

**Representative Stewart E. Barlow** proposes the following substitute bill:

**PROFESSIONAL LICENSING AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: A. Cory Maloy

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to professional licensing.

**Highlighted Provisions:**

This bill:

- ▶ 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       ▶ modifies 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 a 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-302](#), as last amended by Laws of Utah 2022, Chapter 277
- 60 [58-31b-803](#), as last amended by Laws of Utah 2022, Chapter 274
- 61 [58-53-302](#), as last amended by Laws of Utah 2009, Chapter 183
- 62 [58-54-302](#), as last amended by Laws of Utah 2020, Chapter 339
- 63 [58-55-102](#), as last amended by Laws of Utah 2022, Chapters 415, 446
- 64 [58-55-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 65 [58-55-303](#), as last amended by Laws of Utah 2013, Chapter 57
- 66 [58-55-503](#), as last amended by Laws of Utah 2022, Chapter 415
- 67 [58-63-102](#), as last amended by Laws of Utah 2022, Chapter 415
- 68 [58-63-302](#), as last amended by Laws of Utah 2022, Chapter 415
- 69 [58-64-302](#), as last amended by Laws of Utah 2020, Chapters 154, 339

70 ENACTS:

- 71 [58-55-302.1](#), Utah Code Annotated 1953
- 72 [58-63-302.1](#), Utah Code Annotated 1953
- 73 [58-64-302.1](#), Utah Code Annotated 1953



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

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

77 **58-1-108. Adjudicative proceedings.**

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

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

87 (3) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a warning

88 or final disposition letter which does not constitute disciplinary action against the addressee,  
89 issued in response to a complaint of unprofessional or unlawful conduct under this title, does  
90 not constitute an adjudicative proceeding.

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

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

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

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

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

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

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

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

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

117 (b) If the director designates certain licensing board members under Subsection (3)(b)  
118 to represent the licensing board described in Subsection (3)(a), the person who is aggrieved by

119 the designated board members' recommended order may petition the licensing board to review  
120 the designated board members' recommended order.

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

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

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

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

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

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

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

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

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

145 (9) The content of all orders shall comply with the requirements of Subsection  
146 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

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

148 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**  
149 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**

150 **professional school that teaches continuing education prohibited.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 (c) rules made by the Division of Finance ~~[pursuant to]~~ under Sections 63A-3-106 and  
197 63A-3-107.

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

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

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

205 **58-1-202. Boards -- Duties, functions, and responsibilities.**

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

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

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

- 212 (c) approving and establishing a passing score for applicant examinations;
- 213 (d) screening applicants and recommending licensing, renewal, reinstatement, and
- 214 relicensure actions to the director in writing;
- 215 (e) assisting the director in establishing standards of supervision for students or persons
- 216 in training to become qualified to obtain a license in the [~~occupation or~~] profession [it] the
- 217 board represents; and
- 218 (f) in accordance with Section 58-1-109, acting as presiding officer in conducting
- 219 hearings associated with adjudicative proceedings and in issuing recommended orders when so
- 220 designated by the director.

221 (2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah

222 Construction Trades Licensing Act.

223 (3) (a) Each board or commission established under this title may recommend to the

224 appropriate legislative committee whether the board or commission supports a change to a

225 licensing act.

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

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

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

230 **58-1-301. License application -- Licensing procedure.**

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

232 available from the division.

233 (b) Each completed application shall:

234 (i) contain documentation of the particular qualifications required of the applicant

235 under this title or rules made by the division in accordance with Title 63G, Chapter 3, Utah

236 Administrative Rulemaking Act;

237 (ii) include the applicant's:

238 (A) full legal name; and

239 (B) social security number, or other satisfactory evidence of the applicant's identity

240 permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah

241 Administrative Rulemaking Act;

242 (iii) be verified by the applicant; and



243 (iv) be accompanied by the appropriate fees.

244 (c) An applicant's social security number is a private record under Subsection  
245 [63G-2-302\(1\)\(i\)](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

294 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

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

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

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

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

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

- 305 (f) Section [58-47b-302](#);
- 306 (g) Section [58-55-302](#), as Section [58-55-302](#) applies to alarm companies and alarm  
307 company agents, and Section [58-55-302.1](#);
- 308 (h) Sections [58-60-103.1](#), [58-60-205](#), [58-60-305](#), and [58-60-405](#), of Chapter 60, Mental  
309 Health Professional Practice Act;
- 310 (i) Sections [58-61-304](#) and [58-61-304.1](#);
- 311 (j) ~~[Section]~~ Sections [58-63-302](#) and [58-63-302.1](#);
- 312 (k) ~~[Section]~~ Sections [58-64-302](#) and [58-64-302.1](#);
- 313 (l) Sections [58-67-302](#) and [58-67-302.1](#); and
- 314 (m) Sections [58-68-302](#) and [58-68-302.1](#).
- 315 (2) The division's access to criminal background information under this section:
- 316 (a) shall meet the requirements of Section [53-10-108](#); and
- 317 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere  
318 held in abeyance, dismissed charges, and charges without a known disposition.
- 319 (3) The division may not disseminate outside of the division any criminal history  
320 record information that the division obtains from the Bureau of Criminal Identification or the  
321 Federal Bureau of Investigation under the criminal background check requirements of this  
322 section.

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

324 **58-1-501. Unlawful and unprofessional conduct.**

- 325 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful  
326 under this title and includes:
- 327 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or  
328 attempting to practice or engage in any ~~[occupation or]~~ profession requiring licensure under  
329 this title if the person is:
- 330 (i) not licensed to do so or not exempted from licensure under this title; or
- 331 (ii) restricted from doing so by a suspended, revoked, restricted, temporary,  
332 probationary, or inactive license;
- 333 (b) (i) impersonating another licensee or practicing ~~[an occupation or]~~ a profession  
334 under a false or assumed name, except as permitted by law; or
- 335 (ii) for a licensee who has had a license under this title reinstated following disciplinary

336 action, practicing the same [~~occupation or~~] profession using a different name than the name  
337 used before the disciplinary action, except as permitted by law and after notice to, and approval  
338 by, the division;

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

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

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

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

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

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

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

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

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

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

367 this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

427 (ii) the conviction was for:

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

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

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

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

434 **58-1-506. Supervision of cosmetic medical procedures.**

435 (1) For purposes of this section:

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

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

441 (ii) a registered nurse;

442 (iii) a master esthetician; and

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

444 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

457 (e) "Hair removal review" means:

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

460 supervisor;

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

462 and

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

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

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

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

469 (iii) is present within the cosmetic medical facility in which the person being

470 supervised is providing services; and

471 (iv) is available to:

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

473 and

474 (B) evaluate the patient, as necessary.

475 (2) A supervisor supervising a nonablative cosmetic medical procedure for hair

476 removal shall:

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

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

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

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

484 (e) during the nonablative cosmetic medical procedure for hair removal provide general  
485 cosmetic medical procedure supervision to individuals in delegation group A performing the

486 procedure, except physician assistants, who shall ~~[be supervised as provided in]~~ act in

487 accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical

488 procedure supervision to individuals in delegation group B performing the procedure; and

489 (f) verify that a person to whom the supervisor delegates an evaluation under

490 Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):



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

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

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

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

500 (B) physiology of the skin;

501 (C) skin typing and analysis;

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

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

504 (F) infection control;

505 (G) laser and light physics training;

506 (H) laser technologies and applications;

507 (I) safety and maintenance of lasers;

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

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

510 (L) cardiopulmonary resuscitation (CPR).

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

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

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

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

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

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

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

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

532 (c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

570 **58-9-306. License by endorsement.**

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

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

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

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

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

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

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

579 ~~[(c)]~~ (b) ~~[any other]~~ crime that when considered with the duties and responsibilities of

580 the license for which the person is applying is considered by the division and the board to

581 indicate that the best interests of the public are not served by granting the applicant a license;

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

584 by endorsement;

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

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

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

589 **58-17b-102. Definitions.**

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

591 (1) "Administering" means:

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

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

599 (2) "Adulterated drug or device" means a drug or device considered adulterated under  
600 21 U.S.C. Sec. 351 (2003).

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

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

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

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

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

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

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

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

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

631 (11) "Class B pharmacy":

632 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

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

644 (i) provides pharmaceutical care to a defined and exclusive group of patients who have  
645 access to the services of the pharmacy because they are treated by or have an affiliation with a

646 specific entity, including a health maintenance organization or an infusion company; or

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

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

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

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

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

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

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

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

668 (b) "Compounding" does not include:

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

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

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

676 (19) "Confidential information" has the same meaning as "protected health

677 information" under the Standards for Privacy of Individually Identifiable Health Information,  
678 45 C.F.R. Parts 160 and 164.

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

680 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter  
681 417, Sec. 3a(ff) which is incorporated by reference.

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

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

687 (a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

715 (i) known allergies;

716 (ii) rational therapy-contraindications;

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

718 (iv) reasonable directions for use;

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

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

723 (i) drug-drug;

724 (ii) drug-food;

725 (iii) drug-disease; and

726 (iv) adverse drug reactions; and

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

766 (38) "Misbranded drug or device" means a drug or device considered misbranded under  
767 21 U.S.C. Sec. 352 (2003).

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

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

- 770 (ii) is labeled for use by the consumer in accordance with federal law.
- 771 (b) "Nonprescription drug" includes homeopathic remedies.
- 772 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a  
773 person in Utah.
- 774 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.
- 775 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located  
776 outside the state that is licensed and in good standing in another state, that:
- 777 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in  
778 this state pursuant to a lawfully issued prescription;
- 779 (b) provides information to a patient in this state on drugs or devices which may  
780 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;  
781 or
- 782 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic  
783 effects of drugs.
- 784 (43) "Patient counseling" means the written and oral communication by the pharmacist  
785 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of  
786 drugs, devices, and dietary supplements.
- 787 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in  
788 which:
- 789 (a) prescription drugs or devices are held, stored, or are otherwise under the control of  
790 the facility or agency for administration to patients of that facility or agency;
- 791 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist  
792 or pharmacy intern with whom the facility has established a prescription drug supervising  
793 relationship under which the pharmacist or pharmacy intern provides counseling to the facility  
794 or agency staff as required, and oversees drug control, accounting, and destruction; and
- 795 (c) prescription drugs are professionally administered in accordance with the order of a  
796 practitioner by an employee or agent of the facility or agency.
- 797 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a  
798 prescribing practitioner, and in accordance with division rule:
- 799 (i) designing, implementing, and monitoring a therapeutic drug plan intended to  
800 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing

801 the patient's disease;

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

803 (iii) arresting or slowing a disease process.

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

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

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

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

815 (i) intracompany sales;

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

820 (A) hospitals;

821 (B) pharmacies;

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

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

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

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

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

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

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

835 (A) the facility's total distribution-related sales of prescription drugs does not exceed  
836 5% of the facility's total prescription drug sales; and

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

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

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

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

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

848 (a) drugs are dispensed;

849 (b) pharmaceutical care is provided;

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

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

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

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

858 (54) "Pharmacy manager" means:

859 (a) a pharmacist-in-charge;

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

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

- 863 (d) an individual who oversees the operations of a licensed pharmacy;
- 864 (e) an immediate supervisor of an individual described in Subsections (54)(a) through
- 865 (d); or
- 866 (f) another operations or site manager of a licensed pharmacy.

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

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

- 874 (b) "Practice as a dispensing medical practitioner" does not include:
- 875 (i) using a vending type of dispenser as defined by the division by administrative rule;
- 876 or
- 877 (ii) except as permitted by Section [58-17b-805](#), dispensing of a controlled substance as
- 878 defined in Section [58-37-2](#).

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

883 [~~57~~] (58) "Practice of pharmacy" includes the following:

- 884 (a) providing pharmaceutical care;
- 885 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
- 886 practice agreement;
- 887 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
- 888 distribution of prescription drugs or devices, provided that the administration of a prescription
- 889 drug or device is:
  - 890 (i) pursuant to a lawful order of a practitioner when one is required by law; and
  - 891 (ii) in accordance with written guidelines or protocols:
    - 892 (A) established by the licensed facility in which the prescription drug or device is to be
    - 893 administered on an inpatient basis; or

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

897 (d) participating in drug utilization review;

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

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

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

903 (h) providing drug product equivalents;

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

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

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

908 (l) telepharmacy;

909 (m) formulary management intervention;

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

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

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

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

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

922 [~~61~~] (62) "Prescribe" means to issue a prescription:

923 (a) orally or in writing; or

924 (b) by telephone, facsimile transmission, computer, or other electronic means of

925 communication as defined by division rule.

926 ~~[(62)]~~ (63) "Prescription" means an order issued:

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

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

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

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

938 ~~[(65)]~~ (66) "Repackage":

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

941 (b) does not include:

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

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

947 ~~[(66)]~~ (67) "Research using pharmaceuticals" means research:

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

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

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

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

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

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

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

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

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

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

971 ~~[(71)]~~ (72) "Supportive personnel" means unlicensed individuals who:

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

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

979 ~~[(72)]~~ (73) "Unlawful conduct" means the same as that term is defined in Sections  
980 58-1-501 and 58-17b-501.

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

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

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



987 **58-17b-306. Qualifications for licensure as a pharmacy.**

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

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

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

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

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

1000 (e) maintain operating standards established by division rule made in collaboration  
1001 with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative  
1002 Rulemaking Act;

1003 (f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint  
1004 background check in accordance with Section [58-17b-307](#); and

1005 [~~(f)~~] (g) acknowledge the division's authority to inspect the licensee's business premises  
1006 pursuant to Section [58-17b-103](#).

1007 (2) Each applicant applying for a class D license shall:

1008 (a) submit a written application in the form prescribed by the division;

1009 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1010 (c) present to the division verification of licensure in the state where physically located  
1011 and verification that such license is in good standing;

1012 (d) satisfy the division that the applicant and each of the applicant's pharmacy  
1013 managers has not engaged in any act, practice, or omission, which when considered with the  
1014 duties and responsibilities of a licensee under this section, indicates there is cause to believe  
1015 that issuing a license to the applicant is inconsistent with the interest of the public's health,  
1016 safety, or welfare;

1017 (e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint

1018 background check in accordance with Section 58-17b-307;

1019       ~~[(d)]~~ (f) provide a statement of the scope of pharmacy services that will be provided  
1020 and a detailed description of the protocol as described by rule by which pharmacy care will be  
1021 provided, including any collaborative practice arrangements with other health care  
1022 practitioners;

1023       ~~[(e)]~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the  
1024 applicant and physically located in Utah have the appropriate license issued by the division and  
1025 in good standing;

1026       ~~[(f)]~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws  
1027 and regulations of the jurisdiction in which the pharmacy is located; and

1028       ~~[(g)]~~ (i) if an applicant engages in compounding, submit the most recent inspection  
1029 report:

1030       (i) conducted within two years before the application for licensure; and

1031       (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified  
1032 Pharmacy Program; or

1033       (B) performed by the state licensing agency of the state in which the applicant is a  
1034 resident and in accordance with the National Association of Boards of Pharmacy multistate  
1035 inspection blueprint program.

1036       (3) Each license issued under this section shall be issued for a single, specific address,  
1037 and is not transferable or assignable.

1038       Section 12. Section **58-17b-307** is amended to read:

1039       **58-17b-307. Qualification for licensure -- Criminal background checks.**

1040       (1) An individual applicant for licensure under this chapter shall:

1041       (a) submit fingerprint cards in a form acceptable to the division at the time the license  
1042 application is filed; and

1043       (b) in accordance with this section and requirements established by rule made in  
1044 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a  
1045 fingerprint background check regarding the application conducted by the:

1046       (i) Utah Bureau of Criminal Identification; and

1047       (ii) Federal Bureau of Investigation.

1048       (2) An applicant for licensure as a pharmacy under this chapter shall submit the

1049 information described in Subsection (1) for each of the applicant's pharmacy managers.

1050 [~~2~~] (3) The division shall:

1051 (a) in addition to other fees authorized by this chapter, collect from each applicant  
1052 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
1053 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
1054 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
1055 obtaining federal criminal history record information;

1056 (b) submit from each applicant the fingerprint card and the fees described in  
1057 Subsection (2)(a) to the Bureau of Criminal Identification; and

1058 (c) obtain and retain in division records, a signed waiver approved by the Bureau of  
1059 Criminal Identification in accordance with Section 53-10-108 for each [~~applicant~~] individual  
1060 who requires a background check under this section.

1061 [~~3~~] (4) The Bureau of Criminal Identification shall, in accordance with the  
1062 requirements of Section 53-10-108:

1063 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
1064 and regional criminal records databases;

1065 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
1066 criminal history background check; and

1067 (c) provide the results from the state, regional, and nationwide criminal history  
1068 background checks to the division.

1069 [~~4~~] (5) For purposes of conducting the criminal background check required in  
1070 Subsection (1), the division shall have direct access to criminal background information  
1071 maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1072 [~~5~~] (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician  
1073 license issued under this section is conditional, pending completion of the criminal background  
1074 [~~check~~] checks.

1075 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
1076 criminal background check required in Subsection (1), discloses that the applicant or the  
1077 applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is  
1078 immediately and automatically revoked upon notice to the licensee by the division.

1079 [~~6~~] (7) (a) A person whose conditional license has been revoked under Subsection

1080 [~~5~~] 6 is entitled to a postrevocation hearing to challenge the revocation.

1081 (b) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
1082 Chapter 4, Administrative Procedures Act.

1083 [~~7~~] 8 The division may not disseminate outside of the division any criminal history  
1084 record information that the division obtains from the Bureau of Criminal Identification or the  
1085 Federal Bureau of Investigation under the criminal background check requirements of this  
1086 section.

1087 Section 13. Section **58-17b-625** is amended to read:

1088 **58-17b-625. Administration of a long-acting injectable and naloxone.**

1089 (1) A pharmacist may, in accordance with this section, administer a drug described in  
1090 Subsection (2).

1091 (2) Notwithstanding the provisions of Subsection [~~58-17b-102(57)(c)(ii)(B)~~]  
1092 58-17b-102(58)(c)(ii)(B), the division shall make rules in collaboration with the board and,  
1093 when appropriate, the Physicians Licensing Board created in Section 58-67-201, and in  
1094 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish  
1095 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1096 (3) A pharmacist may not administer naloxone or a long-acting injectable  
1097 intramuscularly unless the pharmacist:

1098 (a) completes the training described in Subsection (2);

1099 (b) administers the drug at a clinic or community pharmacy, as those terms are defined  
1100 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah  
1101 Administrative Rulemaking Act; and

1102 (c) is directed by the physician, as that term is defined in Section 58-67-102 or Section  
1103 58-68-102, who issues the prescription to administer the drug.

1104 Section 14. Section **58-31b-302** is amended to read:

1105 **58-31b-302. Qualifications for licensure or certification -- Criminal background**  
1106 **checks.**

1107 (1) An applicant for certification as a medication aide shall:

1108 (a) submit an application to the division on a form prescribed by the division;

1109 (b) pay a fee to the division as determined under Section 63J-1-504;

1110 (c) have a high school diploma or its equivalent;

1111 (d) have a current certification as a nurse aide, in good standing, from the Department  
1112 of Health;

1113 (e) have a minimum of 2,000 hours of experience within the two years prior to  
1114 application, working as a certified nurse aide in a long-term care facility;

1115 (f) obtain letters of recommendation from a long-term care facility administrator and  
1116 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

1117 (g) be in a condition of physical and mental health that will permit the applicant to  
1118 practice safely as a medication aide certified;

1119 (h) have completed an approved education program or an equivalent as determined by  
1120 the division in collaboration with the board;

1121 (i) have passed the examinations as required by division rule made in collaboration  
1122 with the board; and

1123 (j) meet with the board, if requested, to determine the applicant's qualifications for  
1124 certification.

1125 (2) An applicant for licensure as a licensed practical nurse shall:

1126 (a) submit to the division an application in a form prescribed by the division;

1127 (b) pay to the division a fee determined under Section [63J-1-504](#);

1128 (c) have a high school diploma or its equivalent;

1129 (d) be in a condition of physical and mental health that will permit the applicant to  
1130 practice safely as a licensed practical nurse;

1131 (e) have completed an approved practical nursing education program or an equivalent  
1132 as determined by the board;

1133 (f) have passed the examinations as required by division rule made in collaboration  
1134 with the board; and

1135 (g) meet with the board, if requested, to determine the applicant's qualifications for  
1136 licensure.

1137 (3) An applicant for a registered nurse apprentice license shall:

1138 (a) submit to the division an application form prescribed by the division;

1139 (b) pay to the division a fee determined under Section [63J-1-504](#);

1140 (c) have a high school diploma or its equivalent;

1141 (d) be in a condition of physical and mental health that will allow the applicant to

- 1142 practice safely as a registered nurse apprentice;
- 1143 (e) as determined by an approved registered nursing education program, be:
- 1144 (i) in good standing with the program; and
- 1145 (ii) in the last semester, quarter, or competency experience;
- 1146 (f) have written permission from the program in which the applicant is enrolled; and
- 1147 (g) meet with the board, if requested, to determine the applicant's qualifications for
- 1148 licensure.
- 1149 (4) An applicant for licensure as a registered nurse shall:
- 1150 (a) submit to the division an application form prescribed by the division;
- 1151 (b) pay to the division a fee determined under Section 63J-1-504;
- 1152 (c) have a high school diploma or its equivalent;
- 1153 (d) be in a condition of physical and mental health that will allow the applicant to
- 1154 practice safely as a registered nurse;
- 1155 (e) have completed an approved registered nursing education program;
- 1156 (f) have passed the examinations as required by division rule made in collaboration
- 1157 with the board; and
- 1158 (g) meet with the board, if requested, to determine the applicant's qualifications for
- 1159 licensure.
- 1160 (5) Applicants for licensure as an advanced practice registered nurse shall:
- 1161 (a) submit to the division an application on a form prescribed by the division;
- 1162 (b) pay to the division a fee determined under Section 63J-1-504;
- 1163 (c) be in a condition of physical and mental health which will allow the applicant to
- 1164 practice safely as an advanced practice registered nurse;
- 1165 (d) hold a current registered nurse license in good standing issued by the state or be
- 1166 qualified at the time for licensure as a registered nurse;
- 1167 (e) (i) have earned a graduate degree in:
- 1168 (A) an advanced practice registered nurse nursing education program; or
- 1169 (B) a related area of specialized knowledge as determined appropriate by the division
- 1170 in collaboration with the board; or
- 1171 (ii) have completed a nurse anesthesia program in accordance with Subsection
- 1172 (5)(f)(ii);

- 1173 (f) have completed:
- 1174 (i) course work in patient assessment, diagnosis and treatment, and
- 1175 pharmacotherapeutics from an education program approved by the division in collaboration
- 1176 with the board; or
- 1177 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
- 1178 Nurse Anesthesia Educational Programs;
- 1179 (g) to practice within the psychiatric mental health nursing specialty, demonstrate, as
- 1180 described in division rule, that the applicant, after completion of a doctorate or master's degree
- 1181 required for licensure, is in the process of completing the applicant's clinical practice
- 1182 requirements in psychiatric mental health nursing, including in psychotherapy;
- 1183 (h) have passed the examinations as required by division rule made in collaboration
- 1184 with the board;
- 1185 (i) be currently certified by a program approved by the division in collaboration with
- 1186 the board and submit evidence satisfactory to the division of the certification; and
- 1187 (j) meet with the board, if requested, to determine the applicant's qualifications for
- 1188 licensure.
- 1189 (6) For each applicant for licensure or certification under this chapter except an
- 1190 applicant under Subsection 58-31b-301(2)(b):
- 1191 (a) the applicant shall:
- 1192 (i) submit fingerprint cards in a form acceptable to the division at the time the
- 1193 application is filed; and
- 1194 (ii) consent to a fingerprint background check conducted by the Bureau of Criminal
- 1195 Identification and the Federal Bureau of Investigation regarding the application;
- 1196 (b) the division shall:
- 1197 (i) in addition to other fees authorized by this chapter, collect from each applicant
- 1198 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
- 1199 Identification is authorized to collect for the services provided under Section 53-10-108 and the
- 1200 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
- 1201 obtaining federal criminal history record information;
- 1202 (ii) submit from each applicant the fingerprint card and the fees described in this
- 1203 Subsection (6)(b) to the Bureau of Criminal Identification; and

1204 (iii) obtain and retain in division records a signed waiver approved by the Bureau of  
1205 Criminal Identification in accordance with Section 53-10-108 for each applicant; and

1206 (c) the Bureau of Criminal Identification shall, in accordance with the requirements of  
1207 Section 53-10-108:

1208 (i) check the fingerprints submitted under Subsection (6)(b) against the applicable state  
1209 and regional criminal records databases;

1210 (ii) forward the fingerprints to the Federal Bureau of Investigation for a national  
1211 criminal history background check; and

1212 (iii) provide the results from the state, regional, and nationwide criminal history  
1213 background checks to the division.

1214 (7) For purposes of conducting the criminal background checks required in Subsection  
1215 (6), the division shall have direct access to criminal background information maintained  
1216 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1217 (8) (a) (i) Any new nurse license or certification issued under this section shall be  
1218 conditional, pending completion of the criminal background check.

1219 (ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
1220 criminal background check discloses the applicant has failed to accurately disclose a criminal  
1221 history, the license or certification shall be immediately and automatically revoked upon notice  
1222 to the licensee by the division.

1223 (b) (i) An individual whose conditional license or certification has been revoked under  
1224 Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

1225 (ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter  
1226 4, Administrative Procedures Act.

1227 (9) If an individual has been charged with a violent felony, as defined in Subsection  
1228 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or  
1229 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the  
1230 successful completion of probation~~], the individual is disqualified for licensure under this~~  
1231 ~~chapter and:]~~

1232 [~~(a) if the individual is licensed under this chapter, the division:]~~

1233 [~~(i) ]~~ the division shall act upon the license as required under Section 58-1-401~~]; and]~~.

1234 [~~(ii) may not renew or subsequently issue a license to the individual under this chapter;~~



1235 and]

1236 ~~[(b) if the individual is not licensed under this chapter, the division may not issue a~~  
1237 ~~license to the individual under this chapter.]~~

1238 (10) If an individual has been charged with a felony other than a violent felony, as  
1239 defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted,  
1240 entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held  
1241 in abeyance pending the successful completion of probation, the division shall determine  
1242 whether the felony disqualifies the individual for licensure under this chapter and act upon the  
1243 license, as required, in accordance with Section 58-1-401.

1244 (11) The division may not disseminate outside of the division any criminal history  
1245 record information that the division obtains from the Bureau of Criminal Identification or the  
1246 Federal Bureau of Investigation under the criminal background check requirements of this  
1247 section.

1248 Section 15. Section 58-31b-803 is amended to read:

1249 **58-31b-803. Limitations on prescriptive authority for advanced practice**  
1250 **registered nurses.**

1251 (1) This section does not apply to an advanced practice registered nurse specializing as  
1252 a certified registered nurse anesthetist under Subsection 58-31b-102(11)(d).

1253 (2) Except as provided in Subsection (3), an advanced practice registered nurse may  
1254 prescribe or administer a Schedule II controlled substance.

1255 (3) An advanced practice registered nurse described in Subsection (4) may not  
1256 prescribe or administer a Schedule II controlled substance unless the advanced practice  
1257 registered nurse:

1258 (a) receives a board certification from a nationally recognized organization;

1259 (b) completes at least 30 hours of instruction, or the equivalent number of credit hours,  
1260 pertaining to advanced pharmacology during a graduate education program; and

1261 ~~[(c) when obtaining licensure with the division, demonstrates completion of at least~~  
1262 ~~seven hours of continuing education pertaining to prescribing opioids; and]~~

1263 ~~[(d)]~~ (c) participates in a prescribing mentorship under which the advanced practice  
1264 registered nurse:

1265 (i) is mentored by:

- 1266 (A) a physician licensed in accordance with this title; or  
 1267 (B) an advance practice registered nurse who has been licensed at least three years; and  
 1268 (ii) periodically provides the mentor described in Subsection [~~(3)(d)(i)~~] (3)(c)(i)  
 1269 timesheets that, in total, demonstrate 1,000 hours of clinical experience.  
 1270 (4) Subsection (3) applies to an advanced practice registered nurse who:  
 1271 (a) is engaged in independent solo practice; and  
 1272 (b) (i) has been licensed as an advanced practice registered nurse for less than one year;  
 1273 or  
 1274 (ii) has less than 2,000 hours of experience practicing as a licensed advanced practice  
 1275 registered nurse.

1276 Section 16. Section **58-53-302** is amended to read:

1277 **58-53-302. Qualifications for licensure.**

- 1278 (1) Each applicant for licensure as a landscape architect shall:  
 1279 (a) submit an application in a form prescribed by the division;  
 1280 (b) pay a fee as determined by the department under Section 63J-1-504;  
 1281 [~~(c)~~ provide satisfactory evidence of good moral character;]  
 1282 [~~(d)~~] (c) (i) have graduated and received an earned bachelors or masters degree from a  
 1283 landscape architecture program meeting criteria established by rule by the division in  
 1284 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
 1285 Rulemaking Act; or  
 1286 (ii) have completed not less than eight years of supervised practical experience in  
 1287 landscape architecture which meets the requirements established by rule by the division in  
 1288 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
 1289 Rulemaking Act; and  
 1290 [~~(e)~~] (d) have successfully passed examinations established by rule by the division in  
 1291 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
 1292 Rulemaking Act.  
 1293 (2) Satisfactory completion of each year of a landscape architectural program described  
 1294 in Subsection [~~(1)(d)(i)~~] (1)(c)(i) is equivalent to one year of experience for purposes of  
 1295 Subsection [~~(1)(d)(ii)~~] (1)(c)(ii).

1296 Section 17. Section **58-54-302** is amended to read:

1297 **58-54-302. Requirements for licensure.**

1298 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or  
1299 radiology practical technician shall:

1300 (a) submit an application in a form prescribed by the division in collaboration with the  
1301 board; and

1302 (b) pay a fee as determined by the department pursuant to Section 63J-1-504.

1303 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the  
1304 requirements of Subsection (1):

1305 (a) be a graduate of an accredited educational program in radiologic technology or  
1306 certified by the American Registry of Radiologic Technologists or any equivalent educational  
1307 program approved by the division in collaboration with the board; and

1308 (b) have passed an examination approved by the division in collaboration with the  
1309 board.

1310 (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
1311 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
1312 examinations that are competency based, using a task analysis of the scope of practice of  
1313 radiology practical technicians in the state. The basic examination and the specialty  
1314 examination shall be approved by the division in collaboration with the board and the licensing  
1315 board of the profession within which the radiology practical technician will be practicing.

1316 ~~[(4) The division shall provide for administration of the radiology practical technician  
1317 examination not less than monthly at offices designated by the division and located:]~~

1318 ~~[(a) in Salt Lake City; and]~~

1319 ~~[(b) within each local health department jurisdictional area.]~~

1320 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);~~ (4)(b), each applicant for  
1321 licensure as a radiologist assistant shall:

1322 (i) meet the requirements of Subsections (1) and (2);

1323 (ii) have a Bachelor of Science degree; and

1324 (iii) be certified as:

1325 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1326 (B) a radiology practitioner assistant by the Certification Board of Radiology

1327 Practitioner Assistants.

1328 (b) An individual who meets the requirements of Subsections [~~(5)(a)(i)~~] (4)(a)(i) and  
1329 (iii), but not Subsection [~~(5)(a)(ii)~~] (4)(a)(ii), may be licensed as a radiologist assistant under  
1330 this chapter until May 31, 2013, at which time, the individual must have completed the  
1331 Bachelor of Science degree in order to retain the license of radiologist assistant.

1332 Section 18. Section **58-55-102** is amended to read:

1333 **58-55-102. Definitions.**

1334 In addition to the definitions in Section 58-1-102, as used in this chapter:

1335 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,  
1336 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm  
1337 system, except as provided in Subsection (1)(b).

1338 (b) "Alarm business" or "alarm company" does not include:

1339 (i) a person engaged in the manufacture or sale of alarm systems unless:

1340 (A) that person is also engaged in the installation, maintenance, alteration, repair,  
1341 replacement, servicing, or monitoring of alarm systems;

1342 (B) the manufacture or sale occurs at a location other than a place of business  
1343 established by the person engaged in the manufacture or sale; or

1344 (C) the manufacture or sale involves site visits at the place or intended place of  
1345 installation of an alarm system; or

1346 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who  
1347 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring  
1348 of the alarm system owned by that owner.

1349 (2) "Alarm company agent":

1350 (a) except as provided in Subsection (2)(b), means any individual employed within this  
1351 state by an alarm business; and

1352 (b) does not include an individual who:

1353 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,  
1354 servicing, or monitoring of an alarm system; and

1355 (ii) does not, during the normal course of the individual's employment with an alarm  
1356 business, use or have access to sensitive alarm system information.

1357 (3) "Alarm company officer" means:

1358 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;

1359 (b) an individual appointed as an officer of an alarm company that is a corporation in  
1360 accordance with Section 16-10a-830;

1361 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

1362 (d) a partner, as defined in Section 48-1d-102, of an alarm company.

1363 (4) "Alarm company owner" means:

1364 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly  
1365 through an entity controlled by the individual, 5% or more of the outstanding shares of an  
1366 alarm company that:

1367 (i) is a corporation; and

1368 (ii) is not publicly listed or traded; or

1369 (b) an individual who owns directly, or indirectly through an entity controlled by the  
1370 individual, 5% or more of the equity of an alarm company that is not a corporation.

1371 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is  
1372 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1373 (6) "Alarm company trustee" means an individual with control of or power of  
1374 administration over property held in trust.

1375 ~~[(3)]~~ (7) (a) "Alarm system" means equipment and devices assembled for the purpose  
1376 of:

1377 (i) detecting and signaling unauthorized intrusion or entry into or onto certain  
1378 premises; or

1379 (ii) signaling a robbery or attempted robbery on protected premises.

1380 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is  
1381 part of and interfaces with an alarm system for the purposes of detecting and deterring  
1382 unauthorized intrusion or entry into or onto certain premises.

1383 ~~[(4)]~~ (8) "Apprentice electrician" means a person licensed under this chapter as an  
1384 apprentice electrician who is learning the electrical trade under the immediate supervision of a  
1385 master electrician, residential master electrician, a journeyman electrician, or a residential  
1386 journeyman electrician.

1387 ~~[(5)]~~ (9) "Apprentice plumber" means a person licensed under this chapter as an  
1388 apprentice plumber who is learning the plumbing trade under the immediate supervision of a  
1389 master plumber, residential master plumber, journeyman plumber, or a residential journeyman

1390 plumber.

1391 ~~[(6)]~~ (10) "Approved continuing education" means instruction provided through  
1392 courses under a program established under Subsection 58-55-302.5(2).

1393 ~~[(7)]~~ (11) (a) "Approved precicensure course provider" means a provider that is the  
1394 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and  
1395 Contractors, or the Utah Home Builders Association, and that meets the requirements  
1396 established by rule by the commission with the concurrence of the director, to teach the  
1397 25-hour course described in Subsection 58-55-302(1)(e)(iii).

1398 (b) "Approved precicensure course provider" may only include a provider that, in  
1399 addition to any other locations, offers the 25-hour course described in Subsection  
1400 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake  
1401 County, Utah County, Davis County, or Weber County.

1402 ~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and  
1403 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

1404 ~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

1405 (a) piping and components with a means for conveying, either continuously or  
1406 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the  
1407 appliance;

1408 (b) the electric control and combustion air supply and venting systems, including air  
1409 ducts; and

1410 (c) components intended to achieve control of quantity, flow, and pressure.

1411 ~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under  
1412 Section 58-55-103.

1413 ~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

1414 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition  
1415 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation  
1416 or other project, development, or improvement to other than personal property; and

1417 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as  
1418 defined in Section 15A-1-302; or

1419 (b) installation or repair of a residential or commercial natural gas appliance or  
1420 combustion system.

1421           ~~[(12)]~~ (16) "Construction trades instructor" means a person licensed under this chapter  
1422 to teach one or more construction trades in both a classroom and project environment, where a  
1423 project is intended for sale to or use by the public and is completed under the direction of the  
1424 instructor, who has no economic interest in the project.

1425           ~~[(13)]~~ (17) (a) "Contractor" means any person who for compensation other than wages  
1426 as an employee undertakes any work in the construction, plumbing, or electrical trade for  
1427 which licensure is required under this chapter and includes:

1428           (i) a person who builds any structure on the person's own property for the purpose of  
1429 sale or who builds any structure intended for public use on the person's own property;

1430           (ii) any person who represents that the person is a contractor, or will perform a service  
1431 described in this Subsection ~~[(13);]~~ (17) by advertising on a website or social media, or any  
1432 other means;

1433           (iii) any person engaged as a maintenance person, other than an employee, who  
1434 regularly engages in activities set forth under the definition of "construction trade";

1435           (iv) any person engaged in, or offering to engage in, any construction trade for which  
1436 licensure is required under this chapter; or

1437           (v) a construction manager, construction consultant, construction assistant, or any other  
1438 person who, for a fee:

1439           (A) performs or offers to perform construction consulting;

1440           (B) performs or offers to perform management of construction subcontractors;

1441           (C) provides or offers to provide a list of subcontractors or suppliers; or

1442           (D) provides or offers to provide management or counseling services on a construction  
1443 project.

1444           (b) "Contractor" does not include:

1445           (i) an alarm company or alarm company agent; or

1446           (ii) a material supplier who provides consulting to customers regarding the design and  
1447 installation of the material supplier's products.

1448           ~~[(14)]~~ (18) (a) "Electrical trade" means the performance of any electrical work involved  
1449 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,  
1450 buildings, or appendages or appurtenances.

1451           (b) "Electrical trade" does not include:

- 1452 (i) transporting or handling electrical materials;
- 1453 (ii) preparing clearance for raceways for wiring;
- 1454 (iii) work commonly done by unskilled labor on any installations under the exclusive
- 1455 control of electrical utilities;
- 1456 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
- 1457 hazard; or
- 1458 (v) work involving class two or class three power-limited circuits as defined in the
- 1459 National Electrical Code.

1460 [~~(15)~~] (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#),

1461 except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or

1462 an incline platform lift.

1463 [~~(16)~~] (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed

1464 under this chapter that is engaged in the business of erecting, constructing, installing, altering,

1465 servicing, repairing, or maintaining an elevator.

1466 [~~(17)~~] (21) "Elevator mechanic" means an individual who is licensed under this chapter

1467 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,

1468 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator

1469 contractor.

1470 [~~(18)~~] (22) "Employee" means an individual as defined by the division by rule giving

1471 consideration to the definition adopted by the Internal Revenue Service and the Department of

1472 Workforce Services.

1473 [~~(19)~~] (23) "Engage in a construction trade" means to:

- 1474 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
- 1475 in a construction trade; or
- 1476 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
- 1477 to believe one is or will act as a contractor.

1478 [~~(20)~~] (24) (a) "Financial responsibility" means a demonstration of a current and

1479 expected future condition of financial solvency evidencing a reasonable expectation to the

1480 division and the board that an applicant or licensee can successfully engage in business as a

1481 contractor without jeopardy to the public health, safety, and welfare.

1482 (b) Financial responsibility may be determined by an evaluation of the total history



1483 concerning the licensee or applicant including past, present, and expected condition and record  
1484 of financial solvency and business conduct.

1485 ~~[(21)]~~ (25) "Gas appliance" means any device that uses natural gas to produce light,  
1486 heat, power, steam, hot water, refrigeration, or air conditioning.

1487 ~~[(22)]~~ (26) (a) "General building contractor" means a person licensed under this  
1488 chapter as a general building contractor qualified by education, training, experience, and  
1489 knowledge to perform or superintend construction of structures for the support, shelter, and  
1490 enclosure of persons, animals, chattels, or movable property of any kind or any of the  
1491 components of that construction except plumbing, electrical work, mechanical work, work  
1492 related to the operating integrity of an elevator, and manufactured housing installation, for  
1493 which the general building contractor shall employ the services of a contractor licensed in the  
1494 particular specialty, except that a general building contractor engaged in the construction of  
1495 single-family and multifamily residences up to four units may perform the mechanical work  
1496 and hire a licensed plumber or electrician as an employee.

1497 (b) The division may by rule exclude general building contractors from engaging in the  
1498 performance of other construction specialties in which there is represented a substantial risk to  
1499 the public health, safety, and welfare, and for which a license is required unless that general  
1500 building contractor holds a valid license in that specialty classification.

1501 ~~[(23)]~~ (27) (a) "General electrical contractor" means a person licensed under this  
1502 chapter as a general electrical contractor qualified by education, training, experience, and  
1503 knowledge to perform the fabrication, construction, and installation of generators,  
1504 transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or  
1505 apparatus that uses electrical energy.

1506 (b) The scope of work of a general electrical contractor may be further defined by rules  
1507 made by the commission, with the concurrence of the director, in accordance with Title 63G,  
1508 Chapter 3, Utah Administrative Rulemaking Act.

1509 ~~[(24)]~~ (28) (a) "General engineering contractor" means a person licensed under this  
1510 chapter as a general engineering contractor qualified by education, training, experience, and  
1511 knowledge to perform or superintend construction of fixed works or components of fixed  
1512 works requiring specialized engineering knowledge and skill in any of the following:

1513 (i) irrigation;

- 1514 (ii) drainage;
- 1515 (iii) water power;
- 1516 (iv) water supply;
- 1517 (v) flood control;
- 1518 (vi) an inland waterway;
- 1519 (vii) a harbor;
- 1520 (viii) a railroad;
- 1521 (ix) a highway;
- 1522 (x) a tunnel;
- 1523 (xi) an airport;
- 1524 (xii) an airport runway;
- 1525 (xiii) a sewer;
- 1526 (xiv) a bridge;
- 1527 (xv) a refinery;
- 1528 (xvi) a pipeline;
- 1529 (xvii) a chemical plant;
- 1530 (xviii) an industrial plant;
- 1531 (xix) a pier;
- 1532 (xx) a foundation;
- 1533 (xxi) a power plant; or
- 1534 (xxii) a utility plant or installation.
- 1535 (b) A general engineering contractor may not perform or superintend:
- 1536 (i) construction of a structure built primarily for the support, shelter, and enclosure of
- 1537 persons, animals, and chattels; or
- 1538 (ii) performance of:
- 1539 (A) plumbing work;
- 1540 (B) electrical work; or
- 1541 (C) mechanical work.
- 1542 [~~(25)~~] (29) (a) "General plumbing contractor" means a person licensed under this
- 1543 chapter as a general plumbing contractor qualified by education, training, experience, and
- 1544 knowledge to perform the fabrication or installation of material and fixtures to create and

1545 maintain sanitary conditions in a building by providing permanent means for a supply of safe  
1546 and pure water, a means for the timely and complete removal from the premises of all used or  
1547 contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life  
1548 and the occupation of such premises, and a safe and adequate supply of gases for lighting,  
1549 heating, and industrial purposes.

1550 (b) The scope of work of a general plumbing contractor may be further defined by rules  
1551 made by the commission, with the concurrence of the director, in accordance with Title 63G,  
1552 Chapter 3, Utah Administrative Rulemaking Act.

1553 [~~(26)~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection,  
1554 and evaluation of the work of a person:

1555 (a) as the division specifies in rule;

1556 (b) by, as applicable, a qualified electrician or plumber;

1557 (c) as part of a planned program of training; and

1558 (d) to ensure that the end result complies with applicable standards.

1559 [~~(27)~~] (31) "Individual" means a natural person.

1560 [~~(28)~~] (32) "Journeyman electrician" means a person licensed under this chapter as a  
1561 journeyman electrician having the qualifications, training, experience, and knowledge to wire,  
1562 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

1563 [~~(29)~~] (33) "Journeyman plumber" means a person licensed under this chapter as a  
1564 journeyman plumber having the qualifications, training, experience, and technical knowledge  
1565 to engage in the plumbing trade.

1566 [~~(30)~~] (34) "Master electrician" means a person licensed under this chapter as a master  
1567 electrician having the qualifications, training, experience, and knowledge to properly plan,  
1568 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment  
1569 for light, heat, power, and other purposes.

1570 [~~(31)~~] (35) "Master plumber" means a person licensed under this chapter as a master  
1571 plumber having the qualifications, training, experience, and knowledge to properly plan and  
1572 layout projects and supervise persons in the plumbing trade.

1573 [~~(32)~~] (36) "Person" means a natural person, sole proprietorship, joint venture,  
1574 corporation, limited liability company, association, or organization of any type.

1575 [~~(33)~~] (37) (a) "Plumbing trade" means the performance of any mechanical work

1576 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in  
1577 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and  
1578 fittings for the:

1579 (i) delivery of the water supply;

1580 (ii) discharge of liquid and water carried waste;

1581 (iii) building drainage system within the walls of the building; and

1582 (iv) delivery of gases for lighting, heating, and industrial purposes.

1583 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,  
1584 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the  
1585 safe and adequate supply of gases, together with their devices, appurtenances, and connections  
1586 where installed within the outside walls of the building.

1587 [~~34~~] (38) "Ratio of apprentices" means the number of licensed plumber apprentices or  
1588 licensed electrician apprentices that are allowed to be under the immediate supervision of a  
1589 licensed supervisor as established by the provisions of this chapter and by rules made by the  
1590 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1591 Utah Administrative Rulemaking Act.

1592 [~~35~~] (39) "Residential and small commercial contractor" means a person licensed  
1593 under this chapter as a residential and small commercial contractor qualified by education,  
1594 training, experience, and knowledge to perform or superintend the construction of  
1595 single-family residences, multifamily residences up to four units, and commercial construction  
1596 of not more than three stories above ground and not more than 20,000 square feet, or any of the  
1597 components of that construction except plumbing, electrical work, mechanical work, and  
1598 manufactured housing installation, for which the residential and small commercial contractor  
1599 shall employ the services of a contractor licensed in the particular specialty, except that a  
1600 residential and small commercial contractor engaged in the construction of single-family and  
1601 multifamily residences up to four units may perform the mechanical work and hire a licensed  
1602 plumber or electrician as an employee.

1603 [~~36~~] (40) "Residential building," as it relates to the license classification of residential  
1604 journeyman plumber and residential master plumber, means a single or multiple family  
1605 dwelling of up to four units.

1606 [~~37~~] (41) (a) "Residential electrical contractor" means a person licensed under this

1607 chapter as a residential electrical contractor qualified by education, training, experience, and  
1608 knowledge to perform the fabrication, construction, and installation of services, disconnecting  
1609 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,  
1610 appliances, and fixtures in a residential unit.

1611 (b) The scope of work of a residential electrical contractor may be further defined by  
1612 rules made by the commission, with the concurrence of the director, in accordance with Title  
1613 63G, Chapter 3, Utah Administrative Rulemaking Act.

1614 [~~(38)~~] (42) "Residential journeyman electrician" means a person licensed under this  
1615 chapter as a residential journeyman electrician having the qualifications, training, experience,  
1616 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,  
1617 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1618 [~~(39)~~] (43) "Residential journeyman plumber" means a person licensed under this  
1619 chapter as a residential journeyman plumber having the qualifications, training, experience, and  
1620 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1621 [~~(40)~~] (44) "Residential master electrician" means a person licensed under this chapter  
1622 as a residential master electrician having the qualifications, training, experience, and  
1623 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of  
1624 electrical apparatus and equipment for light, heat, power, and other purposes on residential  
1625 projects.

1626 [~~(41)~~] (45) "Residential master plumber" means a person licensed under this chapter as  
1627 a residential master plumber having the qualifications, training, experience, and knowledge to  
1628 properly plan and layout projects and supervise persons in the plumbing trade as limited to the  
1629 plumbing of residential buildings.

1630 [~~(42)~~] (46) (a) "Residential plumbing contractor" means a person licensed under this  
1631 chapter as a residential plumbing contractor qualified by education, training, experience, and  
1632 knowledge to perform the fabrication or installation of material and fixtures to create and  
1633 maintain sanitary conditions in residential buildings by providing permanent means for a  
1634 supply of safe and pure water, a means for the timely and complete removal from the premises  
1635 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities  
1636 incidental to life and the occupation of such premises, and a safe and adequate supply of gases  
1637 for lighting, heating, and residential purposes.

1638 (b) The scope of work of a residential plumbing contractor may be further defined by  
1639 rules made by the commission, with the concurrence of the director, in accordance with Title  
1640 63G, Chapter 3, Utah Administrative Rulemaking Act.

1641 [~~(43)~~] (47) "Residential project," as it relates to an electrician or electrical contractor,  
1642 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard  
1643 rules and regulations governing this work, including the National Electrical Code, and in which  
1644 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1645 (48) "Responsible management personnel" means:

1646 (a) a qualifying agent;

1647 (b) an operations manager; or

1648 (c) a site manager.

1649 [~~(44)~~] (49) "Sensitive alarm system information" means:

1650 (a) a pass code or other code used in the operation of an alarm system;

1651 (b) information on the location of alarm system components at the premises of a  
1652 customer of the alarm business providing the alarm system;

1653 (c) information that would allow the circumvention, bypass, deactivation, or other  
1654 compromise of an alarm system of a customer of the alarm business providing the alarm  
1655 system; and

1656 (d) any other similar information that the division by rule determines to be information  
1657 that an individual employed by an alarm business should use or have access to only if the  
1658 individual is licensed as provided in this chapter.

1659 [~~(45)~~] (50) (a) "Specialty contractor" means a person licensed under this chapter under  
1660 a specialty contractor classification established by rule, who is qualified by education, training,  
1661 experience, and knowledge to perform those construction trades and crafts requiring  
1662 specialized skill, the regulation of which are determined by the division to be in the best  
1663 interest of the public health, safety, and welfare.

1664 (b) A specialty contractor may perform work in crafts or trades other than those in  
1665 which the specialty contractor is licensed if they are incidental to the performance of the  
1666 specialty contractor's licensed craft or trade.

1667 [~~(46)~~] (51) "Unincorporated entity" means an entity that is not:

1668 (a) an individual;

1669 (b) a corporation; or

1670 (c) publicly traded.

1671 [~~(47)~~] (52) "Unlawful conduct" means the same as that term is defined in Sections  
1672 58-1-501 and 58-55-501.

1673 [~~(48)~~] (53) "Unprofessional conduct" means the same as that term is defined in  
1674 Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

1675 [~~(49)~~] (54) "Wages" means amounts due to an employee for labor or services whether  
1676 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for  
1677 calculating the amount.

1678 Section 19. Section 58-55-302 is amended to read:

1679 **58-55-302. Qualifications for licensure.**

1680 (1) Each applicant for a license under this chapter shall:

1681 (a) submit an application prescribed by the division;

1682 (b) pay a fee as determined by the department under Section 63J-1-504;

1683 (c) meet the examination requirements established by this section and by rule by the  
1684 commission with the concurrence of the director, which requirements include:

1685 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty  
1686 contractor, no division-administered examination is required;

1687 (ii) for licensure as a general building contractor, general engineering contractor,  
1688 residential and small commercial contractor, general plumbing contractor, residential plumbing  
1689 contractor, general electrical contractor, or residential electrical contractor, the only required  
1690 division-administered examination is a division-administered examination that covers  
1691 information from the 25-hour course described in Subsection (1)(e)(iii), which course may  
1692 have been previously completed as part of applying for any other license under this chapter,  
1693 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law  
1694 course described in Subsection (1)(e)(iv); and

1695 (iii) if required in Section 58-55-304, an individual qualifier must pass the required  
1696 division-administered examination if the applicant is a business entity;

1697 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1698 (e) if an applicant for a contractor's license:

1699 (i) produce satisfactory evidence of financial responsibility, except for a construction

1700 trades instructor for whom evidence of financial responsibility is not required;

1701 (ii) produce satisfactory evidence of:

1702 (A) except as provided in Subsection (2)(a), and except that no employment experience

1703 is required for licensure as a specialty contractor, two years full-time paid employment

1704 experience in the construction industry, which employment experience, unless more

1705 specifically described in this section, may be related to any contracting classification and does

1706 not have to include supervisory experience; and

1707 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

1708 necessary for the protection of the public health, safety, and welfare;

1709 (iii) except as otherwise provided by rule by the commission with the concurrence of

1710 the director, complete a 25-hour course established by rule by the commission with the

1711 concurrence of the director, which is taught by an approved prelicensure course provider, and

1712 which course may include:

1713 (A) construction business practices;

1714 (B) bookkeeping fundamentals;

1715 (C) mechanics lien fundamentals;

1716 (D) other aspects of business and construction principles considered important by the

1717 commission with the concurrence of the director; and

1718 (E) for no additional fee, a provider-administered examination at the end of the

1719 25-hour course;

1720 (iv) complete a five-hour business and law course established by rule by the

1721 commission with the concurrence of the director, which is taught by an approved prelicensure

1722 course provider, if an applicant for licensure as a general building contractor, general

1723 engineering contractor, residential and small commercial contractor, general plumbing

1724 contractor, residential plumbing contractor, general electrical contractor, or residential

1725 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was

1726 completed before July 1, 2019, the applicant does not need to take the business and law course;

1727 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's

1728 license or a licensed master residential electrician if an applicant for a residential electrical

1729 contractor's license;

1730 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or



1731 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
1732 license; or

1733 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years  
1734 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1735 (vi) when the applicant is an unincorporated entity, provide a list of the one or more  
1736 individuals who hold an ownership interest in the applicant as of the day on which the  
1737 application is filed that includes for each individual:

1738 (A) the individual's name, address, birth date, and social security number or other  
1739 satisfactory evidence of the applicant's identity permitted under rules made by the division in  
1740 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1741 (B) whether the individual will engage in a construction trade; and

1742 (f) if an applicant for a construction trades instructor license, satisfy any additional  
1743 requirements established by rule.

1744 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a  
1745 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory  
1746 evidence of two years full-time paid employment experience as a building inspector, which  
1747 shall include at least one year full-time experience as a licensed combination inspector.

1748 (b) The applicant shall file the following with the division before the division issues  
1749 the license:

1750 (i) proof of workers' compensation insurance which covers employees of the applicant  
1751 in accordance with applicable Utah law;

1752 (ii) proof of public liability insurance in coverage amounts and form established by rule  
1753 except for a construction trades instructor for whom public liability insurance is not required;  
1754 and

1755 (iii) proof of registration as required by applicable law with the:

1756 (A) Department of Commerce;

1757 (B) Division of Corporations and Commercial Code;

1758 (C) Unemployment Insurance Division in the Department of Workforce Services, for  
1759 purposes of Title 35A, Chapter 4, Employment Security Act;

1760 (D) State Tax Commission; and

1761 (E) Internal Revenue Service.

1762 (3) In addition to the general requirements for each applicant in Subsection (1),  
1763 applicants shall comply with the following requirements to be licensed in the following  
1764 classifications:

1765 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1766 (A) has been a licensed journeyman plumber for at least two years and had two years of  
1767 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1768 (B) has received at least an associate of applied science degree or similar degree  
1769 following the completion of a course of study approved by the division and had one year of  
1770 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1771 (C) meets the qualifications for expedited licensure as established by rules made by the  
1772 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1773 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1774 and skills to be a licensed master plumber.

1775 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
1776 least four years of practical experience as a licensed apprentice under the supervision of a  
1777 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
1778 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
1779 master plumber license under this chapter, and satisfies the requirements of this Subsection  
1780 (3)(a) for the purpose of renewal or reinstatement of that license under Section [58-55-303](#).

1781 (iii) An individual holding a valid plumbing contractor's license or residential  
1782 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
1783 2008:

1784 (A) considered to hold a current master plumber license under this chapter if licensed  
1785 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
1786 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
1787 [58-55-303](#); and

1788 (B) considered to hold a current residential master plumber license under this chapter if  
1789 licensed as a residential plumbing contractor and a residential journeyman plumber, and  
1790 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of  
1791 that license under Section [58-55-303](#).

1792 (b) A master residential plumber applicant shall produce satisfactory evidence that the

1793 applicant:

1794 (i) has been a licensed residential journeyman plumber for at least two years and had  
1795 two years of supervisory experience as a licensed residential journeyman plumber in  
1796 accordance with division rule; or

1797 (ii) meets the qualifications for expedited licensure as established by rules made by the  
1798 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1799 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1800 and skills to be a licensed master residential plumber.

1801 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1802 (i) successful completion of the equivalent of at least four years of full-time training  
1803 and instruction as a licensed apprentice plumber under supervision of a licensed master  
1804 plumber or journeyman plumber and in accordance with a planned program of training  
1805 approved by the division;

1806 (ii) at least eight years of full-time experience approved by the division in collaboration  
1807 with the Plumbers Licensing Board; or

1808 (iii) meeting the qualifications for expedited licensure as established by rules made by  
1809 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1810 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1811 and skills to be a licensed journeyman plumber.

1812 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1813 (i) completion of the equivalent of at least three years of full-time training and  
1814 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
1815 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
1816 accordance with a planned program of training approved by the division;

1817 (ii) completion of at least six years of full-time experience in a maintenance or repair  
1818 trade involving substantial plumbing work; or

1819 (iii) meeting the qualifications for expedited licensure as established by rules made by  
1820 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1821 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1822 and skills to be a licensed residential journeyman plumber.

1823 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be

1824 in accordance with the following:

1825 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
1826 under the immediate supervision of a licensed master plumber, licensed residential master  
1827 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

1828 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed  
1829 apprentice plumber may work without supervision for a period not to exceed eight hours in any  
1830 24-hour period; and

1831 (iii) rules made by the commission, with the concurrence of the director, in accordance  
1832 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
1833 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
1834 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
1835 immediate supervision of a licensed supervisor.

1836 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1837 (i) is a graduate electrical engineer of an accredited college or university approved by  
1838 the division and has one year of practical electrical experience as a licensed apprentice  
1839 electrician;

1840 (ii) is a graduate of an electrical trade school, having received an associate of applied  
1841 sciences degree following successful completion of a course of study approved by the division,  
1842 and has two years of practical experience as a licensed journeyman electrician;

1843 (iii) has four years of practical experience as a journeyman electrician; or

1844 (iv) meets the qualifications for expedited licensure as established by rules made by the  
1845 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1846 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1847 and skills to be a licensed master electrician.

1848 (g) A master residential electrician applicant shall produce satisfactory evidence that  
1849 the applicant:

1850 (i) has at least two years of practical experience as a residential journeyman electrician;  
1851 or

1852 (ii) meets the qualifications for expedited licensure as established by rules made by the  
1853 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1854 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

1855 and skills to be a master residential electrician.

1856 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
1857 applicant:

1858 (i) has successfully completed at least four years of full-time training and instruction as  
1859 a licensed apprentice electrician under the supervision of a master electrician or journeyman  
1860 electrician and in accordance with a planned training program approved by the division;

1861 (ii) has at least eight years of full-time experience approved by the division in  
1862 collaboration with the Electricians Licensing Board; or

1863 (iii) meets the qualifications for expedited licensure as established by rules made by the  
1864 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1865 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1866 and skills to be a licensed journeyman electrician.

1867 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
1868 that the applicant:

1869 (i) has successfully completed two years of training in an electrical training program  
1870 approved by the division;

1871 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
1872 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
1873 journeyman, residential master, or residential journeyman electrician; or

1874 (iii) meets the qualifications for expedited licensure as established by rules made by the  
1875 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,  
1876 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge  
1877 and skills to be a licensed residential journeyman electrician.

1878 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
1879 be in accordance with the following:

1880 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
1881 licensed master, journeyman, residential master, or residential journeyman electrician;

1882 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed  
1883 apprentice electrician may work without supervision for a period not to exceed eight hours in  
1884 any 24-hour period;

1885 (iii) rules made by the commission, with the concurrence of the director, in accordance

1886 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of  
1887 apprentices allowed under the immediate supervision of a licensed supervisor, including the  
1888 ratio of apprentices in their fourth year of training or later that are allowed to be under the  
1889 immediate supervision of a licensed supervisor; and

1890 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a  
1891 residential project, or more if established by rules made by the commission, in concurrence  
1892 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1893 Act.

1894 (k) An alarm company applicant shall:

1895 (i) have a qualifying agent who ~~[is an officer, director, partner, proprietor, or manager~~  
1896 ~~of the applicant who]~~:

1897 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an  
1898 alarm company trustee, or other responsible management personnel;

1899 ~~[(A)]~~ (B) demonstrates 6,000 hours of experience in the alarm company business;

1900 ~~[(B)]~~ (C) demonstrates 2,000 hours of experience as a manager or administrator in the  
1901 alarm company business or in a construction business; and

1902 ~~[(C)]~~ (D) passes an examination component established by rule by the commission  
1903 with the concurrence of the director;

1904 (ii) provide the name, address, date of birth, social security number, fingerprint card,  
1905 and consent to a background check in accordance with Section [58-55-302.1](#) and requirements

1906 established by division rule made in accordance with Title 63G, Chapter 3, Utah

1907 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm  
1908 company proprietor, alarm company trustee, and responsible management personnel with direct  
1909 responsibility for managing operations of the applicant within the state;

1910 ~~[(ii) if a corporation, provide:]~~

1911 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~  
1912 ~~of all corporate officers, directors, and those responsible management personnel employed~~  
1913 ~~within the state or having direct responsibility for managing operations of the applicant within~~  
1914 ~~the state, and]~~

1915 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~  
1916 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~

1917 shall not be required if the stock is publicly listed and traded;]  
1918           [(iii) if a limited liability company, provide:]  
1919           [(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
1920 of all company officers, and those responsible management personnel employed within the  
1921 state or having direct responsibility for managing operations of the applicant within the state;  
1922 and]  
1923           [(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards  
1924 of all individuals owning 5% or more of the equity of the company;]  
1925           [(iv) if a partnership, provide the names, addresses, dates of birth, social security  
1926 numbers, and fingerprint cards of all general partners, and those responsible management  
1927 personnel employed within the state or having direct responsibility for managing operations of  
1928 the applicant within the state;]  
1929           [(v) if a proprietorship, provide the names, addresses, dates of birth, social security  
1930 numbers, and fingerprint cards of the proprietor, and those responsible management personnel  
1931 employed within the state or having direct responsibility for managing operations of the  
1932 applicant within the state;]  
1933           [(vi) if a trust, provide the names, addresses, dates of birth, social security numbers,  
1934 and fingerprint cards of the trustee, and those responsible management personnel employed  
1935 within the state or having direct responsibility for managing operations of the applicant within  
1936 the state;]  
1937           [(vii) (iii) document that none of the [applicant's officers, directors, shareholders  
1938 described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible  
1939 management personnel] persons described in Subsection (3)(k)(ii):  
1940           (A) have been declared by any court of competent jurisdiction incompetent by reason  
1941 of mental defect or disease and not been restored; or  
1942           [(viii) (B) [document that none of the applicant's officers, directors, shareholders  
1943 described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management  
1944 personnel] are currently suffering from habitual drunkenness or from drug addiction or  
1945 dependence;  
1946           [(ix) (iv) file and maintain with the division evidence of:  
1947           (A) comprehensive general liability insurance in form and in amounts to be established

1948 by rule by the commission with the concurrence of the director;

1949 (B) workers' compensation insurance that covers employees of the applicant in  
1950 accordance with applicable Utah law; and

1951 (C) registration as is required by applicable law with the:

1952 (I) Division of Corporations and Commercial Code;

1953 (II) Unemployment Insurance Division in the Department of Workforce Services, for  
1954 purposes of Title 35A, Chapter 4, Employment Security Act;

1955 (III) State Tax Commission; and

1956 (IV) Internal Revenue Service; and

1957 ~~[(x)]~~ (v) meet with the division and board.

1958 (l) Each applicant for licensure as an alarm company agent shall:

1959 (i) submit an application in a form prescribed by the division accompanied by  
1960 fingerprint cards;

1961 (ii) pay a fee determined by the department under Section [63J-1-504](#);

1962 (iii) submit to and pass a criminal background check in accordance with Section  
1963 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,  
1964 Chapter 3, Utah Administrative Rulemaking Act;

1965 ~~[(iii)]~~ (iv) not have been declared by any court of competent jurisdiction incompetent  
1966 by reason of mental defect or disease and not been restored;

1967 ~~[(iv)]~~ (v) not be currently suffering from habitual drunkenness or from drug addiction  
1968 or dependence; and

1969 ~~[(v)]~~ (vi) meet with the division and board if requested by the division or the board.

1970 (m) (i) Each applicant for licensure as an elevator mechanic shall:

1971 (A) provide documentation of experience and education credits of not less than three  
1972 years work experience in the elevator industry, in construction, maintenance, or service and  
1973 repair; and

1974 (B) satisfactorily complete a written examination administered by the division  
1975 established by rule under Section [58-1-203](#); or

1976 (C) provide certificates of completion of an apprenticeship program for elevator  
1977 mechanics, having standards substantially equal to those of this chapter and registered with the  
1978 United States Department of Labor Bureau Apprenticeship and Training or a state



1979 apprenticeship council.

1980 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed  
1981 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,  
1982 repairing, or maintaining an elevator, the contractor may:

1983 (I) notify the division of the unavailability of licensed personnel; and

1984 (II) request the division issue a temporary elevator mechanic license to an individual  
1985 certified by the contractor as having an acceptable combination of documented experience and  
1986 education to perform the work described in this Subsection (3)(m)(ii)(A).

1987 (B) (I) The division may issue a temporary elevator mechanic license to an individual  
1988 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by  
1989 the appropriate fee as determined by the department under Section [63J-1-504](#).

1990 (II) The division shall specify the time period for which the license is valid and may  
1991 renew the license for an additional time period upon its determination that a shortage of  
1992 licensed elevator mechanics continues to exist.

1993 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1994 division may make rules establishing when Federal Bureau of Investigation records shall be  
1995 checked for applicants as an alarm company or alarm company agent under this section and  
1996 Section [58-55-302.1](#).

1997 ~~[(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide~~  
1998 ~~an appropriate number of copies of fingerprint cards to the Department of Public Safety with~~  
1999 ~~the division's request to:]~~

2000 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~  
2001 ~~information relating to each applicant for licensure as an alarm company or alarm company~~  
2002 ~~agent and each applicant's officers, directors, shareholders described in Subsection~~  
2003 ~~(3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

2004 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2005 ~~requiring a check of records of the Federal Bureau of Investigation for criminal history~~  
2006 ~~information under this section.]~~

2007 ~~[(6) The Department of Public Safety shall send to the division:]~~

2008 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~  
2009 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~

2010 of a fingerprint card from the division and a request for review of Department of Public Safety  
2011 records; and]

2012 [~~(b)~~ the results of the Federal Bureau of Investigation review concerning an applicant  
2013 in a timely manner after receipt of information from the Federal Bureau of Investigation.]

2014 [~~(7)(a)~~ The division shall charge each applicant for licensure as an alarm company or  
2015 alarm company agent a fee, in accordance with Section ~~63J-1-504~~, equal to the cost of  
2016 performing the records reviews under this section.]

2017 [~~(b)~~ The division shall pay the Department of Public Safety the costs of all records  
2018 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the  
2019 costs of records reviews under this section.]

2020 [~~(8)~~ Information obtained by the division from the reviews of criminal history records  
2021 of the Department of Public Safety and the Federal Bureau of Investigation shall be used or  
2022 disseminated by the division only for the purpose of determining if an applicant for licensure as  
2023 an alarm company or alarm company agent is qualified for licensure.]

2024 [~~(9)~~] (5) (a) An application for licensure under this chapter shall be denied if:

2025 (i) the applicant has had a previous license, which was issued under this chapter,  
2026 suspended or revoked within two years before the date of the applicant's application;

2027 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2028 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
2029 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
2030 status, performing similar functions, or directly or indirectly controlling the applicant has  
2031 served in any similar capacity with any person or entity which has had a previous license,  
2032 which was issued under this chapter, suspended or revoked within two years before the date of  
2033 the applicant's application;

2034 (iii) (A) the applicant is an individual or sole proprietorship; and

2035 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
2036 Subsection [~~(9)(a)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which  
2037 was issued under this chapter, suspended or revoked within two years before the date of the  
2038 applicant's application; or

2039 (iv) (A) the applicant includes an individual who was an owner, director, or officer of  
2040 an unincorporated entity at the time the entity's license under this chapter was revoked; and

2041 (B) the application for licensure is filed within 60 months after the revocation of the  
 2042 unincorporated entity's license.

2043 (b) An application for licensure under this chapter shall be reviewed by the appropriate  
 2044 licensing board prior to approval if:

2045 (i) the applicant has had a previous license, which was issued under this chapter,  
 2046 suspended or revoked more than two years before the date of the applicant's application;

2047 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2048 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
 2049 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
 2050 status, performing similar functions, or directly or indirectly controlling the applicant has  
 2051 served in any similar capacity with any person or entity which has had a previous license,  
 2052 which was issued under this chapter, suspended or revoked more than two years before the date  
 2053 of the applicant's application; or

2054 (iii) (A) the applicant is an individual or sole proprietorship; and

2055 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
 2056 Subsection [~~(9)(b)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which  
 2057 was issued under this chapter, suspended or revoked more than two years before the date of the  
 2058 applicant's application.

2059 [~~(10)~~] (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership  
 2060 status report with the division every 30 days after the day on which the license is issued if the  
 2061 licensee has more than five owners who are individuals who:

2062 (A) own an interest in the contractor that is an unincorporated entity;

2063 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the  
 2064 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the  
 2065 unincorporated entity; and

2066 (C) engage, or will engage, in a construction trade in the state as owners of the  
 2067 contractor described in Subsection [~~(10)(a)(i)(A)~~] (6)(a)(i)(A).

2068 (ii) If the licensee has five or fewer owners described in Subsection [~~(10)(a)(i)~~]  
 2069 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal  
 2070 of licensure.

2071 (b) An ownership status report required under this Subsection [~~(10)~~] (6) shall:

2072 (i) specify each addition or deletion of an owner:

2073 (A) for the first ownership status report, after the day on which the unincorporated

2074 entity is licensed under this chapter; and

2075 (B) for a subsequent ownership status report, after the day on which the previous

2076 ownership status report is filed;

2077 (ii) be in a format prescribed by the division that includes for each owner, regardless of

2078 the owner's percentage ownership in the unincorporated entity, the information described in

2079 Subsection (1)(e)(vi);

2080 (iii) list the name of:

2081 (A) each officer or manager of the unincorporated entity; and

2082 (B) each other individual involved in the operation, supervision, or management of the

2083 unincorporated entity; and

2084 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504

2085 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~

2086 (6)(b)(i).

2087 (c) The division may, at any time, audit an ownership status report under this

2088 Subsection ~~[(10)]~~ (6):

2089 (i) to determine if financial responsibility has been demonstrated or maintained as

2090 required under Section 58-55-306; and

2091 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or

2092 Subsection 58-55-502(8) or (9).

2093 ~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under

2094 this chapter by providing an individual who owns an interest in the unincorporated entity to

2095 engage in a construction trade in Utah shall file with the division:

2096 (i) before the individual who owns an interest in the unincorporated entity engages in a

2097 construction trade in Utah, a current list of the one or more individuals who hold an ownership

2098 interest in the unincorporated entity that includes for each individual:

2099 (A) the individual's name, address, birth date, and social security number; and

2100 (B) whether the individual will engage in a construction trade; and

2101 (ii) every 30 days after the day on which the unincorporated entity provides the list

2102 described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the

2103 information that would be required under Subsection [~~(10)~~] (6) if the unincorporated entity  
2104 were a licensed contractor.

2105 (b) When filing an ownership list described in Subsection [~~(11)(a)(i)~~] (7)(a)(i) or an  
2106 ownership status report described in Subsection [~~(11)(a)(ii)~~], (7)(a)(i) an unincorporated entity  
2107 shall pay a fee set by the division in accordance with Section [63J-1-504](#).

2108 [~~(12)~~] (8) This chapter may not be interpreted to create or support an express or  
2109 implied independent contractor relationship between an unincorporated entity described in  
2110 Subsection [~~(10)~~] (6) or [~~(11)~~] (7) and the owners of the unincorporated entity for any purpose,  
2111 including income tax withholding.

2112 [~~(13)~~] (9) (a) A social security number provided under Subsection (1)(e)(vi) or  
2113 (3)(k)(ii) is a private record under Subsection [63G-2-302\(1\)\(i\)](#).

2114 (b) The division may designate an applicant's evidence of identity under Subsection  
2115 (1)(e)(iv) as a private record in accordance with Section [63G-2-302](#).

2116 Section 20. Section **58-55-302.1** is enacted to read:

2117 **58-55-302.1. Criminal background check.**

2118 (1) An applicant for licensure under this chapter who requires a criminal background  
2119 check shall:

2120 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2121 application is filed; and

2122 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2123 Identification and the Federal Bureau of Investigation regarding the application.

2124 (2) The division shall:

2125 (a) in addition to other fees authorized by this chapter, collect from each applicant  
2126 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
2127 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the  
2128 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2129 obtaining federal criminal history record information;

2130 (b) submit from each applicant the fingerprint card and the fees described in  
2131 Subsection (2)(a) to the Bureau of Criminal Identification; and

2132 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2133 Criminal Identification in accordance with Section [53-10-108](#) for each applicant.

2134 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2135 Section 53-10-108:

2136 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2137 and regional criminal records databases;

2138 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2139 criminal history background check; and

2140 (c) provide the results from the state, regional, and nationwide criminal history  
2141 background checks to the division.

2142 (4) For purposes of conducting a criminal background check required under this  
2143 section, the division shall have direct access to criminal background information maintained  
2144 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2145 (5) The division may not disseminate outside of the division any criminal history  
2146 record information that the division obtains from the Bureau of Criminal Identification or the  
2147 Federal Bureau of Investigation under the criminal background check requirements of this  
2148 section.

2149 (6) (a) A new license issued under Section 58-55-302 is conditional pending  
2150 completion of the criminal background check.

2151 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2152 criminal background check required in Section 58-55-302 demonstrates the applicant or the  
2153 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2154 responsible management personnel has failed to accurately disclose a criminal history, the  
2155 license is immediately and automatically revoked upon notice to the licensee by the division.

2156 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
2157 entitled to a postrevocation hearing to challenge the revocation.

2158 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
2159 Chapter 4, Administrative Procedures Act.

2160 Section 21. Section **58-55-303** is amended to read:

2161 **58-55-303. Term of license -- Expiration -- Renewal.**

2162 (1) (a) Each license issued under this chapter shall be issued in accordance with a  
2163 two-year renewal cycle established by rule.

2164 (b) The division may by rule extend or shorten a renewal period by as much as one year

2165 to stagger the renewal cycle it administers.

2166 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding  
2167 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a  
2168 license is automatically suspended 60 days after the licensee:

2169 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the  
2170 ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~]  
2171 58-55-302(6)(a)(i); or

2172 (B) transfers its license to an unincorporated entity that is subject to the ownership  
2173 status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

2174 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the  
2175 expiration of the 60-day period in Subsection (1)(c)(i):

2176 (A) the licensee submits an application for renewal of the license; and

2177 (B) the division renews the licensee's license pursuant to the licensee's application for  
2178 renewal.

2179 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),  
2180 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,  
2181 make a final determination concerning the suspension.

2182 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

2183 (a) continuing financial responsibility as required under Section 58-55-306;

2184 (b) for a contractor licensee, completion of six hours of approved continuing education,  
2185 as required in Section 58-55-302.5; and

2186 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or  
2187 plumber, master electrician or plumber, residential journeyman electrician or plumber, or  
2188 residential master electrician or plumber, completion of the number of hours of continuing  
2189 education specified under Section 58-55-302.7.

2190 (3) Each license automatically expires on the expiration date shown on the license  
2191 unless the licensee renews the license in accordance with Section 58-1-308.

2192 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to  
2193 applicants seeking to renew or reinstate a license.

2194 (5) In addition to any other requirements imposed by law, if a license has been  
2195 suspended or revoked for any reason, the applicant:

- 2196 (a) shall pay in full all fines imposed by the division;
- 2197 (b) resolve any outstanding citations or disciplinary actions with the division;
- 2198 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 2199 (d) complete a new financial responsibility review as required under Section
- 2200 58-55-306, using only titled assets; and
- 2201 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
- 2202 Residence Lien Restriction and Lien Recovery Fund Act.

2203 Section 22. Section 58-55-503 is amended to read:

2204 **58-55-503. Penalty for unlawful conduct -- Citations.**

2205 (1) As used in this section:

2206 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does  
2207 not include a sole proprietorship, joint venture, corporation, limited liability company,  
2208 association, or organization of any type.

2209 (b) "Qualifying violation" means a violation under:

2210 (i) Subsection 58-55-308(2);

2211 (ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)  
2212 through (28);

2213 (iii) Subsection 58-55-502(4)(a) or (11); or

2214 (iv) Subsection 58-55-504(2).

2215 (2) (a) [(†)] A person who violates Subsection [~~58-55-308(2), Subsection 58-55-501(1),~~  
2216 ~~(2), (3), (4), (5), (6);~~ 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), [~~(21), (22),~~  
2217 ~~(23), (24), (25), (26), (27), or~~ or (21) through (28), Subsection 58-55-308(2), or Subsection  
2218 58-55-504(2), or who fails to comply with a citation issued under this section after [†] the  
2219 citation is final, is guilty of a class A misdemeanor.

2220 [(ii) ~~As used in this section in reference to Subsection 58-55-504(2), "person" means an~~  
2221 ~~individual and does not include a sole proprietorship, joint venture, corporation, limited~~  
2222 ~~liability company, association, or organization of any type.~~]

2223 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
2224 awarded and may not accept a contract for the performance of the work.

2225 [(2)] (3) A person who violates [the provisions of] Subsection 58-55-501(13) is guilty  
2226 of:



2227 (a) an infraction [~~unless the~~]; or

2228 (b) if the violator did so with the intent to deprive the person to whom money is to be  
2229 paid of the money received, [~~in which case the violator is guilty~~] of theft[;] as classified in  
2230 Section 76-6-412.

2231 [~~(3)~~] (4) Grounds for immediate suspension of a licensee's license by the division and  
2232 the commission include:

2233 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section  
2234 58-55-501, or Subsection 58-55-504(2); and

2235 (b) the failure by a licensee to make application to, report to, or notify the division with  
2236 respect to any matter for which application, notification, or reporting is required under this  
2237 chapter or rules adopted under this chapter, including:

2238 (i) applying to the division for a new license to engage in a new specialty classification  
2239 or to do business under a new form of organization or business structure;

2240 (ii) filing a current financial statement with the division; and

2241 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2242 [~~(4)~~] (5) (a) (i) If upon inspection or investigation, the division concludes that a person  
2243 has [~~violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),~~  
2244 (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection  
2245 58-55-502(4)(a) or (11), Subsection 58-55-504(2);] committed a qualifying violation or  
2246 violated any rule or order issued with respect to [~~these subsections~~] a qualifying violation, and  
2247 that disciplinary action is appropriate, the director or the director's designee from within the  
2248 division shall:

2249 (A) promptly issue a citation to the person according to this chapter and any pertinent  
2250 rules[;];

2251 (B) attempt to negotiate a stipulated settlement[;]; or

2252 (C) notify the person to appear before an adjudicative proceeding conducted under  
2253 Title 63G, Chapter 4, Administrative Procedures Act.

2254 (ii) A person who [~~is in violation of the provisions of Subsection 58-55-308(2),~~  
2255 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24),  
2256 (25), (26), (27), or (28), or Subsection 58-55-504(2)] committed a qualifying violation, as  
2257 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an

2258 adjudicative proceeding, may be assessed a fine [~~pursuant to this Subsection (4)~~] and may, in  
2259 addition to or in lieu of, be ordered to cease and desist from [~~violating Subsection~~  
2260 ~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24),~~  
2261 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)~~] engaging in the qualifying violation.

2262 (iii) Except for a cease and desist order, the licensure sanctions cited in Section  
2263 ~~58-55-401~~ may not be assessed through a citation.

2264 (b) [~~(f)~~] A citation shall:

2265 (i) be in writing and describe with particularity the nature of the violation, including a  
2266 reference to the provision of the chapter, rule, or order alleged to have been violated[-];

2267 (ii) [~~A citation shall~~] clearly state that the recipient must notify the division in writing  
2268 within 20 calendar days [~~of service of the citation~~] after the day on which the citation is served  
2269 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,  
2270 Administrative Procedures Act[-]; and

2271 (iii) [~~A citation shall~~] clearly explain the consequences of failure to timely contest the  
2272 citation or to make payment of any fines assessed by the citation within the time specified in  
2273 the citation.

2274 (c) A citation issued under this section, or a copy of a citation, may be served upon a  
2275 person upon whom a summons may be served:

2276 (i) in accordance with the Utah Rules of Civil Procedure;

2277 (ii) personally or upon the person's agent by a division investigator or by a person  
2278 specially designated by the director; or

2279 (iii) by mail.

2280 (d) (i) If within 20 calendar days after the day on which a citation is served, the person  
2281 to whom the citation was issued fails to request a hearing to contest the citation, the citation  
2282 becomes the final order of the division and is not subject to further agency review.

2283 (ii) The period to contest a citation may be extended by the division for cause.

2284 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2285 the license of a licensee who fails to comply with a citation after the citation becomes final.

2286 (f) The failure of an applicant for licensure to comply with a citation after the citation  
2287 becomes final is a ground for denial of license.

2288 (g) A citation may not be issued under this section after the expiration of one year

2289 ~~[following]~~ after the date on which the violation that is the subject of the citation is reported to  
 2290 the division.

2291 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5); (6)]~~, the  
 2292 director or the director's designee shall assess a fine in accordance with the following:

2293 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of  
 2294 up to \$1,000;

2295 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine  
 2296 of up to \$2,000; and

2297 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a  
 2298 fine of up to \$2,000 for each day of continued offense.

2299 (ii) Except as provided in Subsection ~~[(5); (6)]~~, if a person violates Subsection  
 2300 ~~58-55-501~~(16)(e) or (28), the director or the director's designee shall assess a fine in  
 2301 accordance with the following:

2302 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of  
 2303 up to \$2,000;

2304 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine  
 2305 of up to \$4,000; and

2306 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a),  
 2307 a fine of up to \$4,000 for each day of continued offense.

2308 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
 2309 Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

2310 (A) the division previously issued a final order determining that a person committed a  
 2311 first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),~~  
 2312 ~~(3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection~~  
 2313 ~~58-55-504(2)]~~ qualifying violation; or

2314 (B) (I) the division initiated an action for a first or second offense;

2315 (II) a final order has not been issued by the division in the action initiated under  
 2316 Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

2317 (III) the division determines during an investigation that occurred after the initiation of  
 2318 the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second  
 2319 or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~

2320 ~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (19), (23), (24), (25), (26), (27), (28),~~  
2321 ~~or Subsection 58-55-504(2)]~~ qualifying violation; and

2322 (IV) after determining that the person committed a second or subsequent [~~offense~~]  
2323 qualifying violation under Subsection [~~(4)(i)(i)(B)(III)~~] (5)(i)(i)(B)(III), the division issues a  
2324 final order on the action initiated under Subsection [~~(4)(i)(i)(B)(I)~~] (5)(i)(i)(B)(I).

2325 (ii) In issuing a final order for a second or subsequent offense under Subsection  
2326 [~~(4)(i)(i)~~] (5)(i)(i), the division shall comply with the requirements of this section.

2327 (j) In addition to any other licensure sanction or fine imposed under this section, the  
2328 division shall revoke the license of a licensee that violates Subsection ~~58-55-501(23)~~ or (24)  
2329 two or more times within a 12-month period, unless, with respect to a violation of Subsection  
2330 ~~58-55-501(23)~~, the licensee can demonstrate that the licensee successfully verified the federal  
2331 legal working status of the individual who was the subject of the violation using a status  
2332 verification system, as defined in Section ~~13-47-102~~.

2333 (k) For purposes of this Subsection (4), a violation of Subsection ~~58-55-501(23)~~ or (24)  
2334 for each individual is considered a separate violation.

2335 [~~(5)~~] (6) If a person violates Section ~~58-55-501~~, the division may not treat the violation  
2336 as a subsequent violation of a previous violation if the violation occurs five years or more after  
2337 the day on which the person committed the previous violation.

2338 [~~(6)~~] (7) If, after an investigation, the division determines that a person has committed  
2339 multiple of the same type of violation of Section ~~58-55-501~~, the division may treat each  
2340 violation as a separate violation of Section ~~58-55-501~~ and apply a penalty under this section to  
2341 each violation.

2342 [~~(7)~~] (8) (a) A penalty imposed by the director under Subsection [~~(4)(i)~~] (5) shall be  
2343 deposited into the Commerce Service Account created by Section ~~13-1-2~~.

2344 (b) A penalty that is not paid may be collected by the director by either referring the  
2345 matter to a collection agency or bringing an action in the district court of the county in which  
2346 the person against whom the penalty is imposed resides or in the county where the office of the  
2347 director is located.

2348 (c) A county attorney or the attorney general of the state shall provide legal assistance  
2349 and advice to the director in an action to collect a penalty.

2350 (d) In an action brought to collect a penalty, the court shall award reasonable attorney

2351 fees and costs to the prevailing party.

2352 Section 23. Section **58-63-102** is amended to read:

2353 **58-63-102. Definitions.**

2354 In addition to the definitions in Section **58-1-102**, as used in this chapter:

2355 (1) "Agreement for services" means a written and signed agreement between a security  
2356 service provider and a client that:

2357 (a) contains clear language that addresses and assigns financial responsibility;

2358 (b) describes the length, duties, and scope of the security services that will be provided;

2359 and

2360 (c) describes the compensation that will be paid by the client for the security services,  
2361 including the compensation for each security officer.

2362 (2) "Armed courier service" means a person engaged in business as a contract security  
2363 company who transports or offers to transport tangible personal property from one place or  
2364 point to another under the control of an armed security officer employed by that service.

2365 (3) "Armed private security officer" means an individual:

2366 (a) employed by a contract security company;

2367 (b) whose primary duty is:

2368 (i) guarding personal or real property; or

2369 (ii) providing protection or security to the life and well being of humans or animals;

2370 and

2371 (c) who wears, carries, possesses, or has immediate access to a firearm in the  
2372 performance of the individual's duties.

2373 (4) "Armored car company" means a person engaged in business under contract to  
2374 others who transports or offers to transport tangible personal property, currency, valuables,  
2375 jewelry, SNAP benefits as defined in Section **35A-1-102**, or any other high value items, that  
2376 require secured delivery from one place to another under the control of an armored car security  
2377 officer employed by the company using a specially equipped motor vehicle offering a high  
2378 degree of security.

2379 (5) "Armored car security officer" means an individual:

2380 (a) employed by an armored car company;

2381 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,

2382 SNAP benefits as defined in Section [35A-1-102](#), or other high value items that require secured  
2383 delivery from one place to another; and

2384 (c) who wears, carries, possesses, or has immediate access to a firearm in the  
2385 performance of the individual's duties.

2386 (6) "Board" means the Security Services Licensing Board created in Section  
2387 [58-63-201](#).

2388 (7) "Client" means a person, company, or entity that contracts for and receives security  
2389 services from a contract security company or an armored car company.

2390 (8) "Contract security company" means a company that [~~is registered with the Division~~  
2391 ~~of Corporations and Commercial Code and~~] is engaged in business to provide security services  
2392 to another person, business, or entity on a contractual basis by assignment of an armed or  
2393 unarmed private security officer.

2394 [~~(9) "Corporate officer" means an individual who is on file with the Division of~~  
2395 ~~Corporations and Commercial Code as:]~~

2396 [~~(a) a corporate officer of a contract security company or an armored car company that~~  
2397 ~~is a corporation; or]~~

2398 [~~(b) a sole proprietor of a contract security company or an armored car company that is~~  
2399 ~~not a corporation.]~~

2400 [~~(10)~~] (9) "Company officer" means:

2401 (a) a governing person, as defined in Section [48-3a-102](#), of an armored car company or  
2402 contract security company;

2403 (b) an individual appointed as an officer of an armored car company or contract  
2404 security company that is a corporation in accordance with Section [16-10a-830](#);

2405 (c) a general partner, as defined in Section [48-2e-102](#), of an armored car company or  
2406 contract security company; or

2407 (d) a partner, as defined in Section [48-1d-102](#), of an armored car company or contract  
2408 security company.

2409 (10) "Company owner" means:

2410 (a) a shareholder, as defined in Section [16-10a-102](#), who owns directly, or indirectly  
2411 through an entity controlled by the individual, 5% or more of the outstanding shares of an  
2412 armored car company or contract security company that:

2413            (i) is a corporation; and  
2414            (ii) is not publicly listed or traded; or  
2415            (b) an individual who owns directly, or indirectly through an entity controlled by the  
2416 individual, 5% or more of the equity of an armored car company or contract security company  
2417 that is not a corporation.

2418            (11) "Company proprietor" means the sole proprietor of an armored car company or  
2419 contract security company that is registered as a sole proprietorship with the Division of  
2420 Corporations and Commercial Code.

2421            (12) "Company trustee" means an individual with control of or power of administration  
2422 over property held in trust.

2423            (13) "Financial responsibility," when referring to a contract security company, means  
2424 that a contract security company may only provide security services to a client if the contract  
2425 security company:

- 2426            (a) enters into an agreement for services with the client;
- 2427            (b) maintains a current general liability insurance policy with:
  - 2428            (i) at least an annual \$1,000,000 per occurrence limit;
  - 2429            (ii) at least an annual \$2,000,000 aggregate limit; and
  - 2430            (iii) the following riders:
    - 2431            (A) general liability;
    - 2432            (B) assault and battery;
    - 2433            (C) personal injury;
    - 2434            (D) false arrest;
    - 2435            (E) libel and slander;
    - 2436            (F) invasion of privacy;
    - 2437            (G) broad form property damage;
    - 2438            (H) damage to property in the care, custody, or control of the security service provider;

2439 and

- 2440            (I) errors and omissions;
- 2441            (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
- 2442 occurrence limit and that covers each security officer employed by the contract security  
2443 company; and

2444 (d) maintains a federal employer identification number and an unemployment  
2445 insurance employer account as required under state and federal law.

2446 [(11)] (14) "Identification card" means a personal pocket or wallet size card issued by  
2447 the division to each armored car and armed or unarmed private security officer licensed under  
2448 this chapter.

2449 [(12)] (15) "Law enforcement agency" means the same as that term is defined in  
2450 Section 53-1-102.

2451 [(13)] "Owner" means an individual who is listed with the Division of Corporations and  
2452 Commercial Code as a majority stockholder of a company, a general partner of a partnership,  
2453 or the proprietor of a sole proprietorship.]

2454 [(14)] (16) "Peace officer" means a person who:

2455 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer  
2456 Classifications; and

2457 (b) derives total or special law enforcement powers from, and is an employee of, the  
2458 federal government, the state, or a political subdivision, agency, department, branch, or service  
2459 of either, of a municipality, or a unit of local government.

2460 [(15)] (17) "Regular basis" means at least 20 hours per month.

2461 [(16)] (18) "Responsible management personnel" means [an individual who is  
2462 responsible for managing an applicant's operations.];

2463 (a) a qualifying agent;

2464 (b) an operations manager; or

2465 (c) a site manager.

2466 [(17)] (19) (a) "Security officer" means an individual who is licensed as an armed or  
2467 unarmed private security officer under this chapter and who:

2468 (i) is employed by a contract security company securing, guarding, or otherwise  
2469 protecting tangible personal property, real property, or the life and well being of human or  
2470 animal life against:

2471 (A) trespass or other unlawful intrusion or entry;

2472 (B) larceny;

2473 (C) vandalism or other abuse;

2474 (D) arson or other criminal activity; or



2475 (E) personal injury caused by another person or as a result of an act or omission by  
2476 another person;

2477 (ii) is controlling, regulating, or directing the flow of movements of an individual or  
2478 vehicle; or

2479 (iii) providing street patrol service.

2480 (b) "Security officer" does not include an individual whose duties include taking  
2481 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other  
2482 materials of individuals who are entering a sports venue, concert venue, theatrical venue,  
2483 convention center, fairgrounds, public assembly facility, or mass gathering location if:

2484 (i) the individual carries out these duties without the use of specialized equipment;

2485 (ii) the authority of the individual is limited to denying entry or passage of another  
2486 individual into or within the facility; and

2487 (iii) the individual is not authorized to use physical force in the performance of the  
2488 individual's duties under this Subsection [~~(17)(b)~~] (19)(b).

2489 [~~(18)~~] (20) "Security service provider" means a contract security company or an  
2490 armored car company licensed under this chapter.

2491 [~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed  
2492 for:

2493 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from  
2494 the premises protected by the system; or

2495 (b) signaling the commission of criminal activity at the election of an individual having  
2496 control of the features of the security system.

2497 [~~(20)~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of  
2498 tangible personal property specifically designed for use in law enforcement or in providing  
2499 security or guard services, or that is specially equipped with a device or feature designed for  
2500 use in providing law enforcement, security, or guard services, but does not include:

2501 (a) standardized clothing, whether or not bearing a company name or logo, if the  
2502 clothing does not bear the words "security" or "guard"; or

2503 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that  
2504 may be used without modification in providing security or guard services.

2505 [~~(21)~~] (23) "Street patrol service" means a contract security company that provides

2506 patrols by means of foot, vehicle, or other method of transportation using public streets,  
2507 thoroughfares, or property in the performance of the company's duties and responsibilities.

2508 ~~[(22)]~~ (24) "Unarmed private security officer" means an individual:

2509 (a) employed by a contract security company;

2510 (b) whose primary duty is guarding personal or real property or providing protection or  
2511 security to the life and well being of humans or animals;

2512 (c) who does not wear, carry, possess, or have immediate access to a firearm in the  
2513 performance of the individual's duties; and

2514 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,  
2515 emblem, insignia, or other device that identifies the individual as a security officer.

2516 ~~[(23)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections  
2517 [58-1-501](#) and [58-63-501](#).

2518 ~~[(24)]~~ (26) "Unprofessional conduct" means the same as that term is defined in  
2519 Sections [58-1-501](#) and [58-63-502](#) and as may be further defined by rule.

2520 Section 24. Section **58-63-302** is amended to read:

2521 **58-63-302. Qualifications for licensure.**

2522 (1) Each applicant for licensure as an armored car company or a contract security  
2523 company shall:

2524 (a) submit an application in a form prescribed by the division;

2525 (b) pay a fee determined by the department under Section [63J-1-504](#);

2526 (c) have a qualifying agent who:

2527 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates  
2528 that the applicant and the qualifying agent meet the requirements of this section;

2529 (ii) is a resident of the state ~~[and]~~;

2530 (iii) is responsible management personnel or ~~[an]~~ a company owner of the applicant;

2531 ~~[(iii)]~~ (iv) exercises material day-to-day authority in the conduct of the applicant's  
2532 business by making substantive technical and administrative decisions and whose primary  
2533 employment is with the applicant;

2534 ~~[(iv)]~~ (v) is not concurrently acting as a qualifying agent or employee of another  
2535 armored car company or contract security company and is not engaged in any other  
2536 employment on a regular basis;

2537 ~~[(v)]~~ (vi) is not involved in any activity that would conflict with the qualifying agent's  
2538 duties and responsibilities under this chapter to ensure that the qualifying agent's and the  
2539 applicant's performance under this chapter does not jeopardize the health or safety of the  
2540 general public;

2541 ~~[(vi)]~~ (vii) is not an employee of a government agency;

2542 ~~[(vii)]~~ (viii) passes an examination component established by rule by the division in  
2543 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative  
2544 Rulemaking Act; and

2545 ~~[(viii)]~~ (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,  
2546 supervisor, or administrator of an armored car company or a contract security company; or

2547 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
2548 collaboration with the board with a federal, United States military, state, county, or municipal  
2549 law enforcement agency;

2550 ~~(d)~~ provide the name, address, date of birth, social security number, fingerprint card,  
2551 and consent to a criminal background check in accordance with Section [58-55-302.1](#) and  
2552 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah  
2553 Administrative Rulemaking Act, for each company officer, company owner, company  
2554 proprietor, company trustee, and responsible management personnel with direct responsibility  
2555 for managing operations of the applicant within the state;

2556 ~~[(d) if a corporation, provide:]~~

2557 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~  
2558 ~~officers, directors, and responsible management personnel; and]~~

2559 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~  
2560 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~  
2561 ~~the division if the stock is publicly listed and traded;]~~

2562 ~~[(e) if a limited liability company, provide:]~~

2563 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~  
2564 ~~officers, and responsible management personnel; and]~~

2565 ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~  
2566 ~~owning 5% or more of the equity of the company;]~~

2567 ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~

2568 ~~numbers of all general partners, and responsible management personnel;]~~  
2569  ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~  
2570  ~~numbers of the proprietor, and responsible management personnel;]~~  
2571  ~~[(h)] (e) have [good moral character in that officers, directors, shareholders described~~  
2572  ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~  
2573 company officers, company owners, company proprietors, company trustees, and responsible  
2574 management personnel who have not been convicted of:  
2575 (i) a felony; or  
2576  ~~[(ii) a misdemeanor involving moral turpitude; or]~~  
2577  ~~[(iii)] (ii) a crime that when considered with the duties and responsibilities of a contract~~  
2578  ~~security company or an armored car company by the division and the board indicates that the~~  
2579  ~~best interests of the public are not served by granting the applicant a license;~~  
2580  ~~[(i)] (f) document that none of the [applicant's officers, directors, shareholders~~  
2581  ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~  
2582  ~~personnel] persons described in Subsection (1)(e):~~  
2583 (i) have been declared by a court of competent jurisdiction incompetent by reason of  
2584 mental defect or disease and not been restored; ~~[and]~~ or  
2585 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;  
2586  ~~[(j)] (g) file and maintain with the division evidence of:~~  
2587 (i) comprehensive general liability insurance in a form and in amounts established by  
2588 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter  
2589 3, Utah Administrative Rulemaking Act;  
2590 (ii) workers' compensation insurance that covers employees of the applicant in  
2591 accordance with applicable Utah law;  
2592 (iii) registration with the Division of Corporations and Commercial Code; and  
2593 (iv) registration as required by applicable law with the:  
2594 (A) Unemployment Insurance Division in the Department of Workforce Services, for  
2595 purposes of Title 35A, Chapter 4, Employment Security Act;  
2596 (B) State Tax Commission; and  
2597 (C) Internal Revenue Service; and  
2598  ~~[(k)] (h) meet with the division and board if requested by the division or board.~~

- 2599 (2) Each applicant for licensure as an armed private security officer [~~shall~~]:
- 2600 (a) shall submit an application in a form prescribed by the division;
- 2601 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2602 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2603 convicted of:
- 2604 (i) a felony; or
- 2605 [~~(ii) a misdemeanor involving moral turpitude; or~~]
- 2606 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an armed
- 2607 private security officer by the division and the board indicates that the best interests of the
- 2608 public are not served by granting the applicant a license;
- 2609 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
- 2610 Sec. 922(g);
- 2611 (e) may not have been declared incompetent by a court of competent jurisdiction by
- 2612 reason of mental defect or disease and not been restored;
- 2613 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
- 2614 dependence;
- 2615 (g) shall successfully complete basic education and training requirements established
- 2616 by rule by the division in collaboration with the board and in accordance with Title 63G,
- 2617 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
- 2618 hours of classroom or online curriculum;
- 2619 (h) shall successfully complete firearms training requirements established by rule by
- 2620 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
- 2621 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;
- 2622 (i) shall pass the examination requirement established by rule by the division in
- 2623 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
- 2624 Administrative Rulemaking Act;
- 2625 (j) shall submit to and pass a background check in accordance with Section
- 2626 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2627 Chapter 3, Utah Administrative Rulemaking Act; and
- 2628 [~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.
- 2629 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

- 2630 (a) shall submit an application in a form prescribed by the division;
- 2631 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2632 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2633 convicted of:
- 2634 (i) a felony; or
- 2635 [~~(ii) a misdemeanor involving moral turpitude; or~~]
- 2636 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
- 2637 unarmed private security officer by the division and the board indicates that the best interests of
- 2638 the public are not served by granting the applicant a license;
- 2639 (d) may not have been declared incompetent by a court of competent jurisdiction by
- 2640 reason of mental defect or disease and not been restored;
- 2641 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
- 2642 dependence;
- 2643 (f) shall successfully complete basic education and training requirements established
- 2644 by rule by the division in collaboration with the board and in accordance with Title 63G,
- 2645 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
- 2646 hours of classroom or online curriculum;
- 2647 (g) shall pass the examination requirement established by rule by the division in
- 2648 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
- 2649 Administrative Rulemaking Act;
- 2650 (h) shall submit to and pass a background check in accordance with Section
- 2651 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2652 Chapter 3, Utah Administrative Rulemaking Act; and
- 2653 [~~(h)~~] (i) shall meet with the division and board if requested by the division or board.
- 2654 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:
- 2655 (a) shall submit an application in a form prescribed by the division;
- 2656 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2657 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2658 convicted of:
- 2659 (i) a felony; or
- 2660 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2661            [(iii)] (ii) a crime that when considered with the duties and responsibilities of an  
 2662 armored car security officer by the division and the board indicates that the best interests of the  
 2663 public are not served by granting the applicant a license;

2664            (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.  
 2665 Sec. 922(g);

2666            (e) may not have been declared incompetent by a court of competent jurisdiction by  
 2667 reason of mental defect or disease and not been restored;

2668            (f) may not be currently suffering from habitual drunkenness or from drug addiction or  
 2669 dependence;

2670            (g) shall successfully complete basic education and training requirements established  
 2671 by rule by the division in collaboration with the board and in accordance with Title 63G,  
 2672 Chapter 3, Utah Administrative Rulemaking Act;

2673            (h) shall successfully complete firearms training requirements established by rule by  
 2674 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah  
 2675 Administrative Rulemaking Act;

2676            (i) shall pass the examination requirements established by rule by the division in  
 2677 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah  
 2678 Administrative Rulemaking Act;

2679            (j) shall submit to and pass a background check in accordance with Section  
 2680 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,  
 2681 Chapter 3, Utah Administrative Rulemaking Act; and

2682            [(j)] (k) shall meet with the division and board if requested by the division or the board.

2683            (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 2684 division may make a rule establishing when the division shall request a Federal Bureau of  
 2685 Investigation records' review for an applicant who is applying for licensure or licensure renewal  
 2686 under this chapter.

2687            ~~[(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),~~  
 2688 ~~(3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint~~  
 2689 ~~cards to the Department of Public Safety with the division's request to:]~~

2690            ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~  
 2691 ~~information relating to each applicant for licensure under this chapter and each applicant's~~

2692 ~~officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and~~  
2693 ~~responsible management personnel; and]~~

2694 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2695 ~~requiring a check of records of the FBI for criminal history information under this section.]~~

2696 ~~[(7) The Department of Public Safety shall send the division:]~~

2697 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~  
2698 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~  
2699 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~  
2700 ~~records; and]~~

2701 ~~[(b) the results of the FBI review concerning an applicant in a timely manner after~~  
2702 ~~receipt of information from the FBI.]~~

2703 ~~[(8) (a) The division shall charge each applicant a fee, in accordance with Section~~  
2704 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2705 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~  
2706 ~~reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews~~  
2707 ~~under this chapter.]~~

2708 ~~[(9) The division shall use or disseminate the information it obtains from the reviews~~  
2709 ~~of criminal history records of the Department of Public Safety and the FBI only to determine if~~  
2710 ~~an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]~~

2711 Section 25. Section **58-63-302.1** is enacted to read:

2712 **58-63-302.1. Criminal background check.**

2713 (1) An applicant for licensure under this chapter who requires a criminal background  
2714 check shall:

2715 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2716 application is filed; and

2717 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2718 Identification and the Federal Bureau of Investigation regarding the application.

2719 (2) The division shall:

2720 (a) in addition to other fees authorized by this chapter, collect from each applicant  
2721 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal

2722 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the



2723 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2724 obtaining federal criminal history record information;

2725 (b) submit from each applicant the fingerprint card and the fees described in  
2726 Subsection (2)(a) to the Bureau of Criminal Identification; and

2727 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2728 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2729 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2730 Section 53-10-108:

2731 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2732 and regional criminal records databases;

2733 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2734 criminal history background check; and

2735 (c) provide the results from the state, regional, and nationwide criminal history  
2736 background checks to the division.

2737 (4) For purposes of conducting a criminal background check required under this  
2738 section, the division shall have direct access to criminal background information maintained  
2739 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2740 (5) The division may not disseminate outside of the division any criminal history  
2741 record information that the division obtains from the Bureau of Criminal Identification or the  
2742 Federal Bureau of Investigation under the criminal background check requirements of this  
2743 section.

2744 (6) (a) A new license issued under Section 58-63-302 is conditional pending  
2745 completion of the criminal background check.

2746 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2747 criminal background check required in Section 58-68-302 demonstrates the applicant or the  
2748 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2749 responsible management personnel has failed to accurately disclose a criminal history, the  
2750 license is immediately and automatically revoked upon notice to the licensee by the division.

2751 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
2752 entitled to a postrevocation hearing to challenge the revocation.

2753 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,

2754 Chapter 4, Administrative Procedures Act.

2755 Section 26. Section **58-64-302** is amended to read:

2756 **58-64-302. Qualifications for licensure.**

2757 (1) Each applicant for licensure as a deception detection examiner:

2758 (a) shall submit an application in a form prescribed by the division;

2759 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2760 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~  
2761 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a  
2762 deception detection examiner is considered by the division to indicate that the best interests of  
2763 the public will not be served by granting the applicant a license;

2764 (d) may not have been declared by any court of competent jurisdiction incompetent by  
2765 reason of mental defect or disease and not been restored;

2766 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
2767 dependence;

2768 (f) shall have completed one of the following:

2769 (i) have earned a bachelor's degree from a four year university or college meeting  
2770 standards established by the division by rule made in accordance with Title 63G, Chapter 3,  
2771 Utah Administrative Rulemaking Act;

2772 (ii) have completed not less than 8,000 hours of investigation experience approved by  
2773 the division; or

2774 (iii) have completed a combination of university or college education and investigation  
2775 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,  
2776 Utah Administrative Rulemaking Act, as being equivalent to the requirements under  
2777 Subsection (1)(f)(i) or (1)(f)(ii);

2778 (g) shall have successfully completed a training program in detection deception  
2779 meeting criteria established by rule made by the division~~[; and]~~ in accordance with Title 63G,  
2780 Chapter 3, Utah Administrative Rulemaking Act;

2781 (h) shall submit to and pass a background check in accordance with Section  
2782 [58-64-302.1](#) and requirements established by division rule made in accordance with Title 63G,  
2783 Chapter 3, Utah Administrative Rulemaking Act; and

2784 ~~[(h)]~~ (i) shall have performed satisfactorily as a licensed deception detection intern for

2785 a period of not less than one year and shall have satisfactorily conducted not less than 100  
2786 deception detection examinations under the supervision of a licensed deception detection  
2787 examiner.

2788 (2) Each applicant for licensure as a deception detection intern:

2789 (a) shall submit an application in a form prescribed by the division;

2790 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2791 (c) may not have been convicted of a felony~~], a misdemeanor involving moral~~  
2792 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a  
2793 deception detection intern is considered by the division to indicate that the best interests of the  
2794 public will not be served by granting the applicant a license;

2795 (d) may not have been declared by any court of competent jurisdiction incompetent by  
2796 reason of mental defect or disease and not been restored;

2797 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
2798 dependence;

2799 (f) shall have completed one of the following:

2800 (i) have earned a bachelor's degree from a four year university or college meeting  
2801 standards established by the division by rule made in accordance with Title 63G, Chapter 3,  
2802 Utah Administrative Rulemaking Act;

2803 (ii) have completed not less than 8,000 hours of investigation experience approved by  
2804 the division; or

2805 (iii) have completed a combination of university or college education and investigation  
2806 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,  
2807 Utah Administrative Rulemaking Act, as being equivalent to the requirements under  
2808 Subsection (2)(f)(i) or (2)(f)(ii);

2809 (g) shall have successfully completed a training program in detection deception  
2810 meeting criteria established by rule made by the division~~;~~ and in accordance with Title 63G,  
2811 Chapter 3, Utah Administrative Rulemaking Act;

2812 (h) shall submit to and pass a background check in accordance with Section  
2813 [58-64-302.1](#) and requirements established by division rule made in accordance with Title 63G,  
2814 Chapter 3, Utah Administrative Rulemaking Act; and

2815 ~~[(h)]~~ (i) shall provide the division with an intern supervision agreement in a form

2816 prescribed by the division under which:

2817 (i) a licensed deception detection examiner agrees to supervise the intern; and  
2818 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

2819 (3) Each applicant for licensure as a deception detection examination administrator:

2820 (a) shall submit an application in a form prescribed by the division;

2821 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2822 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~  
2823 ~~turpitude,]~~ or any other crime that when considered with the duties and responsibilities of a  
2824 deception detection examination administrator is considered by the division to indicate that the  
2825 best interests of the public will not be served by granting the applicant a license;

2826 (d) may not have been declared by a court of competent jurisdiction incompetent by  
2827 reason of mental defect or disease and not been restored;

2828 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
2829 dependence;

2830 (f) shall have earned an associate degree from a state-accredited university or college or  
2831 have an equivalent number of years' work experience; ~~[and]~~

2832 (g) shall submit to and pass a background check in accordance with Section  
2833 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,  
2834 Chapter 3, Utah Administrative Rulemaking Act; and

2835 ~~[(g)]~~ (h) shall have successfully completed a training program and have obtained  
2836 certification in deception detection examination administration provided by the manufacturer  
2837 of a scientific or technology-based software application solution that is approved by the  
2838 director.

2839 ~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c),~~  
2840 ~~or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the~~  
2841 ~~Department of Public Safety with the division's request to:]~~

2842 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~  
2843 ~~information relating to each applicant for licensure under this chapter; and]~~

2844 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~  
2845 ~~requiring a check of records of the F.B.I. for criminal history information under this section.]~~

2846 ~~[(5) The Department of Public Safety shall send to the division:]~~

2847 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~  
2848 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~  
2849 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~  
2850 ~~records; and]~~

2851 ~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after~~  
2852 ~~receipt of information from the F.B.I.]~~

2853 ~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section~~  
2854 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2855 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~  
2856 ~~reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews~~  
2857 ~~under this chapter.]~~

2858 ~~[(7) Information obtained by the division from the reviews of criminal history records~~  
2859 ~~of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division~~  
2860 ~~only for the purpose of determining if an applicant for licensure under this chapter is qualified~~  
2861 ~~for licensure.]~~

2862 Section 27. Section **58-64-302.1** is enacted to read:

2863 **58-64-302.1. Criminal background check.**

2864 (1) An applicant for licensure under this chapter who requires a criminal background  
2865 check shall:

2866 (a) submit fingerprint cards in a form acceptable to the division at the time the license  
2867 application is filed; and

2868 (b) consent to a fingerprint background check conducted by the Bureau of Criminal  
2869 Identification and the Federal Bureau of Investigation regarding the application.

2870 (2) The division shall:

2871 (a) in addition to other fees authorized by this chapter, collect from each applicant  
2872 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal  
2873 Identification is authorized to collect for the services provided under Section 53-10-108 and the  
2874 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of  
2875 obtaining federal criminal history record information;

2876 (b) submit from each applicant the fingerprint card and the fees described in  
2877 Subsection (2)(a) to the Bureau of Criminal Identification; and

2878 (c) obtain and retain in division records a signed waiver approved by the Bureau of  
2879 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2880 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of  
2881 Section 53-10-108:

2882 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state  
2883 and regional criminal records databases;

2884 (b) forward the fingerprints to the Federal Bureau of Investigation for a national  
2885 criminal history background check; and

2886 (c) provide the results from the state, regional, and nationwide criminal history  
2887 background checks to the division.

2888 (4) For purposes of conducting a criminal background check required under this  
2889 section, the division shall have direct access to criminal background information maintained  
2890 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2891 (5) The division may not disseminate outside of the division any criminal history  
2892 record information that the division obtains from the Bureau of Criminal Identification or the  
2893 Federal Bureau of Investigation under the criminal background check requirements of this  
2894 section.

2895 (6) (a) A new license issued under Section 58-64-302 is conditional pending  
2896 completion of the criminal background check.

2897 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the  
2898 criminal background check required in Section 58-64-302 demonstrates the applicant or the  
2899 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other  
2900 responsible management personnel has failed to accurately disclose a criminal history, the  
2901 license is immediately and automatically revoked upon notice to the licensee by the division.

2902 (c) A person whose conditional license has been revoked under Subsection (6)(b) is  
2903 entitled to a postrevocation hearing to challenge the revocation.

2904 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,  
2905 Chapter 4, Administrative Procedures Act.