incline platform lift.

1694 ~~[(16)]~~ (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed
1695 under this chapter that is engaged in the business of erecting, constructing, installing, altering,
1696 servicing, repairing, or maintaining an elevator.

1697 ~~[(17)]~~ (21) "Elevator mechanic" means an individual who is licensed under this chapter
1698 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,
1699 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator

1700 contractor.

1701 [~~(18)~~] (22) "Employee" means an individual as defined by the division by rule giving
1702 consideration to the definition adopted by the Internal Revenue Service and the Department of
1703 Workforce Services.

1704 [~~(19)~~] (23) "Engage in a construction trade" means to:

1705 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
1706 in a construction trade; or

1707 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
1708 to believe one is or will act as a contractor.

1709 [~~(20)~~] (24) (a) "Financial responsibility" means a demonstration of a current and
1710 expected future condition of financial solvency evidencing a reasonable expectation to the
1711 division and the board that an applicant or licensee can successfully engage in business as a
1712 contractor without jeopardy to the public health, safety, and welfare.

1713 (b) Financial responsibility may be determined by an evaluation of the total history
1714 concerning the licensee or applicant including past, present, and expected condition and record
1715 of financial solvency and business conduct.

1716 [~~(21)~~] (25) "Gas appliance" means any device that uses natural gas to produce light,
1717 heat, power, steam, hot water, refrigeration, or air conditioning.

1718 [~~(22)~~] (26) (a) "General building contractor" means a person licensed under this
1719 chapter as a general building contractor qualified by education, training, experience, and
1720 knowledge to perform or superintend construction of structures for the support, shelter, and
1721 enclosure of persons, animals, chattels, or movable property of any kind or any of the
1722 components of that construction except plumbing, electrical work, mechanical work, work
1723 related to the operating integrity of an elevator, and manufactured housing installation, for
1724 which the general building contractor shall employ the services of a contractor licensed in the
1725 particular specialty, except that a general building contractor engaged in the construction of
1726 single-family and multifamily residences up to four units may perform the mechanical work
1727 and hire a licensed plumber or electrician as an employee.

1728 (b) The division may by rule exclude general building contractors from engaging in the
1729 performance of other construction specialties in which there is represented a substantial risk to
1730 the public health, safety, and welfare, and for which a license is required unless that general

1731 building contractor holds a valid license in that specialty classification.

1732 ~~[(23)]~~ (27) (a) "General electrical contractor" means a person licensed under this
1733 chapter as a general electrical contractor qualified by education, training, experience, and
1734 knowledge to perform the fabrication, construction, and installation of generators,
1735 transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or
1736 apparatus that uses electrical energy.

1737 (b) The scope of work of a general electrical contractor may be further defined by rules
1738 made by the commission, with the concurrence of the director, in accordance with Title 63G,
1739 Chapter 3, Utah Administrative Rulemaking Act.

1740 ~~[(24)]~~ (28) (a) "General engineering contractor" means a person licensed under this
1741 chapter as a general engineering contractor qualified by education, training, experience, and
1742 knowledge to perform or superintend construction of fixed works or components of fixed
1743 works requiring specialized engineering knowledge and skill in any of the following:

- 1744 (i) irrigation;
- 1745 (ii) drainage;
- 1746 (iii) water power;
- 1747 (iv) water supply;
- 1748 (v) flood control;
- 1749 (vi) an inland waterway;
- 1750 (vii) a harbor;
- 1751 (viii) a railroad;
- 1752 (ix) a highway;
- 1753 (x) a tunnel;
- 1754 (xi) an airport;
- 1755 (xii) an airport runway;
- 1756 (xiii) a sewer;
- 1757 (xiv) a bridge;
- 1758 (xv) a refinery;
- 1759 (xvi) a pipeline;
- 1760 (xvii) a chemical plant;
- 1761 (xviii) an industrial plant;

- 1762 (xix) a pier;
- 1763 (xx) a foundation;
- 1764 (xxi) a power plant; or
- 1765 (xxii) a utility plant or installation.
- 1766 (b) A general engineering contractor may not perform or superintend:
 - 1767 (i) construction of a structure built primarily for the support, shelter, and enclosure of
 - 1768 persons, animals, and chattels; or
 - 1769 (ii) performance of:
 - 1770 (A) plumbing work;
 - 1771 (B) electrical work; or
 - 1772 (C) mechanical work.
- 1773 [~~25~~] (29) (a) "General plumbing contractor" means a person licensed under this
- 1774 chapter as a general plumbing contractor qualified by education, training, experience, and
- 1775 knowledge to perform the fabrication or installation of material and fixtures to create and
- 1776 maintain sanitary conditions in a building by providing permanent means for a supply of safe
- 1777 and pure water, a means for the timely and complete removal from the premises of all used or
- 1778 contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life
- 1779 and the occupation of such premises, and a safe and adequate supply of gases for lighting,
- 1780 heating, and industrial purposes.
- 1781 (b) The scope of work of a general plumbing contractor may be further defined by rules
- 1782 made by the commission, with the concurrence of the director, in accordance with Title 63G,
- 1783 Chapter 3, Utah Administrative Rulemaking Act.
- 1784 [~~26~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection,
- 1785 and evaluation of the work of a person:
 - 1786 (a) as the division specifies in rule;
 - 1787 (b) by, as applicable, a qualified electrician or plumber;
 - 1788 (c) as part of a planned program of training; and
 - 1789 (d) to ensure that the end result complies with applicable standards.
- 1790 [~~27~~] (31) "Individual" means a natural person.
- 1791 [~~28~~] (32) "Journeyman electrician" means a person licensed under this chapter as a
- 1792 journeyman electrician having the qualifications, training, experience, and knowledge to wire,

1793 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

1794 ~~[(29)]~~ (33) "Journeyman plumber" means a person licensed under this chapter as a
1795 journeyman plumber having the qualifications, training, experience, and technical knowledge
1796 to engage in the plumbing trade.

1797 ~~[(30)]~~ (34) "Master electrician" means a person licensed under this chapter as a master
1798 electrician having the qualifications, training, experience, and knowledge to properly plan,
1799 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
1800 for light, heat, power, and other purposes.

1801 ~~[(31)]~~ (35) "Master plumber" means a person licensed under this chapter as a master
1802 plumber having the qualifications, training, experience, and knowledge to properly plan and
1803 layout projects and supervise persons in the plumbing trade.

1804 ~~[(32)]~~ (36) "Person" means a natural person, sole proprietorship, joint venture,
1805 corporation, limited liability company, association, or organization of any type.

1806 ~~[(33)]~~ (37) (a) "Plumbing trade" means the performance of any mechanical work
1807 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
1808 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and
1809 fittings for the:

- 1810 (i) delivery of the water supply;
1811 (ii) discharge of liquid and water carried waste;
1812 (iii) building drainage system within the walls of the building; and
1813 (iv) delivery of gases for lighting, heating, and industrial purposes.

1814 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
1815 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
1816 safe and adequate supply of gases, together with their devices, appurtenances, and connections
1817 where installed within the outside walls of the building.

1818 ~~[(34)]~~ (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
1819 licensed electrician apprentices that are allowed to be under the immediate supervision of a
1820 licensed supervisor as established by the provisions of this chapter and by rules made by the
1821 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1822 Utah Administrative Rulemaking Act.

1823 ~~[(35)]~~ (39) "Residential and small commercial contractor" means a person licensed

1824 under this chapter as a residential and small commercial contractor qualified by education,
1825 training, experience, and knowledge to perform or superintend the construction of
1826 single-family residences, multifamily residences up to four units, and commercial construction
1827 of not more than three stories above ground and not more than 20,000 square feet, or any of the
1828 components of that construction except plumbing, electrical work, mechanical work, and
1829 manufactured housing installation, for which the residential and small commercial contractor
1830 shall employ the services of a contractor licensed in the particular specialty, except that a
1831 residential and small commercial contractor engaged in the construction of single-family and
1832 multifamily residences up to four units may perform the mechanical work and hire a licensed
1833 plumber or electrician as an employee.

1834 ~~[(36)]~~ (40) "Residential building," as it relates to the license classification of residential
1835 journeyman plumber and residential master plumber, means a single or multiple family
1836 dwelling of up to four units.

1837 ~~[(37)]~~ (41) (a) "Residential electrical contractor" means a person licensed under this
1838 chapter as a residential electrical contractor qualified by education, training, experience, and
1839 knowledge to perform the fabrication, construction, and installation of services, disconnecting
1840 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
1841 appliances, and fixtures in a residential unit.

1842 (b) The scope of work of a residential electrical contractor may be further defined by
1843 rules made by the commission, with the concurrence of the director, in accordance with Title
1844 63G, Chapter 3, Utah Administrative Rulemaking Act.

1845 ~~[(38)]~~ (42) "Residential journeyman electrician" means a person licensed under this
1846 chapter as a residential journeyman electrician having the qualifications, training, experience,
1847 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
1848 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1849 ~~[(39)]~~ (43) "Residential journeyman plumber" means a person licensed under this
1850 chapter as a residential journeyman plumber having the qualifications, training, experience, and
1851 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1852 ~~[(40)]~~ (44) "Residential master electrician" means a person licensed under this chapter
1853 as a residential master electrician having the qualifications, training, experience, and
1854 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of

1855 electrical apparatus and equipment for light, heat, power, and other purposes on residential
1856 projects.

1857 ~~[(41)]~~ (45) "Residential master plumber" means a person licensed under this chapter as
1858 a residential master plumber having the qualifications, training, experience, and knowledge to
1859 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
1860 plumbing of residential buildings.

1861 ~~[(42)]~~ (46) (a) "Residential plumbing contractor" means a person licensed under this
1862 chapter as a residential plumbing contractor qualified by education, training, experience, and
1863 knowledge to perform the fabrication or installation of material and fixtures to create and
1864 maintain sanitary conditions in residential buildings by providing permanent means for a
1865 supply of safe and pure water, a means for the timely and complete removal from the premises
1866 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
1867 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
1868 for lighting, heating, and residential purposes.

1869 (b) The scope of work of a residential plumbing contractor may be further defined by
1870 rules made by the commission, with the concurrence of the director, in accordance with Title
1871 63G, Chapter 3, Utah Administrative Rulemaking Act.

1872 ~~[(43)]~~ (47) "Residential project," as it relates to an electrician or electrical contractor,
1873 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
1874 rules and regulations governing this work, including the National Electrical Code, and in which
1875 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1876 (48) "Responsible management personnel" means:

1877 (a) a qualifying agent;

1878 (b) an operations manager; or

1879 (c) a site manager.

1880 ~~[(44)]~~ (49) "Sensitive alarm system information" means:

1881 (a) a pass code or other code used in the operation of an alarm system;

1882 (b) information on the location of alarm system components at the premises of a
1883 customer of the alarm business providing the alarm system;

1884 (c) information that would allow the circumvention, bypass, deactivation, or other
1885 compromise of an alarm system of a customer of the alarm business providing the alarm

1886 system; and

1887 (d) any other similar information that the division by rule determines to be information
1888 that an individual employed by an alarm business should use or have access to only if the
1889 individual is licensed as provided in this chapter.

1890 ~~[(45)]~~ (50) (a) "Specialty contractor" means a person licensed under this chapter under
1891 a specialty contractor classification established by rule, who is qualified by education, training,
1892 experience, and knowledge to perform those construction trades and crafts requiring
1893 specialized skill, the regulation of which are determined by the division to be in the best
1894 interest of the public health, safety, and welfare.

1895 (b) A specialty contractor may perform work in crafts or trades other than those in
1896 which the specialty contractor is licensed if they are incidental to the performance of the
1897 specialty contractor's licensed craft or trade.

1898 ~~[(46)]~~ (51) "Unincorporated entity" means an entity that is not:

- 1899 (a) an individual;
- 1900 (b) a corporation; or
- 1901 (c) publicly traded.

1902 ~~[(47)]~~ (52) "Unlawful conduct" means the same as that term is defined in Sections
1903 [58-1-501](#) and [58-55-501](#).

1904 ~~[(48)]~~ (53) "Unprofessional conduct" means the same as that term is defined in
1905 Sections [58-1-501](#) and [58-55-502](#) and as may be further defined by rule.

1906 ~~[(49)]~~ (54) "Wages" means amounts due to an employee for labor or services whether
1907 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
1908 calculating the amount.

1909 Section 21. Section **58-55-302** is amended to read:

1910 **58-55-302. Qualifications for licensure.**

1911 (1) Each applicant for a license under this chapter shall:

- 1912 (a) submit an application prescribed by the division;
- 1913 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 1914 (c) meet the examination requirements established by this section and by rule by the
1915 commission with the concurrence of the director, which requirements include:

1916 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty

1917 contractor, no division-administered examination is required;

1918 (ii) for licensure as a general building contractor, general engineering contractor,
1919 residential and small commercial contractor, general plumbing contractor, residential plumbing
1920 contractor, general electrical contractor, or residential electrical contractor, the only required
1921 division-administered examination is a division-administered examination that covers
1922 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
1923 have been previously completed as part of applying for any other license under this chapter,
1924 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
1925 course described in Subsection (1)(e)(iv); and

1926 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
1927 division-administered examination if the applicant is a business entity;

1928 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1929 (e) if an applicant for a contractor's license:

1930 (i) produce satisfactory evidence of financial responsibility, except for a construction
1931 trades instructor for whom evidence of financial responsibility is not required;

1932 (ii) produce satisfactory evidence of:

1933 (A) except as provided in Subsection (2)(a), and except that no employment experience
1934 is required for licensure as a specialty contractor, two years full-time paid employment
1935 experience in the construction industry, which employment experience, unless more
1936 specifically described in this section, may be related to any contracting classification and does
1937 not have to include supervisory experience; and

1938 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
1939 necessary for the protection of the public health, safety, and welfare;

1940 (iii) except as otherwise provided by rule by the commission with the concurrence of
1941 the director, complete a 25-hour course established by rule by the commission with the
1942 concurrence of the director, which is taught by an approved precensure course provider, and
1943 which course may include:

1944 (A) construction business practices;

1945 (B) bookkeeping fundamentals;

1946 (C) mechanics lien fundamentals;

1947 (D) other aspects of business and construction principles considered important by the

1948 commission with the concurrence of the director; and

1949 (E) for no additional fee, a provider-administered examination at the end of the
1950 25-hour course;

1951 (iv) complete a five-hour business and law course established by rule by the
1952 commission with the concurrence of the director, which is taught by an approved prelicensure
1953 course provider, if an applicant for licensure as a general building contractor, general
1954 engineering contractor, residential and small commercial contractor, general plumbing
1955 contractor, residential plumbing contractor, general electrical contractor, or residential
1956 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
1957 completed before July 1, 2019, the applicant does not need to take the business and law course;

1958 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
1959 license or a licensed master residential electrician if an applicant for a residential electrical
1960 contractor's license;

1961 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
1962 a licensed master residential plumber if an applicant for a residential plumbing contractor's
1963 license; or

1964 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
1965 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1966 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
1967 individuals who hold an ownership interest in the applicant as of the day on which the
1968 application is filed that includes for each individual:

1969 (A) the individual's name, address, birth date, and social security number or other
1970 satisfactory evidence of the applicant's identity permitted under rules made by the division in
1971 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1972 (B) whether the individual will engage in a construction trade; and

1973 (f) if an applicant for a construction trades instructor license, satisfy any additional
1974 requirements established by rule.

1975 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
1976 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
1977 evidence of two years full-time paid employment experience as a building inspector, which
1978 shall include at least one year full-time experience as a licensed combination inspector.

1979 (b) The applicant shall file the following with the division before the division issues
1980 the license:

1981 (i) proof of workers' compensation insurance which covers employees of the applicant
1982 in accordance with applicable Utah law;

1983 (ii) proof of public liability insurance in coverage amounts and form established by rule
1984 except for a construction trades instructor for whom public liability insurance is not required;
1985 and

1986 (iii) proof of registration as required by applicable law with the:

1987 (A) Department of Commerce;

1988 (B) Division of Corporations and Commercial Code;

1989 (C) Unemployment Insurance Division in the Department of Workforce Services, for
1990 purposes of Title 35A, Chapter 4, Employment Security Act;

1991 (D) State Tax Commission; and

1992 (E) Internal Revenue Service.

1993 (3) In addition to the general requirements for each applicant in Subsection (1),
1994 applicants shall comply with the following requirements to be licensed in the following
1995 classifications:

1996 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1997 (A) has been a licensed journeyman plumber for at least two years and had two years of
1998 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1999 (B) has received at least an associate of applied science degree or similar degree
2000 following the completion of a course of study approved by the division and had one year of
2001 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

2002 (C) meets the qualifications for expedited licensure as established by rules made by the
2003 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2004 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2005 and skills to be a licensed master plumber.

2006 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
2007 least four years of practical experience as a licensed apprentice under the supervision of a
2008 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
2009 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current

2010 master plumber license under this chapter, and satisfies the requirements of this Subsection
2011 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

2012 (iii) An individual holding a valid plumbing contractor's license or residential
2013 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
2014 2008:

2015 (A) considered to hold a current master plumber license under this chapter if licensed
2016 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
2017 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
2018 58-55-303; and

2019 (B) considered to hold a current residential master plumber license under this chapter if
2020 licensed as a residential plumbing contractor and a residential journeyman plumber, and
2021 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
2022 that license under Section 58-55-303.

2023 (b) A master residential plumber applicant shall produce satisfactory evidence that the
2024 applicant:

2025 (i) has been a licensed residential journeyman plumber for at least two years and had
2026 two years of supervisory experience as a licensed residential journeyman plumber in
2027 accordance with division rule; or

2028 (ii) meets the qualifications for expedited licensure as established by rules made by the
2029 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2030 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2031 and skills to be a licensed master residential plumber.

2032 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

2033 (i) successful completion of the equivalent of at least four years of full-time training
2034 and instruction as a licensed apprentice plumber under supervision of a licensed master
2035 plumber or journeyman plumber and in accordance with a planned program of training
2036 approved by the division;

2037 (ii) at least eight years of full-time experience approved by the division in collaboration
2038 with the Plumbers Licensing Board; or

2039 (iii) meeting the qualifications for expedited licensure as established by rules made by
2040 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

2041 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2042 and skills to be a licensed journeyman plumber.

2043 (d) A residential journeyman plumber shall produce satisfactory evidence of:

2044 (i) completion of the equivalent of at least three years of full-time training and
2045 instruction as a licensed apprentice plumber under the supervision of a licensed residential
2046 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
2047 accordance with a planned program of training approved by the division;

2048 (ii) completion of at least six years of full-time experience in a maintenance or repair
2049 trade involving substantial plumbing work; or

2050 (iii) meeting the qualifications for expedited licensure as established by rules made by
2051 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2052 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2053 and skills to be a licensed residential journeyman plumber.

2054 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
2055 in accordance with the following:

2056 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
2057 under the immediate supervision of a licensed master plumber, licensed residential master
2058 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

2059 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
2060 apprentice plumber may work without supervision for a period not to exceed eight hours in any
2061 24-hour period; and

2062 (iii) rules made by the commission, with the concurrence of the director, in accordance
2063 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
2064 apprentices allowed under the immediate supervision of a licensed supervisor, including the
2065 ratio of apprentices in their fourth year of training or later that are allowed to be under the
2066 immediate supervision of a licensed supervisor.

2067 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

2068 (i) is a graduate electrical engineer of an accredited college or university approved by
2069 the division and has one year of practical electrical experience as a licensed apprentice
2070 electrician;

2071 (ii) is a graduate of an electrical trade school, having received an associate of applied

2072 sciences degree following successful completion of a course of study approved by the division,
2073 and has two years of practical experience as a licensed journeyman electrician;

2074 (iii) has four years of practical experience as a journeyman electrician; or

2075 (iv) meets the qualifications for expedited licensure as established by rules made by the
2076 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2077 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2078 and skills to be a licensed master electrician.

2079 (g) A master residential electrician applicant shall produce satisfactory evidence that
2080 the applicant:

2081 (i) has at least two years of practical experience as a residential journeyman electrician;
2082 or

2083 (ii) meets the qualifications for expedited licensure as established by rules made by the
2084 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2085 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2086 and skills to be a master residential electrician.

2087 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
2088 applicant:

2089 (i) has successfully completed at least four years of full-time training and instruction as
2090 a licensed apprentice electrician under the supervision of a master electrician or journeyman
2091 electrician and in accordance with a planned training program approved by the division;

2092 (ii) has at least eight years of full-time experience approved by the division in
2093 collaboration with the Electricians Licensing Board; or

2094 (iii) meets the qualifications for expedited licensure as established by rules made by the
2095 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2096 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2097 and skills to be a licensed journeyman electrician.

2098 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
2099 that the applicant:

2100 (i) has successfully completed two years of training in an electrical training program
2101 approved by the division;

2102 (ii) has four years of practical experience in wiring, installing, and repairing electrical

2103 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
2104 journeyman, residential master, or residential journeyman electrician; or

2105 (iii) meets the qualifications for expedited licensure as established by rules made by the
2106 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
2107 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
2108 and skills to be a licensed residential journeyman electrician.

2109 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
2110 be in accordance with the following:

2111 (i) A licensed apprentice electrician shall be under the immediate supervision of a
2112 licensed master, journeyman, residential master, or residential journeyman electrician;

2113 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
2114 apprentice electrician may work without supervision for a period not to exceed eight hours in
2115 any 24-hour period;

2116 (iii) rules made by the commission, with the concurrence of the director, in accordance
2117 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
2118 apprentices allowed under the immediate supervision of a licensed supervisor, including the
2119 ratio of apprentices in their fourth year of training or later that are allowed to be under the
2120 immediate supervision of a licensed supervisor; and

2121 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
2122 residential project, or more if established by rules made by the commission, in concurrence
2123 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2124 Act.

2125 (k) An alarm company applicant shall:

2126 (i) have a qualifying agent who ~~[is an officer, director, partner, proprietor, or manager~~
2127 ~~of the applicant who]~~:

2128 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an
2129 alarm company trustee, or other responsible management personnel;

2130 ~~[(A)]~~ (B) demonstrates 6,000 hours of experience in the alarm company business;

2131 ~~[(B)]~~ (C) demonstrates 2,000 hours of experience as a manager or administrator in the
2132 alarm company business or in a construction business; and

2133 ~~[(C)]~~ (D) passes an examination component established by rule by the commission

2134 with the concurrence of the director;

2135 (ii) provide the name, address, date of birth, social security number, fingerprint card,
2136 and consent to a background check in accordance with Section 58-55-302.1 and requirements
2137 established by division rule made in accordance with Title 63G, Chapter 3, Utah
2138 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
2139 company proprietor, alarm company trustee, and responsible management personnel with direct
2140 responsibility for managing operations of the applicant within the state;

2141 ~~[(ii) if a corporation, provide:]~~

2142 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2143 ~~of all corporate officers, directors, and those responsible management personnel employed~~
2144 ~~within the state or having direct responsibility for managing operations of the applicant within~~
2145 ~~the state; and]~~

2146 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2147 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~
2148 ~~shall not be required if the stock is publicly listed and traded;]~~

2149 ~~[(iii) if a limited liability company, provide:]~~

2150 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2151 ~~of all company officers, and those responsible management personnel employed within the~~
2152 ~~state or having direct responsibility for managing operations of the applicant within the state;~~
2153 ~~and]~~

2154 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
2155 ~~of all individuals owning 5% or more of the equity of the company;]~~

2156 ~~[(iv) if a partnership, provide the names, addresses, dates of birth, social security~~
2157 ~~numbers, and fingerprint cards of all general partners, and those responsible management~~
2158 ~~personnel employed within the state or having direct responsibility for managing operations of~~
2159 ~~the applicant within the state;]~~

2160 ~~[(v) if a proprietorship, provide the names, addresses, dates of birth, social security~~
2161 ~~numbers, and fingerprint cards of the proprietor, and those responsible management personnel~~
2162 ~~employed within the state or having direct responsibility for managing operations of the~~
2163 ~~applicant within the state;]~~

2164 ~~[(vi) if a trust, provide the names, addresses, dates of birth, social security numbers,~~

2165 and fingerprint cards of the trustee, and those responsible management personnel employed
2166 within the state or having direct responsibility for managing operations of the applicant within
2167 the state;]

2168 [~~(vii)~~] (iii) document that none of the [~~applicant's officers, directors, shareholders~~
2169 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible~~
2170 ~~management personnel]~~ persons described in Subsection (3)(k)(ii):

2171 (A) have been declared by any court of competent jurisdiction incompetent by reason
2172 of mental defect or disease and not been restored; or

2173 [~~(viii)~~] (B) [~~document that none of the applicant's officers, directors, shareholders~~
2174 ~~described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management~~
2175 ~~personnel]~~ are currently suffering from habitual drunkenness or from drug addiction or
2176 dependence;

2177 [~~(ix)~~] (iv) file and maintain with the division evidence of:

2178 (A) comprehensive general liability insurance in form and in amounts to be established
2179 by rule by the commission with the concurrence of the director;

2180 (B) workers' compensation insurance that covers employees of the applicant in
2181 accordance with applicable Utah law; and

2182 (C) registration as is required by applicable law with the:

2183 (I) Division of Corporations and Commercial Code;

2184 (II) Unemployment Insurance Division in the Department of Workforce Services, for
2185 purposes of Title 35A, Chapter 4, Employment Security Act;

2186 (III) State Tax Commission; and

2187 (IV) Internal Revenue Service; and

2188 [~~(x)~~] (v) meet with the division and board.

2189 (l) Each applicant for licensure as an alarm company agent shall:

2190 (i) submit an application in a form prescribed by the division accompanied by
2191 fingerprint cards;

2192 (ii) pay a fee determined by the department under Section [63J-1-504](#);

2193 (iii) submit to and pass a criminal background check in accordance with Section
2194 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
2195 Chapter 3, Utah Administrative Rulemaking Act;

2196 [~~(iii)~~] (iv) not have been declared by any court of competent jurisdiction incompetent
2197 by reason of mental defect or disease and not been restored;

2198 [~~(iv)~~] (v) not be currently suffering from habitual drunkenness or from drug addiction
2199 or dependence; and

2200 [~~(v)~~] (vi) meet with the division and board if requested by the division or the board.

2201 (m) (i) Each applicant for licensure as an elevator mechanic shall:

2202 (A) provide documentation of experience and education credits of not less than three
2203 years work experience in the elevator industry, in construction, maintenance, or service and
2204 repair; and

2205 (B) satisfactorily complete a written examination administered by the division
2206 established by rule under Section 58-1-203; or

2207 (C) provide certificates of completion of an apprenticeship program for elevator
2208 mechanics, having standards substantially equal to those of this chapter and registered with the
2209 United States Department of Labor Bureau Apprenticeship and Training or a state
2210 apprenticeship council.

2211 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
2212 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
2213 repairing, or maintaining an elevator, the contractor may:

2214 (I) notify the division of the unavailability of licensed personnel; and

2215 (II) request the division issue a temporary elevator mechanic license to an individual
2216 certified by the contractor as having an acceptable combination of documented experience and
2217 education to perform the work described in this Subsection (3)(m)(ii)(A).

2218 (B) (I) The division may issue a temporary elevator mechanic license to an individual
2219 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
2220 the appropriate fee as determined by the department under Section 63J-1-504.

2221 (II) The division shall specify the time period for which the license is valid and may
2222 renew the license for an additional time period upon its determination that a shortage of
2223 licensed elevator mechanics continues to exist.

2224 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2225 division may make rules establishing when Federal Bureau of Investigation records shall be
2226 checked for applicants as an alarm company or alarm company agent under this section and

2227 Section 58-55-302.1.

2228 ~~[(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide~~
2229 ~~an appropriate number of copies of fingerprint cards to the Department of Public Safety with~~
2230 ~~the division's request to:]~~

2231 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~
2232 ~~information relating to each applicant for licensure as an alarm company or alarm company~~
2233 ~~agent and each applicant's officers, directors, shareholders described in Subsection~~
2234 ~~(3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

2235 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2236 ~~requiring a check of records of the Federal Bureau of Investigation for criminal history~~
2237 ~~information under this section.]~~

2238 ~~[(6) The Department of Public Safety shall send to the division:]~~

2239 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~
2240 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2241 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2242 ~~records; and]~~

2243 ~~[(b) the results of the Federal Bureau of Investigation review concerning an applicant~~
2244 ~~in a timely manner after receipt of information from the Federal Bureau of Investigation.]~~

2245 ~~[(7) (a) The division shall charge each applicant for licensure as an alarm company or~~
2246 ~~alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of~~
2247 ~~performing the records reviews under this section.]~~

2248 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
2249 ~~reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the~~
2250 ~~costs of records reviews under this section.]~~

2251 ~~[(8) Information obtained by the division from the reviews of criminal history records~~
2252 ~~of the Department of Public Safety and the Federal Bureau of Investigation shall be used or~~
2253 ~~disseminated by the division only for the purpose of determining if an applicant for licensure as~~
2254 ~~an alarm company or alarm company agent is qualified for licensure.]~~

2255 ~~[(9)] (5) (a) An application for licensure under this chapter shall be denied if:~~

2256 ~~(i) the applicant has had a previous license, which was issued under this chapter,~~
2257 ~~suspended or revoked within two years before the date of the applicant's application;~~

2258 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
2259 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
2260 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
2261 status, performing similar functions, or directly or indirectly controlling the applicant has
2262 served in any similar capacity with any person or entity which has had a previous license,
2263 which was issued under this chapter, suspended or revoked within two years before the date of
2264 the applicant's application;

2265 (iii) (A) the applicant is an individual or sole proprietorship; and
2266 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2267 Subsection [~~(9)(a)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which
2268 was issued under this chapter, suspended or revoked within two years before the date of the
2269 applicant's application; or

2270 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
2271 an unincorporated entity at the time the entity's license under this chapter was revoked; and
2272 (B) the application for licensure is filed within 60 months after the revocation of the
2273 unincorporated entity's license.

2274 (b) An application for licensure under this chapter shall be reviewed by the appropriate
2275 licensing board prior to approval if:

2276 (i) the applicant has had a previous license, which was issued under this chapter,
2277 suspended or revoked more than two years before the date of the applicant's application;

2278 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2279 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
2280 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
2281 status, performing similar functions, or directly or indirectly controlling the applicant has
2282 served in any similar capacity with any person or entity which has had a previous license,
2283 which was issued under this chapter, suspended or revoked more than two years before the date
2284 of the applicant's application; or

2285 (iii) (A) the applicant is an individual or sole proprietorship; and

2286 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2287 Subsection [~~(9)(b)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which
2288 was issued under this chapter, suspended or revoked more than two years before the date of the

2289 applicant's application.

2290 ~~[(10)]~~ (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership
2291 status report with the division every 30 days after the day on which the license is issued if the
2292 licensee has more than five owners who are individuals who:

2293 (A) own an interest in the contractor that is an unincorporated entity;

2294 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
2295 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
2296 unincorporated entity; and

2297 (C) engage, or will engage, in a construction trade in the state as owners of the
2298 contractor described in Subsection ~~[(10)(a)(i)(A)]~~ (6)(a)(i)(A).

2299 (ii) If the licensee has five or fewer owners described in Subsection ~~[(10)(a)(i)]~~
2300 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal
2301 of licensure.

2302 (b) An ownership status report required under this Subsection ~~[(10)]~~ (6) shall:

2303 (i) specify each addition or deletion of an owner:

2304 (A) for the first ownership status report, after the day on which the unincorporated
2305 entity is licensed under this chapter; and

2306 (B) for a subsequent ownership status report, after the day on which the previous
2307 ownership status report is filed;

2308 (ii) be in a format prescribed by the division that includes for each owner, regardless of
2309 the owner's percentage ownership in the unincorporated entity, the information described in
2310 Subsection (1)(e)(vi);

2311 (iii) list the name of:

2312 (A) each officer or manager of the unincorporated entity; and

2313 (B) each other individual involved in the operation, supervision, or management of the
2314 unincorporated entity; and

2315 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)
2316 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~
2317 (6)(b)(i).

2318 (c) The division may, at any time, audit an ownership status report under this
2319 Subsection ~~[(10)]~~ (6):

2320 (i) to determine if financial responsibility has been demonstrated or maintained as
2321 required under Section 58-55-306; and

2322 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
2323 Subsection 58-55-502(8) or (9).

2324 ~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under
2325 this chapter by providing an individual who owns an interest in the unincorporated entity to
2326 engage in a construction trade in Utah shall file with the division:

2327 (i) before the individual who owns an interest in the unincorporated entity engages in a
2328 construction trade in Utah, a current list of the one or more individuals who hold an ownership
2329 interest in the unincorporated entity that includes for each individual:

2330 (A) the individual's name, address, birth date, and social security number; and

2331 (B) whether the individual will engage in a construction trade; and

2332 (ii) every 30 days after the day on which the unincorporated entity provides the list
2333 described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the
2334 information that would be required under Subsection ~~[(10)]~~ (6) if the unincorporated entity
2335 were a licensed contractor.

2336 (b) When filing an ownership list described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i) or an
2337 ownership status report described in Subsection ~~[(11)(a)(ii)]~~, (7)(a)(i) an unincorporated entity
2338 shall pay a fee set by the division in accordance with Section 63J-1-504.

2339 ~~[(12)]~~ (8) This chapter may not be interpreted to create or support an express or
2340 implied independent contractor relationship between an unincorporated entity described in
2341 Subsection ~~[(10)]~~ (6) or ~~[(11)]~~ (7) and the owners of the unincorporated entity for any purpose,
2342 including income tax withholding.

2343 ~~[(13)]~~ (9) (a) A social security number provided under Subsection (1)(e)(vi) or
2344 (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

2345 (b) The division may designate an applicant's evidence of identity under Subsection
2346 (1)(e)(iv) as a private record in accordance with Section 63G-2-302.

2347 Section 22. Section 58-55-302.1 is enacted to read:

2348 **58-55-302.1. Criminal background check.**

2349 (1) An applicant for licensure under this chapter who requires a criminal background
2350 check shall:

- 2351 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2352 application is filed; and
- 2353 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2354 Identification and the Federal Bureau of Investigation regarding the application.
- 2355 (2) The division shall:
- 2356 (a) in addition to other fees authorized by this chapter, collect from each applicant
2357 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2358 Identification is authorized to collect for the services provided under Section 53-10-108 and the
2359 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2360 obtaining federal criminal history record information;
- 2361 (b) submit from each applicant the fingerprint card and the fees described in
2362 Subsection (2)(a) to the Bureau of Criminal Identification; and
- 2363 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2364 Criminal Identification in accordance with Section 53-10-108 for each applicant.
- 2365 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2366 Section 53-10-108:
- 2367 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2368 and regional criminal records databases;
- 2369 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2370 criminal history background check; and
- 2371 (c) provide the results from the state, regional, and nationwide criminal history
2372 background checks to the division.
- 2373 (4) For purposes of conducting a criminal background check required under this
2374 section, the division shall have direct access to criminal background information maintained
2375 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
- 2376 (5) The division may not disseminate outside of the division any criminal history
2377 record information that the division obtains from the Bureau of Criminal Identification or the
2378 Federal Bureau of Investigation under the criminal background check requirements of this
2379 section.
- 2380 (6) (a) A new license issued under Section 58-55-302 is conditional pending
2381 completion of the criminal background check.

2382 **(b)** Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2383 criminal background check required in Section 58-55-302 demonstrates the applicant or the
2384 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2385 responsible management personnel has failed to accurately disclose a criminal history, the
2386 license is immediately and automatically revoked upon notice to the licensee by the division.

2387 **(c)** A person whose conditional license has been revoked under Subsection (6)(b) is
2388 entitled to a postrevocation hearing to challenge the revocation.

2389 **(d)** The division shall conduct a postrevocation hearing in accordance with Title 63G,
2390 Chapter 4, Administrative Procedures Act.

2391 Section 23. Section **58-55-303** is amended to read:

2392 **58-55-303. Term of license -- Expiration -- Renewal.**

2393 **(1)** (a) Each license issued under this chapter shall be issued in accordance with a
2394 two-year renewal cycle established by rule.

2395 (b) The division may by rule extend or shorten a renewal period by as much as one year
2396 to stagger the renewal cycle it administers.

2397 **(c)** (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding
2398 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a
2399 license is automatically suspended 60 days after the licensee:

2400 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the
2401 ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~]

2402 58-55-302(6)(a)(i); or

2403 (B) transfers its license to an unincorporated entity that is subject to the ownership
2404 status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

2405 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the
2406 expiration of the 60-day period in Subsection (1)(c)(i):

2407 (A) the licensee submits an application for renewal of the license; and

2408 (B) the division renews the licensee's license pursuant to the licensee's application for
2409 renewal.

2410 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),
2411 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
2412 make a final determination concerning the suspension.

- 2413 (2) At the time of renewal, the licensee shall show satisfactory evidence of:
- 2414 (a) continuing financial responsibility as required under Section 58-55-306;
- 2415 (b) for a contractor licensee, completion of six hours of approved continuing education,
- 2416 as required in Section 58-55-302.5; and
- 2417 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
- 2418 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
- 2419 residential master electrician or plumber, completion of the number of hours of continuing
- 2420 education specified under Section 58-55-302.7.
- 2421 (3) Each license automatically expires on the expiration date shown on the license
- 2422 unless the licensee renews the license in accordance with Section 58-1-308.
- 2423 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to
- 2424 applicants seeking to renew or reinstate a license.
- 2425 (5) In addition to any other requirements imposed by law, if a license has been
- 2426 suspended or revoked for any reason, the applicant:
- 2427 (a) shall pay in full all fines imposed by the division;
- 2428 (b) resolve any outstanding citations or disciplinary actions with the division;
- 2429 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 2430 (d) complete a new financial responsibility review as required under Section
- 2431 58-55-306, using only titled assets; and
- 2432 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
- 2433 Residence Lien Restriction and Lien Recovery Fund Act.
- 2434 Section 24. Section 58-55-503 is amended to read:
- 2435 **58-55-503. Penalty for unlawful conduct -- Citations.**
- 2436 (1) As used in this section:
- 2437 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does
- 2438 not include a sole proprietorship, joint venture, corporation, limited liability company,
- 2439 association, or organization of any type.
- 2440 (b) "Qualifying violation" means a violation under:
- 2441 (i) Subsection 58-55-308(2);
- 2442 (ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)
- 2443 through (28);

2444 (iii) Subsection 58-55-502(4)(a) or (11); or

2445 (iv) Subsection 58-55-504(2).

2446 (2) (a) [(i)] A person who violates Subsection [58-55-308(2), Subsection 58-55-501(1),
 2447 (2), (3), (4), (5), (6),] 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), [(21), (22),
 2448 (23), (24), (25), (26), (27), or] or (21) through (28), Subsection 58-55-308(2), or Subsection
 2449 58-55-504(2), or who fails to comply with a citation issued under this section after [it] the
 2450 citation is final, is guilty of a class A misdemeanor.

2451 [(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
 2452 individual and does not include a sole proprietorship, joint venture, corporation, limited
 2453 liability company, association, or organization of any type.]

2454 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
 2455 awarded and may not accept a contract for the performance of the work.

2456 [(2)] (3) A person who violates [the provisions of] Subsection 58-55-501(13) is guilty
 2457 of:

2458 (a) an infraction [unless the]; or

2459 (b) if the violator did so with the intent to deprive the person to whom money is to be
 2460 paid of the money received, [in which case the violator is guilty] of theft[,], as classified in
 2461 Section 76-6-412.

2462 [(3)] (4) Grounds for immediate suspension of a licensee's license by the division and
 2463 the commission include:

2464 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
 2465 58-55-501, or Subsection 58-55-504(2); and

2466 (b) the failure by a licensee to make application to, report to, or notify the division with
 2467 respect to any matter for which application, notification, or reporting is required under this
 2468 chapter or rules adopted under this chapter, including:

2469 (i) applying to the division for a new license to engage in a new specialty classification
 2470 or to do business under a new form of organization or business structure;

2471 (ii) filing a current financial statement with the division; and

2472 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2473 [(4)] (5) (a) (i) If upon inspection or investigation, the division concludes that a person
 2474 has [violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),

2475 ~~(10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection~~
 2476 ~~58-55-502(4)(a) or (11), Subsection 58-55-504(2),]~~ committed a qualifying violation or
 2477 violated any rule or order issued with respect to [~~these subsections~~] a qualifying violation, and
 2478 that disciplinary action is appropriate, the director or the director's designee from within the
 2479 division shall:

2480 (A) promptly issue a citation to the person according to this chapter and any pertinent
 2481 rules[;];

2482 (B) attempt to negotiate a stipulated settlement[;]; or

2483 (C) notify the person to appear before an adjudicative proceeding conducted under
 2484 Title 63G, Chapter 4, Administrative Procedures Act.

2485 (ii) A person who [~~is in violation of the provisions of Subsection 58-55-308(2),~~
 2486 ~~Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24),~~
 2487 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ committed a qualifying violation, as
 2488 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an
 2489 adjudicative proceeding, may be assessed a fine [~~pursuant to this Subsection (4)~~] and may, in
 2490 addition to or in lieu of, be ordered to cease and desist from [~~violating Subsection~~
 2491 ~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24),~~
 2492 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)]~~ engaging in the qualifying violation.

2493 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
 2494 ~~58-55-401~~ may not be assessed through a citation.

2495 (b) [~~(i)~~] A citation shall:

2496 (i) be in writing and describe with particularity the nature of the violation, including a
 2497 reference to the provision of the chapter, rule, or order alleged to have been violated[;];

2498 (ii) [~~A citation shall~~] clearly state that the recipient must notify the division in writing
 2499 within 20 calendar days [~~of service of the citation~~] after the day on which the citation is served
 2500 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,
 2501 Administrative Procedures Act[;]; and

2502 (iii) [~~A citation shall~~] clearly explain the consequences of failure to timely contest the
 2503 citation or to make payment of any fines assessed by the citation within the time specified in
 2504 the citation.

2505 (c) A citation issued under this section, or a copy of a citation, may be served upon a

2506 person upon whom a summons may be served:

2507 (i) in accordance with the Utah Rules of Civil Procedure;

2508 (ii) personally or upon the person's agent by a division investigator or by a person
2509 specially designated by the director; or

2510 (iii) by mail.

2511 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
2512 to whom the citation was issued fails to request a hearing to contest the citation, the citation
2513 becomes the final order of the division and is not subject to further agency review.

2514 (ii) The period to contest a citation may be extended by the division for cause.

2515 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
2516 the license of a licensee who fails to comply with a citation after the citation becomes final.

2517 (f) The failure of an applicant for licensure to comply with a citation after the citation
2518 becomes final is a ground for denial of license.

2519 (g) A citation may not be issued under this section after the expiration of one year
2520 ~~following~~ after the date on which the violation that is the subject of the citation is reported to
2521 the division.

2522 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5);]~~ (6), the
2523 director or the director's designee shall assess a fine in accordance with the following:

2524 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of
2525 up to \$1,000;

2526 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine
2527 of up to \$2,000; and

2528 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a
2529 fine of up to \$2,000 for each day of continued offense.

2530 (ii) Except as provided in Subsection ~~[(5);]~~ (6), if a person violates Subsection
2531 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in
2532 accordance with the following:

2533 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of
2534 up to \$2,000;

2535 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine
2536 of up to \$4,000; and

2537 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a),
 2538 a fine of up to \$4,000 for each day of continued offense.

2539 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
 2540 Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

2541 (A) the division previously issued a final order determining that a person committed a
 2542 first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),~~
 2543 ~~(3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection~~
 2544 ~~58-55-504(2)]~~ qualifying violation; or

2545 (B) (I) the division initiated an action for a first or second offense;

2546 (II) a final order has not been issued by the division in the action initiated under
 2547 Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

2548 (III) the division determines during an investigation that occurred after the initiation of
 2549 the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second
 2550 or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~
 2551 ~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28),~~
 2552 ~~or Subsection 58-55-504(2)]~~ qualifying violation; and

2553 (IV) after determining that the person committed a second or subsequent ~~[offense]~~
 2554 qualifying violation under Subsection ~~[(4)(i)(i)(B)(III)]~~ (5)(i)(i)(B)(III), the division issues a
 2555 final order on the action initiated under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I).

2556 (ii) In issuing a final order for a second or subsequent offense under Subsection
 2557 ~~[(4)(i)(i);]~~ (5)(i)(i), the division shall comply with the requirements of this section.

2558 (j) In addition to any other licensure sanction or fine imposed under this section, the
 2559 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
 2560 two or more times within a 12-month period, unless, with respect to a violation of Subsection
 2561 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
 2562 legal working status of the individual who was the subject of the violation using a status
 2563 verification system, as defined in Section 13-47-102.

2564 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
 2565 for each individual is considered a separate violation.

2566 ~~[(5)]~~ (6) If a person violates Section 58-55-501, the division may not treat the violation
 2567 as a subsequent violation of a previous violation if the violation occurs five years or more after

2568 the day on which the person committed the previous violation.

2569 ~~[(6)]~~ (7) If, after an investigation, the division determines that a person has committed
2570 multiple of the same type of violation of Section 58-55-501, the division may treat each
2571 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
2572 each violation.

2573 ~~[(7)]~~ (8) (a) A penalty imposed by the director under Subsection ~~[(4)(b)]~~ (5) shall be
2574 deposited into the Commerce Service Account created by Section 13-1-2.

2575 (b) A penalty that is not paid may be collected by the director by either referring the
2576 matter to a collection agency or bringing an action in the district court of the county in which
2577 the person against whom the penalty is imposed resides or in the county where the office of the
2578 director is located.

2579 (c) A county attorney or the attorney general of the state shall provide legal assistance
2580 and advice to the director in an action to collect a penalty.

2581 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
2582 fees and costs to the prevailing party.

2583 Section 25. Section 58-63-102 is amended to read:

2584 **58-63-102. Definitions.**

2585 In addition to the definitions in Section 58-1-102, as used in this chapter:

2586 (1) "Agreement for services" means a written and signed agreement between a security
2587 service provider and a client that:

- 2588 (a) contains clear language that addresses and assigns financial responsibility;
- 2589 (b) describes the length, duties, and scope of the security services that will be provided;
- 2590 and

2591 (c) describes the compensation that will be paid by the client for the security services,
2592 including the compensation for each security officer.

2593 (2) "Armed courier service" means a person engaged in business as a contract security
2594 company who transports or offers to transport tangible personal property from one place or
2595 point to another under the control of an armed security officer employed by that service.

2596 (3) "Armed private security officer" means an individual:

- 2597 (a) employed by a contract security company;
- 2598 (b) whose primary duty is:

2599 (i) guarding personal or real property; or
2600 (ii) providing protection or security to the life and well being of humans or animals;
2601 and

2602 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2603 performance of the individual's duties.

2604 (4) "Armored car company" means a person engaged in business under contract to
2605 others who transports or offers to transport tangible personal property, currency, valuables,
2606 jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that
2607 require secured delivery from one place to another under the control of an armored car security
2608 officer employed by the company using a specially equipped motor vehicle offering a high
2609 degree of security.

2610 (5) "Armored car security officer" means an individual:

2611 (a) employed by an armored car company;

2612 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,
2613 SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured
2614 delivery from one place to another; and

2615 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2616 performance of the individual's duties.

2617 (6) "Board" means the Security Services Licensing Board created in Section
2618 58-63-201.

2619 (7) "Client" means a person, company, or entity that contracts for and receives security
2620 services from a contract security company or an armored car company.

2621 (8) "Contract security company" means a company that [~~is registered with the Division~~
2622 ~~of Corporations and Commercial Code and~~] is engaged in business to provide security services
2623 to another person, business, or entity on a contractual basis by assignment of an armed or
2624 unarmed private security officer.

2625 [~~(9) "Corporate officer" means an individual who is on file with the Division of~~
2626 ~~Corporations and Commercial Code as:~~]

2627 [~~(a) a corporate officer of a contract security company or an armored car company that~~
2628 ~~is a corporation; or]~~

2629 [~~(b) a sole proprietor of a contract security company or an armored car company that is~~

2630 ~~not a corporation.]~~

2631 ~~[(10)]~~ (9) "Company officer" means:

2632 (a) a governing person, as defined in Section 48-3a-102, of an armored car company or
2633 contract security company;

2634 (b) an individual appointed as an officer of an armored car company or contract
2635 security company that is a corporation in accordance with Section 16-10a-830;

2636 (c) a general partner, as defined in Section 48-2e-102, of an armored car company or
2637 contract security company; or

2638 (d) a partner, as defined in Section 48-1d-102, of an armored car company or contract
2639 security company.

2640 (10) "Company owner" means:

2641 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
2642 through an entity controlled by the individual, 5% or more of the outstanding shares of an
2643 armored car company or contract security company that:

2644 (i) is a corporation; and

2645 (ii) is not publicly listed or traded; or

2646 (b) an individual who owns directly, or indirectly through an entity controlled by the
2647 individual, 5% or more of the equity of an armored car company or contract security company
2648 that is not a corporation.

2649 (11) "Company proprietor" means the sole proprietor of an armored car company or
2650 contract security company that is registered as a sole proprietorship with the Division of
2651 Corporations and Commercial Code.

2652 (12) "Company trustee" means an individual with control of or power of administration
2653 over property held in trust.

2654 (13) "Financial responsibility," when referring to a contract security company, means
2655 that a contract security company may only provide security services to a client if the contract
2656 security company:

2657 (a) enters into an agreement for services with the client;

2658 (b) maintains a current general liability insurance policy with:

2659 (i) at least an annual \$1,000,000 per occurrence limit;

2660 (ii) at least an annual \$2,000,000 aggregate limit; and

- 2661 (iii) the following riders:
- 2662 (A) general liability;
- 2663 (B) assault and battery;
- 2664 (C) personal injury;
- 2665 (D) false arrest;
- 2666 (E) libel and slander;
- 2667 (F) invasion of privacy;
- 2668 (G) broad form property damage;
- 2669 (H) damage to property in the care, custody, or control of the security service provider;

2670 and

- 2671 (I) errors and omissions;
- 2672 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
- 2673 occurrence limit and that covers each security officer employed by the contract security
- 2674 company; and
- 2675 (d) maintains a federal employer identification number and an unemployment
- 2676 insurance employer account as required under state and federal law.

2677 ~~[(H)]~~ (14) "Identification card" means a personal pocket or wallet size card issued by

2678 the division to each armored car and armed or unarmed private security officer licensed under

2679 this chapter.

2680 ~~[(I2)]~~ (15) "Law enforcement agency" means the same as that term is defined in

2681 Section [53-1-102](#).

2682 ~~[(I3)] "Owner" means an individual who is listed with the Division of Corporations and~~

2683 ~~Commercial Code as a majority stockholder of a company, a general partner of a partnership,~~

2684 ~~or the proprietor of a sole proprietorship.]~~

2685 ~~[(I4)]~~ (16) "Peace officer" means a person who:

2686 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer

2687 Classifications; and

2688 (b) derives total or special law enforcement powers from, and is an employee of, the

2689 federal government, the state, or a political subdivision, agency, department, branch, or service

2690 of either, of a municipality, or a unit of local government.

2691 ~~[(I5)]~~ (17) "Regular basis" means at least 20 hours per month.

2692 [~~(16)~~] (18) "Responsible management personnel" means [~~an individual who is~~
2693 ~~responsible for managing an applicant's operations.];~~

2694 (a) a qualifying agent;

2695 (b) an operations manager; or

2696 (c) a site manager.

2697 [~~(17)~~] (19) (a) "Security officer" means an individual who is licensed as an armed or
2698 unarmed private security officer under this chapter and who:

2699 (i) is employed by a contract security company securing, guarding, or otherwise
2700 protecting tangible personal property, real property, or the life and well being of human or
2701 animal life against:

2702 (A) trespass or other unlawful intrusion or entry;

2703 (B) larceny;

2704 (C) vandalism or other abuse;

2705 (D) arson or other criminal activity; or

2706 (E) personal injury caused by another person or as a result of an act or omission by
2707 another person;

2708 (ii) is controlling, regulating, or directing the flow of movements of an individual or
2709 vehicle; or

2710 (iii) providing street patrol service.

2711 (b) "Security officer" does not include an individual whose duties include taking
2712 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
2713 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
2714 convention center, fairgrounds, public assembly facility, or mass gathering location if:

2715 (i) the individual carries out these duties without the use of specialized equipment;

2716 (ii) the authority of the individual is limited to denying entry or passage of another
2717 individual into or within the facility; and

2718 (iii) the individual is not authorized to use physical force in the performance of the
2719 individual's duties under this Subsection [~~(17)(b).~~] (19)(b).

2720 [~~(18)~~] (20) "Security service provider" means a contract security company or an
2721 armored car company licensed under this chapter.

2722 [~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed

2723 for:

2724 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
2725 the premises protected by the system; or

2726 (b) signaling the commission of criminal activity at the election of an individual having
2727 control of the features of the security system.

2728 [~~20~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of
2729 tangible personal property specifically designed for use in law enforcement or in providing
2730 security or guard services, or that is specially equipped with a device or feature designed for
2731 use in providing law enforcement, security, or guard services, but does not include:

2732 (a) standardized clothing, whether or not bearing a company name or logo, if the
2733 clothing does not bear the words "security" or "guard"; or

2734 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
2735 may be used without modification in providing security or guard services.

2736 [~~21~~] (23) "Street patrol service" means a contract security company that provides
2737 patrols by means of foot, vehicle, or other method of transportation using public streets,
2738 thoroughfares, or property in the performance of the company's duties and responsibilities.

2739 [~~22~~] (24) "Unarmed private security officer" means an individual:

2740 (a) employed by a contract security company;

2741 (b) whose primary duty is guarding personal or real property or providing protection or
2742 security to the life and well being of humans or animals;

2743 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
2744 performance of the individual's duties; and

2745 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
2746 emblem, insignia, or other device that identifies the individual as a security officer.

2747 [~~23~~] (25) "Unlawful conduct" means the same as that term is defined in Sections
2748 58-1-501 and 58-63-501.

2749 [~~24~~] (26) "Unprofessional conduct" means the same as that term is defined in
2750 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

2751 Section 26. Section 58-63-302 is amended to read:

2752 **58-63-302. Qualifications for licensure.**

2753 (1) Each applicant for licensure as an armored car company or a contract security

2754 company shall:

2755 (a) submit an application in a form prescribed by the division;

2756 (b) pay a fee determined by the department under Section [63J-1-504](#);

2757 (c) have a qualifying agent who:

2758 (i) [~~shall meet~~] meets with the division and the board and [~~demonstrate~~] demonstrates
2759 that the applicant and the qualifying agent meet the requirements of this section;

2760 (ii) is a resident of the state [~~and~~];

2761 (iii) is responsible management personnel or [~~an~~] a company owner of the applicant;

2762 [(iii)] (iv) exercises material day-to-day authority in the conduct of the applicant's
2763 business by making substantive technical and administrative decisions and whose primary
2764 employment is with the applicant;

2765 [(iv)] (v) is not concurrently acting as a qualifying agent or employee of another
2766 armored car company or contract security company and is not engaged in any other
2767 employment on a regular basis;

2768 [(v)] (vi) is not involved in any activity that would conflict with the qualifying agent's
2769 duties and responsibilities under this chapter to ensure that the qualifying agent's and the
2770 applicant's performance under this chapter does not jeopardize the health or safety of the
2771 general public;

2772 [(vi)] (vii) is not an employee of a government agency;

2773 [(vii)] (viii) passes an examination component established by rule by the division in
2774 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
2775 Rulemaking Act; and

2776 [(viii)] (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,
2777 supervisor, or administrator of an armored car company or a contract security company; or

2778 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
2779 collaboration with the board with a federal, United States military, state, county, or municipal
2780 law enforcement agency;

2781 (d) provide the name, address, date of birth, social security number, fingerprint card,
2782 and consent to a criminal background check in accordance with Section [58-55-302.1](#) and
2783 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah
2784 Administrative Rulemaking Act, for each company officer, company owner, company

2785 proprietor, company trustee, and responsible management personnel with direct responsibility
 2786 for managing operations of the applicant within the state;
 2787 ~~[(d) if a corporation, provide:]~~
 2788 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~
 2789 ~~officers, directors, and responsible management personnel; and]~~
 2790 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~
 2791 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~
 2792 ~~the division if the stock is publicly listed and traded;]~~
 2793 ~~[(e) if a limited liability company, provide:]~~
 2794 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~
 2795 ~~officers, and responsible management personnel; and]~~
 2796 ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~
 2797 ~~owning 5% or more of the equity of the company;]~~
 2798 ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~
 2799 ~~numbers of all general partners, and responsible management personnel;]~~
 2800 ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~
 2801 ~~numbers of the proprietor, and responsible management personnel;]~~
 2802 ~~[(h) (e) have [good moral character in that officers, directors, shareholders described~~
 2803 ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~
 2804 company officers, company owners, company proprietors, company trustees, and responsible
 2805 management personnel who have not been convicted of:
 2806 (i) a felony; or
 2807 ~~[(ii) a misdemeanor involving moral turpitude; or]~~
 2808 ~~[(iii)]~~ (ii) a crime that when considered with the duties and responsibilities of a contract
 2809 security company or an armored car company by the division and the board indicates that the
 2810 best interests of the public are not served by granting the applicant a license;
 2811 ~~[(i)]~~ (f) document that none of the ~~[applicant's officers, directors, shareholders~~
 2812 ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~
 2813 ~~personnel]~~ persons described in Subsection (1)(e):
 2814 (i) have been declared by a court of competent jurisdiction incompetent by reason of
 2815 mental defect or disease and not been restored; ~~[and]~~ or

2816 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
2817 [~~(j)~~] (g) file and maintain with the division evidence of:
2818 (i) comprehensive general liability insurance in a form and in amounts established by
2819 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter
2820 3, Utah Administrative Rulemaking Act;
2821 (ii) workers' compensation insurance that covers employees of the applicant in
2822 accordance with applicable Utah law;
2823 (iii) registration with the Division of Corporations and Commercial Code; and
2824 (iv) registration as required by applicable law with the:
2825 (A) Unemployment Insurance Division in the Department of Workforce Services, for
2826 purposes of Title 35A, Chapter 4, Employment Security Act;
2827 (B) State Tax Commission; and
2828 (C) Internal Revenue Service; and
2829 [~~(k)~~] (h) meet with the division and board if requested by the division or board.
2830 (2) Each applicant for licensure as an armed private security officer [~~shall~~]:
2831 (a) shall submit an application in a form prescribed by the division;
2832 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
2833 (c) [~~have good moral character in that the applicant has not~~] may not have been
2834 convicted of:
2835 (i) a felony; or
2836 [~~(ii) a misdemeanor involving moral turpitude; or~~]
2837 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an armed
2838 private security officer by the division and the board indicates that the best interests of the
2839 public are not served by granting the applicant a license;
2840 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
2841 Sec. 922(g);
2842 (e) may not have been declared incompetent by a court of competent jurisdiction by
2843 reason of mental defect or disease and not been restored;
2844 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
2845 dependence;
2846 (g) shall successfully complete basic education and training requirements established

2847 by rule by the division in collaboration with the board and in accordance with Title 63G,
 2848 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
 2849 hours of classroom or online curriculum;

2850 (h) shall successfully complete firearms training requirements established by rule by
 2851 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
 2852 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;

2853 (i) shall pass the examination requirement established by rule by the division in
 2854 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
 2855 Administrative Rulemaking Act;

2856 (j) shall submit to and pass a background check in accordance with Section
 2857 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
 2858 Chapter 3, Utah Administrative Rulemaking Act; and

2859 ~~[(j)]~~ (k) shall meet with the division and board if requested by the division or the board.

2860 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

2861 (a) shall submit an application in a form prescribed by the division;

2862 (b) shall pay a fee determined by the department under Section 63J-1-504;

2863 (c) [~~have good moral character in that the applicant has not~~] may not have been
 2864 convicted of:

2865 (i) a felony; or

2866 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2867 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
 2868 unarmed private security officer by the division and the board indicates that the best interests of
 2869 the public are not served by granting the applicant a license;

2870 (d) may not have been declared incompetent by a court of competent jurisdiction by
 2871 reason of mental defect or disease and not been restored;

2872 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
 2873 dependence;

2874 (f) shall successfully complete basic education and training requirements established
 2875 by rule by the division in collaboration with the board and in accordance with Title 63G,
 2876 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
 2877 hours of classroom or online curriculum;

2878 (g) shall pass the examination requirement established by rule by the division in
2879 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
2880 Administrative Rulemaking Act;

2881 (h) shall submit to and pass a background check in accordance with Section
2882 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
2883 Chapter 3, Utah Administrative Rulemaking Act; and

2884 [~~(h)~~] (i) shall meet with the division and board if requested by the division or board.

2885 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:

2886 (a) shall submit an application in a form prescribed by the division;

2887 (b) shall pay a fee determined by the department under Section 63J-1-504;

2888 (c) [~~have good moral character in that the applicant has not~~] may not have been
2889 convicted of:

2890 (i) a felony; or

2891 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2892 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
2893 armored car security officer by the division and the board indicates that the best interests of the
2894 public are not served by granting the applicant a license;

2895 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
2896 Sec. 922(g);

2897 (e) may not have been declared incompetent by a court of competent jurisdiction by
2898 reason of mental defect or disease and not been restored;

2899 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
2900 dependence;

2901 (g) shall successfully complete basic education and training requirements established
2902 by rule by the division in collaboration with the board and in accordance with Title 63G,
2903 Chapter 3, Utah Administrative Rulemaking Act;

2904 (h) shall successfully complete firearms training requirements established by rule by
2905 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
2906 Administrative Rulemaking Act;

2907 (i) shall pass the examination requirements established by rule by the division in
2908 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah

2909 Administrative Rulemaking Act;

2910 (j) shall submit to and pass a background check in accordance with Section
 2911 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
 2912 Chapter 3, Utah Administrative Rulemaking Act; and

2913 ~~[(j)] (k) shall meet with the division and board if requested by the division or the board.~~

2914 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2915 division may make a rule establishing when the division shall request a Federal Bureau of
 2916 Investigation records' review for an applicant who is applying for licensure or licensure renewal
 2917 under this chapter.

2918 ~~[(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
 2919 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
 2920 cards to the Department of Public Safety with the division's request to:]~~

2921 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history
 2922 information relating to each applicant for licensure under this chapter and each applicant's
 2923 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
 2924 responsible management personnel; and]~~

2925 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
 2926 requiring a check of records of the FBI for criminal history information under this section.]~~

2927 ~~[(7) The Department of Public Safety shall send the division:]~~

2928 ~~[(a) a written record of criminal history, or certification of no criminal history record,
 2929 as contained in the records of the Department of Public Safety in a timely manner after receipt
 2930 of a fingerprint card from the division and a request for review of Department of Public Safety
 2931 records; and]~~

2932 ~~[(b) the results of the FBI review concerning an applicant in a timely manner after
 2933 receipt of information from the FBI.]~~

2934 ~~[(8) (a) The division shall charge each applicant a fee, in accordance with Section
 2935 [63J-1-504](#), equal to the cost of performing the records reviews under this section.]~~

2936 ~~[(b) The division shall pay the Department of Public Safety the costs of all records
 2937 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
 2938 under this chapter.]~~

2939 ~~[(9) The division shall use or disseminate the information it obtains from the reviews~~

2940 of criminal history records of the Department of Public Safety and the FBI only to determine if
2941 an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]

2942 Section 27. Section **58-63-302.1** is enacted to read:

2943 **58-63-302.1. Criminal background check.**

2944 (1) An applicant for licensure under this chapter who requires a criminal background
2945 check shall:

2946 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2947 application is filed; and

2948 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2949 Identification and the Federal Bureau of Investigation regarding the application.

2950 (2) The division shall:

2951 (a) in addition to other fees authorized by this chapter, collect from each applicant
2952 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2953 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the
2954 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2955 obtaining federal criminal history record information;

2956 (b) submit from each applicant the fingerprint card and the fees described in
2957 Subsection (2)(a) to the Bureau of Criminal Identification; and

2958 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2959 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

2960 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2961 Section [53-10-108](#):

2962 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2963 and regional criminal records databases;

2964 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2965 criminal history background check; and

2966 (c) provide the results from the state, regional, and nationwide criminal history
2967 background checks to the division.

2968 (4) For purposes of conducting a criminal background check required under this
2969 section, the division shall have direct access to criminal background information maintained
2970 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2971 (5) The division may not disseminate outside of the division any criminal history
2972 record information that the division obtains from the Bureau of Criminal Identification or the
2973 Federal Bureau of Investigation under the criminal background check requirements of this
2974 section.

2975 (6) (a) A new license issued under Section 58-63-302 is conditional pending
2976 completion of the criminal background check.

2977 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2978 criminal background check required in Section 58-68-302 demonstrates the applicant or the
2979 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2980 responsible management personnel has failed to accurately disclose a criminal history, the
2981 license is immediately and automatically revoked upon notice to the licensee by the division.

2982 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2983 entitled to a postrevocation hearing to challenge the revocation.

2984 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
2985 Chapter 4, Administrative Procedures Act.

2986 Section 28. Section **58-64-302** is amended to read:

2987 **58-64-302. Qualifications for licensure.**

2988 (1) Each applicant for licensure as a deception detection examiner:

2989 (a) shall submit an application in a form prescribed by the division;

2990 (b) shall pay a fee determined by the department under Section **63J-1-504**;

2991 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~
2992 ~~turpitude;~~ or any other crime that when considered with the duties and responsibilities of a
2993 deception detection examiner is considered by the division to indicate that the best interests of
2994 the public will not be served by granting the applicant a license;

2995 (d) may not have been declared by any court of competent jurisdiction incompetent by
2996 reason of mental defect or disease and not been restored;

2997 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
2998 dependence;

2999 (f) shall have completed one of the following:

3000 (i) have earned a bachelor's degree from a four year university or college meeting
3001 standards established by the division by rule made in accordance with Title 63G, Chapter 3,

3002 Utah Administrative Rulemaking Act;

3003 (ii) have completed not less than 8,000 hours of investigation experience approved by
3004 the division; or

3005 (iii) have completed a combination of university or college education and investigation
3006 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
3007 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
3008 Subsection (1)(f)(i) or (1)(f)(ii);

3009 (g) shall have successfully completed a training program in deception deception
3010 meeting criteria established by rule made by the division~~[-and]~~ in accordance with Title 63G,
3011 Chapter 3, Utah Administrative Rulemaking Act;

3012 (h) shall submit to and pass a background check in accordance with Section
3013 58-64-302.1 and requirements established by division rule made in accordance with Title 63G,
3014 Chapter 3, Utah Administrative Rulemaking Act; and

3015 ~~[(h)]~~ (i) shall have performed satisfactorily as a licensed deception detection intern for
3016 a period of not less than one year and shall have satisfactorily conducted not less than 100
3017 deception detection examinations under the supervision of a licensed deception detection
3018 examiner.

3019 (2) Each applicant for licensure as a deception detection intern:

3020 (a) shall submit an application in a form prescribed by the division;

3021 (b) shall pay a fee determined by the department under Section 63J-1-504;

3022 (c) may not have been convicted of a felony~~[-, a misdemeanor involving moral~~
3023 ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a
3024 deception detection intern is considered by the division to indicate that the best interests of the
3025 public will not be served by granting the applicant a license;

3026 (d) may not have been declared by any court of competent jurisdiction incompetent by
3027 reason of mental defect or disease and not been restored;

3028 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
3029 dependence;

3030 (f) shall have completed one of the following:

3031 (i) have earned a bachelor's degree from a four year university or college meeting
3032 standards established by the division by rule made in accordance with Title 63G, Chapter 3,

3033 Utah Administrative Rulemaking Act;

3034 (ii) have completed not less than 8,000 hours of investigation experience approved by
3035 the division; or

3036 (iii) have completed a combination of university or college education and investigation
3037 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
3038 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
3039 Subsection (2)(f)(i) or (2)(f)(ii);

3040 (g) shall have successfully completed a training program in deception detection
3041 meeting criteria established by rule made by the division~~;~~ and in accordance with Title 63G,
3042 Chapter 3, Utah Administrative Rulemaking Act;

3043 (h) shall submit to and pass a background check in accordance with Section
3044 [58-64-302.1](#) and requirements established by division rule made in accordance with Title 63G,
3045 Chapter 3, Utah Administrative Rulemaking Act; and

3046 ~~(h)~~ (i) shall provide the division with an intern supervision agreement in a form
3047 prescribed by the division under which:

3048 (i) a licensed deception detection examiner agrees to supervise the intern; and
3049 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

3050 (3) Each applicant for licensure as a deception detection examination administrator:

3051 (a) shall submit an application in a form prescribed by the division;

3052 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

3053 (c) may not have been convicted of a felony~~;~~ ~~a misdemeanor involving moral~~
3054 ~~turpitude;~~ or any other crime that when considered with the duties and responsibilities of a
3055 deception detection examination administrator is considered by the division to indicate that the
3056 best interests of the public will not be served by granting the applicant a license;

3057 (d) may not have been declared by a court of competent jurisdiction incompetent by
3058 reason of mental defect or disease and not been restored;

3059 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
3060 dependence;

3061 (f) shall have earned an associate degree from a state-accredited university or college or
3062 have an equivalent number of years' work experience; ~~and~~

3063 (g) shall submit to and pass a background check in accordance with Section

3064 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
3065 Chapter 3, Utah Administrative Rulemaking Act; and

3066 ~~[(g)]~~ (h) shall have successfully completed a training program and have obtained
3067 certification in deception detection examination administration provided by the manufacturer
3068 of a scientific or technology-based software application solution that is approved by the
3069 director.

3070 ~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c),~~
3071 ~~or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the~~
3072 ~~Department of Public Safety with the division's request to:]~~

3073 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~
3074 ~~information relating to each applicant for licensure under this chapter; and]~~

3075 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
3076 ~~requiring a check of records of the F.B.I. for criminal history information under this section.]~~

3077 ~~[(5) The Department of Public Safety shall send to the division:]~~

3078 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~
3079 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
3080 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
3081 ~~records; and]~~

3082 ~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after~~
3083 ~~receipt of information from the F.B.I.]~~

3084 ~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section~~
3085 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

3086 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
3087 ~~reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews~~
3088 ~~under this chapter.]~~

3089 ~~[(7) Information obtained by the division from the reviews of criminal history records~~
3090 ~~of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division~~
3091 ~~only for the purpose of determining if an applicant for licensure under this chapter is qualified~~
3092 ~~for licensure.]~~

3093 Section 29. Section **58-64-302.1** is enacted to read:

3094 **58-64-302.1. Criminal background check.**

3095 (1) An applicant for licensure under this chapter who requires a criminal background
3096 check shall:

3097 (a) submit fingerprint cards in a form acceptable to the division at the time the license
3098 application is filed; and

3099 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
3100 Identification and the Federal Bureau of Investigation regarding the application.

3101 (2) The division shall:

3102 (a) in addition to other fees authorized by this chapter, collect from each applicant
3103 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
3104 Identification is authorized to collect for the services provided under Section 53-10-108 and the
3105 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
3106 obtaining federal criminal history record information;

3107 (b) submit from each applicant the fingerprint card and the fees described in
3108 Subsection (2)(a) to the Bureau of Criminal Identification; and

3109 (c) obtain and retain in division records a signed waiver approved by the Bureau of
3110 Criminal Identification in accordance with Section 53-10-108 for each applicant.

3111 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
3112 Section 53-10-108:

3113 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
3114 and regional criminal records databases;

3115 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
3116 criminal history background check; and

3117 (c) provide the results from the state, regional, and nationwide criminal history
3118 background checks to the division.

3119 (4) For purposes of conducting a criminal background check required under this
3120 section, the division shall have direct access to criminal background information maintained
3121 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

3122 (5) The division may not disseminate outside of the division any criminal history
3123 record information that the division obtains from the Bureau of Criminal Identification or the
3124 Federal Bureau of Investigation under the criminal background check requirements of this
3125 section.

3126 (6) (a) A new license issued under Section 58-64-302 is conditional pending
3127 completion of the criminal background check.

3128 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
3129 criminal background check required in Section 58-64-302 demonstrates the applicant or the
3130 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
3131 responsible management personnel has failed to accurately disclose a criminal history, the
3132 license is immediately and automatically revoked upon notice to the licensee by the division.

3133 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
3134 entitled to a postrevocation hearing to challenge the revocation.

3135 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
3136 Chapter 4, Administrative Procedures Act.