

Senator Curtis S. Bramble proposes the following substitute bill:

PROFESSIONAL LICENSING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions related to professional licensing.

Highlighted Provisions:

This bill:

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



- 26 technician examination for radiology-related license applicants;
- 27 ▶ modifies penalties for unlawful conduct by a person licensed to engage in a
- 28 construction trade;
- 29 ▶ removes provisions prohibiting the division from issuing or renewing a nurse's
- 30 license for past criminal convictions;
- 31 ▶ modifies licensing requirements for certain funeral service establishments and
- 32 professionals, landscape architects, security personnel, and deception detection
- 33 examiners;
- 34 ▶ modifies background check requirements for licensed pharmacies, alarm companies,
- 35 security car companies, and deception detector examiners;
- 36 ▶ grants administrative rulemaking authority; and
- 37 ▶ makes technical changes.

38 Money Appropriated in this Bill:

39 None

40 Other Special Clauses:

41 None

42 Utah Code Sections Affected:

43 AMENDS:

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

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

67 ENACTS:

- 68 [58-55-302.1](#), Utah Code Annotated 1953
- 69 [58-63-302.1](#), Utah Code Annotated 1953
- 70 [58-64-302.1](#), Utah Code Annotated 1953



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

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

74 **58-1-108. Adjudicative proceedings.**

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

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

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

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

89 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
90 **orders -- Appeal of orders.**

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

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

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

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

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

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

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

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

118 (c) The licensing board shall issue a recommended order based on the review under

119 Subsection (4)(b) that shall become the recommended order of the presiding officer.

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

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

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

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

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

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

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

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

142 (9) The content of all orders shall comply with the requirements of Subsection
143 [63G-4-203\(1\)\(i\)](#) and Sections [63G-4-208](#) and [63G-4-209](#).

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

145 **58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies --**
146 **Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in**
147 **professional school that teaches continuing education prohibited.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

193 (c) rules made by the Division of Finance ~~[pursuant to]~~ under Sections 63A-3-106 and
194 63A-3-107.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

227 **58-1-301. License application -- Licensing procedure.**

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

230 (b) Each completed application shall:

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

234 (ii) include the applicant's:

235 (A) full legal name; and

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

239 (iii) be verified by the applicant; and

240 (iv) be accompanied by the appropriate fees.

241 (c) An applicant's social security number is a private record under Subsection
242 63G-2-302(1)(i).

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

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

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

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

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

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

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

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

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

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

273 (ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks,

274 months, or years of education, training, supervised training, or other experience that an
275 applicant for licensure under this title is required to complete before receiving a license under
276 this title.

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

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

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

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

291 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

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

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

297 (b) Sections 58-24b-302 and 58-24b-302.1;

298 (c) Section 58-31b-302;

299 (d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy
300 Practice Act;

301 (e) Section 58-44a-302.1;

302 (f) Section 58-47b-302;

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

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

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

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

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

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

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

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

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

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

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

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

321 **58-1-501. Unlawful and unprofessional conduct.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

367 this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

424 (ii) the conviction was for:

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

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

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

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

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

431 **58-1-506. Supervision of cosmetic medical procedures.**

432 (1) For purposes of this section:

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

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

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

438 (ii) a registered nurse;

439 (iii) a master esthetician; and

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

441 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

454 (e) "Hair removal review" means:

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

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

459 and

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

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

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

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

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

468 (iv) is available to:

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

470 and

471 (B) evaluate the patient, as necessary.

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

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

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

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

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

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

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

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

490 (ii) has an unrestricted license under this title or is performing under the license of the

491 supervising physician and surgeon; and

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

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

497 (B) physiology of the skin;

498 (C) skin typing and analysis;

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

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

501 (F) infection control;

502 (G) laser and light physics training;

503 (H) laser technologies and applications;

504 (I) safety and maintenance of lasers;

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

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

507 (L) cardiopulmonary resuscitation (CPR).

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

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

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

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

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

521 (i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other

522 indication of cancer or other condition that should be treated or further evaluated before the
523 tattoo is removed;

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

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

529 (c) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

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

553 facility;

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

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

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

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

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

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

567 **58-9-306. License by endorsement.**

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

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

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

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

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

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

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

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

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

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

583 (7) has demonstrated competency of the laws and the rules of the state as determined

584 by the division.

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

586 **58-17b-102. Definitions.**

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

588 (1) "Administering" means:

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

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

596 (2) "Adulterated drug or device" means a drug or device considered adulterated under
597 21 U.S.C. Sec. 351 (2003).

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

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

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

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

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

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

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

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

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

628 (11) "Class B pharmacy":

629 (a) means a pharmacy located in Utah:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

665 (b) "Compounding" does not include:

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

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

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

673 (19) "Confidential information" has the same meaning as "protected health
674 information" under the Standards for Privacy of Individually Identifiable Health Information,
675 45 C.F.R. Parts 160 and 164.

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

677 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
678 417, Sec. 3a(ff) which is incorporated by reference.

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

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

684 (a) currently licensed as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

712 (i) known allergies;

713 (ii) rational therapy-contraindications;

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

715 (iv) reasonable directions for use;

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

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

720 (i) drug-drug;

721 (ii) drug-food;

722 (iii) drug-disease; and

723 (iv) adverse drug reactions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

763 (38) "Misbranded drug or device" means a drug or device considered misbranded under
764 21 U.S.C. Sec. 352 (2003).

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

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

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

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

769 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a

770 person in Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

800 (iii) arresting or slowing a disease process.

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

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

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

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

812 (i) intracompany sales;

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

817 (A) hospitals;

818 (B) pharmacies;

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

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

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

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

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

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

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

832 (A) the facility's total distribution-related sales of prescription drugs does not exceed
833 5% of the facility's total prescription drug sales; and

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

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

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

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

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

845 (a) drugs are dispensed;

846 (b) pharmaceutical care is provided;

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

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

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

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

855 (54) "Pharmacy manager" means:

856 (a) a pharmacist-in-charge;

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

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

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

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

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

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

866 [~~(55)~~] (56) (a) "Practice as a dispensing medical practitioner" means the practice of
867 pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part
868 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
869 division rule adopted after consultation with the Board of pharmacy and the governing boards
870 of the practitioners described in Subsection (23)(a).

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

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

873 or

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

876 [~~(56)~~] (57) "Practice as a licensed pharmacy technician" means engaging in practice as
877 a pharmacy technician under the general supervision of a licensed pharmacist and in
878 accordance with a scope of practice defined by division rule made in collaboration with the
879 board.

880 [~~(57)~~] (58) "Practice of pharmacy" includes the following:

881 (a) providing pharmaceutical care;

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

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

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

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

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

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

- 894 (d) participating in drug utilization review;
- 895 (e) ensuring proper and safe storage of drugs and devices;
- 896 (f) maintaining records of drugs and devices in accordance with state and federal law
- 897 and the standards and ethics of the profession;
- 898 (g) providing information on drugs or devices, which may include advice relating to
- 899 therapeutic values, potential hazards, and uses;
- 900 (h) providing drug product equivalents;
- 901 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
- 902 technicians;
- 903 (j) providing patient counseling, including adverse and therapeutic effects of drugs;
- 904 (k) providing emergency refills as defined by rule;
- 905 (l) telepharmacy;
- 906 (m) formulary management intervention;
- 907 (n) prescribing and dispensing a self-administered hormonal contraceptive in
- 908 accordance with Title 26, Chapter 64, Family Planning Access Act; and
- 909 (o) issuing a prescription in accordance with Section [58-17b-627](#).
- 910 [~~58~~] [\(59\)](#) "Practice of telepharmacy" means the practice of pharmacy through the use
- 911 of telecommunications and information technologies.
- 912 [~~59~~] [\(60\)](#) "Practice of telepharmacy across state lines" means the practice of
- 913 pharmacy through the use of telecommunications and information technologies that occurs
- 914 when the patient is physically located within one jurisdiction and the pharmacist is located in
- 915 another jurisdiction.
- 916 [~~60~~] [\(61\)](#) "Practitioner" means an individual currently licensed, registered, or
- 917 otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the
- 918 course of professional practice.
- 919 [~~61~~] [\(62\)](#) "Prescribe" means to issue a prescription:
- 920 (a) orally or in writing; or
- 921 (b) by telephone, facsimile transmission, computer, or other electronic means of
- 922 communication as defined by division rule.
- 923 [~~62~~] [\(63\)](#) "Prescription" means an order issued:
- 924 (a) by a licensed practitioner in the course of that practitioner's professional practice or

925 by collaborative pharmacy practice agreement; and

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

928 ~~[(63)]~~ (64) "Prescription device" means an instrument, apparatus, implement, machine,
929 contrivance, implant, in vitro reagent, or other similar or related article, and any component
930 part or accessory, which is required under federal or state law to be prescribed by a practitioner
931 and dispensed by or through a person or entity licensed under this chapter or exempt from
932 licensure under this chapter.

933 ~~[(64)]~~ (65) "Prescription drug" means a drug that is required by federal or state law or
934 rule to be dispensed only by prescription or is restricted to administration only by practitioners.

935 ~~[(65)]~~ (66) "Repackage":

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

938 (b) does not include:

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

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

944 ~~[(66)]~~ (67) "Research using pharmaceuticals" means research:

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

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

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

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

955 ~~[(67)]~~ (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription

956 drugs and devices to the general public.

957 ~~[(68)]~~ (69) (a) "Self-administered hormonal contraceptive" means a self-administered
958 hormonal contraceptive that is approved by the United States Food and Drug Administration to
959 prevent pregnancy.

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

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

964 ~~[(69)]~~ (70) "Self-audit" means an internal evaluation of a pharmacy to determine
965 compliance with this chapter.

966 ~~[(70)]~~ (71) "Supervising pharmacist" means a pharmacist who is overseeing the
967 operation of the pharmacy during a given day or shift.

968 ~~[(71)]~~ (72) "Supportive personnel" means unlicensed individuals who:

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

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

976 ~~[(72)]~~ (73) "Unlawful conduct" means the same as that term is defined in Sections
977 58-1-501 and 58-17b-501.

978 ~~[(73)]~~ (74) "Unprofessional conduct" means the same as that term is defined in
979 Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

980 ~~[(74)]~~ (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
981 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
982 for animals.

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

984 **58-17b-306. Qualifications for licensure as a pharmacy.**

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

- 987 (a) submit a written application in the form prescribed by the division;
- 988 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 989 (c) satisfy the division that the applicant, and each owner, officer, or manager of the
- 990 applicant have not engaged in any act, practice, or omission, which when considered with the
- 991 duties and responsibilities of a licensee under this section indicates there is cause to believe
- 992 that issuing a license to the applicant is inconsistent with the interest of the public's health,
- 993 safety, or welfare;

994 (d) demonstrate the licensee's operations will be in accordance with all federal, state,

995 and local laws relating to the type of activity engaged in by the licensee, including regulations

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

997 (e) maintain operating standards established by division rule made in collaboration

998 with the board[;] and in accordance with Title 63G, Chapter 3, Utah Administrative

999 Rulemaking Act;

1000 (f) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint

1001 background check in accordance with Section [58-17b-307](#); and

1002 [~~(f)~~] (g) acknowledge the division's authority to inspect the licensee's business premises

1003 pursuant to Section [58-17b-103](#).

1004 (2) Each applicant applying for a class D license shall:

- 1005 (a) submit a written application in the form prescribed by the division;
- 1006 (b) pay a fee as determined by the department under Section [63J-1-504](#);
- 1007 (c) present to the division verification of licensure in the state where physically located
- 1008 and verification that such license is in good standing;

1009 (d) satisfy the division that the applicant and each of the applicant's pharmacy

1010 managers has not engaged in any act, practice, or omission, which when considered with the

1011 duties and responsibilities of a licensee under this section, indicates there is cause to believe

1012 that issuing a license to the applicant is inconsistent with the interest of the public's health,

1013 safety, or welfare;

1014 (e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint

1015 background check in accordance with Section [58-17b-307](#);

1016 [~~(d)~~] (f) provide a statement of the scope of pharmacy services that will be provided

1017 and a detailed description of the protocol as described by rule by which pharmacy care will be

1018 provided, including any collaborative practice arrangements with other health care
1019 practitioners;

1020 ~~[(e)]~~ (g) sign an affidavit attesting that any healthcare practitioners employed by the
1021 applicant and physically located in Utah have the appropriate license issued by the division and
1022 in good standing;

1023 ~~[(f)]~~ (h) sign an affidavit attesting that the applicant will abide by the pharmacy laws
1024 and regulations of the jurisdiction in which the pharmacy is located; and

1025 ~~[(g)]~~ (i) if an applicant engages in compounding, submit the most recent inspection
1026 report:

1027 (i) conducted within two years before the application for licensure; and

1028 (ii) (A) conducted as part of the National Association of Boards of Pharmacy Verified
1029 Pharmacy Program; or

1030 (B) performed by the state licensing agency of the state in which the applicant is a
1031 resident and in accordance with the National Association of Boards of Pharmacy multistate
1032 inspection blueprint program.

1033 (3) Each license issued under this section shall be issued for a single, specific address,
1034 and is not transferable or assignable.

1035 Section 12. Section **58-17b-307** is amended to read:

1036 **58-17b-307. Qualification for licensure -- Criminal background checks.**

1037 (1) An individual applicant for licensure under this chapter shall:

1038 (a) submit fingerprint cards in a form acceptable to the division at the time the license
1039 application is filed; and

1040 (b) in accordance with this section and requirements established by rule made in
1041 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consent to a
1042 fingerprint background check regarding the application conducted by the:

1043 (i) Utah Bureau of Criminal Identification; and

1044 (ii) Federal Bureau of Investigation.

1045 (2) An applicant for licensure as a pharmacy under this chapter shall submit the
1046 information described in Subsection (1) for each of the applicant's pharmacy managers.

1047 ~~[(2)]~~ (3) The division shall:

1048 (a) in addition to other fees authorized by this chapter, collect from each applicant

1049 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
1050 Identification is authorized to collect for the services provided under Section 53-10-108 and the
1051 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
1052 obtaining federal criminal history record information;

1053 (b) submit from each applicant the fingerprint card and the fees described in
1054 Subsection (2)(a) to the Bureau of Criminal Identification; and

1055 (c) obtain and retain in division records, a signed waiver approved by the Bureau of
1056 Criminal Identification in accordance with Section 53-10-108 for each ~~[applicant]~~ individual
1057 who requires a background check under this section.

1058 ~~[(3)]~~ (4) The Bureau of Criminal Identification shall, in accordance with the
1059 requirements of Section 53-10-108:

1060 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
1061 and regional criminal records databases;

1062 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
1063 criminal history background check; and

1064 (c) provide the results from the state, regional, and nationwide criminal history
1065 background checks to the division.

1066 ~~[(4)]~~ (5) For purposes of conducting the criminal background check required in
1067 Subsection (1), the division shall have direct access to criminal background information
1068 maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1069 ~~[(5)]~~ (6) (a) A new pharmacy, pharmacist, pharmacy intern, or pharmacy technician
1070 license issued under this section is conditional, pending completion of the criminal background
1071 ~~[check]~~ checks.

1072 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
1073 criminal background check required in Subsection (1)~~;~~ discloses that the applicant or the
1074 applicant's pharmacy manager has failed to accurately disclose a criminal history, the license is
1075 immediately and automatically revoked upon notice to the licensee by the division.

1076 ~~[(6)]~~ (7) (a) A person whose conditional license has been revoked under Subsection
1077 ~~[(5)]~~ (6) is entitled to a postrevocation hearing to challenge the revocation.

1078 (b) The division shall conduct a postrevocation hearing in accordance with Title 63G,
1079 Chapter 4, Administrative Procedures Act.

1080 [(7)] (8) The division may not disseminate outside of the division any criminal history
1081 record information that the division obtains from the Bureau of Criminal Identification or the
1082 Federal Bureau of Investigation under the criminal background check requirements of this
1083 section.

1084 Section 13. Section **58-17b-625** is amended to read:

1085 **58-17b-625. Administration of a long-acting injectable and naloxone.**

1086 (1) A pharmacist may, in accordance with this section, administer a drug described in
1087 Subsection (2).

1088 (2) Notwithstanding the provisions of Subsection [~~58-17b-102(57)(c)(ii)(B)~~]
1089 58-17b-102(58)(c)(ii)(B), the division shall make rules in collaboration with the board and,
1090 when appropriate, the Physicians Licensing Board created in Section **58-67-201**, and in
1091 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
1092 training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

1093 (3) A pharmacist may not administer naloxone or a long-acting injectable
1094 intramuscularly unless the pharmacist:

1095 (a) completes the training described in Subsection (2);

1096 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
1097 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
1098 Administrative Rulemaking Act; and

1099 (c) is directed by the physician, as that term is defined in Section **58-67-102** or Section
1100 **58-68-102**, who issues the prescription to administer the drug.

1101 Section 14. Section **58-31b-302** is amended to read:

1102 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
1103 **checks.**

1104 (1) An applicant for certification as a medication aide shall:

1105 (a) submit an application to the division on a form prescribed by the division;

1106 (b) pay a fee to the division as determined under Section **63J-1-504**;

1107 (c) have a high school diploma or its equivalent;

1108 (d) have a current certification as a nurse aide, in good standing, from the Department
1109 of Health and Human Services;

1110 (e) have a minimum of 2,000 hours of experience within the two years prior to

- 1111 application, working as a certified nurse aide in a long-term care facility;
- 1112 (f) obtain letters of recommendation from a long-term care facility administrator and
1113 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;
- 1114 (g) be in a condition of physical and mental health that will permit the applicant to
1115 practice safely as a medication aide certified;
- 1116 (h) have completed an approved education program or an equivalent as determined by
1117 the division in collaboration with the board;
- 1118 (i) have passed the examinations as required by division rule made in collaboration
1119 with the board; and
- 1120 (j) meet with the board, if requested, to determine the applicant's qualifications for
1121 certification.
- 1122 (2) An applicant for licensure as a licensed practical nurse shall:
- 1123 (a) submit to the division an application in a form prescribed by the division;
- 1124 (b) pay to the division a fee determined under Section [63J-1-504](#);
- 1125 (c) have a high school diploma or its equivalent;
- 1126 (d) be in a condition of physical and mental health that will permit the applicant to
1127 practice safely as a licensed practical nurse;
- 1128 (e) have completed an approved practical nursing education program or an equivalent
1129 as determined by the board;
- 1130 (f) have passed the examinations as required by division rule made in collaboration
1131 with the board; and
- 1132 (g) meet with the board, if requested, to determine the applicant's qualifications for
1133 licensure.
- 1134 (3) An applicant for a registered nurse apprentice license shall:
- 1135 (a) submit to the division an application form prescribed by the division;
- 1136 (b) pay to the division a fee determined under Section [63J-1-504](#);
- 1137 (c) have a high school diploma or its equivalent;
- 1138 (d) be in a condition of physical and mental health that will allow the applicant to
1139 practice safely as a registered nurse apprentice;
- 1140 (e) as determined by an approved registered nursing education program, be:
- 1141 (i) in good standing with the program; and

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

1173 with the board; or

1174 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
1175 Nurse Anesthesia Educational Programs;

1176 (g) to practice within the psychiatric mental health nursing specialty, demonstrate, as
1177 described in division rule, that the applicant, after completion of a doctorate or master's degree
1178 required for licensure, is in the process of completing the applicant's clinical practice
1179 requirements in psychiatric mental health nursing, including in psychotherapy;

1180 (h) have passed the examinations as required by division rule made in collaboration
1181 with the board;

1182 (i) be currently certified by a program approved by the division in collaboration with
1183 the board and submit evidence satisfactory to the division of the certification; and

1184 (j) meet with the board, if requested, to determine the applicant's qualifications for
1185 licensure.

1186 (6) For each applicant for licensure or certification under this chapter except an
1187 applicant under Subsection 58-31b-301(2)(b):

1188 (a) the applicant shall:

1189 (i) submit fingerprint cards in a form acceptable to the division at the time the
1190 application is filed; and

1191 (ii) consent to a fingerprint background check conducted by the Bureau of Criminal
1192 Identification and the Federal Bureau of Investigation regarding the application;

1193 (b) the division shall:

1194 (i) in addition to other fees authorized by this chapter, collect from each applicant
1195 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
1196 Identification is authorized to collect for the services provided under Section 53-10-108 and the
1197 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
1198 obtaining federal criminal history record information;

1199 (ii) submit from each applicant the fingerprint card and the fees described in this
1200 Subsection (6)(b) to the Bureau of Criminal Identification; and

1201 (iii) obtain and retain in division records a signed waiver approved by the Bureau of
1202 Criminal Identification in accordance with Section 53-10-108 for each applicant; and

1203 (c) the Bureau of Criminal Identification shall, in accordance with the requirements of

1204 Section 53-10-108:

1205 (i) check the fingerprints submitted under Subsection (6)(b) against the applicable state
1206 and regional criminal records databases;

1207 (ii) forward the fingerprints to the Federal Bureau of Investigation for a national
1208 criminal history background check; and

1209 (iii) provide the results from the state, regional, and nationwide criminal history
1210 background checks to the division.

1211 (7) For purposes of conducting the criminal background checks required in Subsection
1212 (6), the division shall have direct access to criminal background information maintained
1213 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1214 (8) (a) (i) Any new nurse license or certification issued under this section shall be
1215 conditional, pending completion of the criminal background check.

1216 (ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
1217 criminal background check discloses the applicant has failed to accurately disclose a criminal
1218 history, the license or certification shall be immediately and automatically revoked upon notice
1219 to the licensee by the division.

1220 (b) (i) An individual whose conditional license or certification has been revoked under
1221 Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

1222 (ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter
1223 4, Administrative Procedures Act.

1224 (9) If an individual has been charged with a violent felony, as defined in Subsection
1225 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or
1226 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
1227 successful completion of probation, [~~the individual is disqualified for licensure under this~~
1228 ~~chapter and:~~]

1229 [~~(a) if the individual is licensed under this chapter, the division:]~~

1230 [~~(i)~~] the division shall act upon the license as required under Section 58-1-401[~~;~~ and].

1231 [~~(ii) may not renew or subsequently issue a license to the individual under this chapter;~~
1232 and]

1233 [~~(b) if the individual is not licensed under this chapter, the division may not issue a~~
1234 ~~license to the individual under this chapter.]~~

1235 (10) If an individual has been charged with a felony other than a violent felony, as
 1236 defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted,
 1237 entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held
 1238 in abeyance pending the successful completion of probation, the division shall determine
 1239 whether the felony disqualifies the individual for licensure under this chapter and act upon the
 1240 license, as required, in accordance with Section 58-1-401.

1241 (11) The division may not disseminate outside of the division any criminal history
 1242 record information that the division obtains from the Bureau of Criminal Identification or the
 1243 Federal Bureau of Investigation under the criminal background check requirements of this
 1244 section.

1245 Section 15. Section 58-53-302 is amended to read:

1246 **58-53-302. Qualifications for licensure.**

1247 (1) Each applicant for licensure as a landscape architect shall:

1248 (a) submit an application in a form prescribed by the division;

1249 (b) pay a fee as determined by the department under Section 63J-1-504;

1250 [~~(c)~~ provide satisfactory evidence of good moral character;]

1251 [~~(d)~~ (c) (i) have graduated and received an earned bachelors or masters degree from a
 1252 landscape architecture program meeting criteria established by rule by the division in
 1253 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
 1254 Rulemaking Act; or

1255 (ii) have completed not less than eight years of supervised practical experience in
 1256 landscape architecture which meets the requirements established by rule by the division in
 1257 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
 1258 Rulemaking Act; and

1259 [~~(e)~~ (d) have successfully passed examinations established by rule by the division in
 1260 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
 1261 Rulemaking Act.

1262 (2) Satisfactory completion of each year of a landscape architectural program described
 1263 in Subsection [~~(1)(d)(i)~~] (1)(c)(i) is equivalent to one year of experience for purposes of
 1264 Subsection [~~(1)(d)(ii)~~] (1)(c)(ii).

1265 Section 16. Section 58-54-302 is amended to read:

1266 **58-54-302. Requirements for licensure.**

1267 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
1268 radiology practical technician shall:

1269 (a) submit an application in a form prescribed by the division in collaboration with the
1270 board; and

1271 (b) pay a fee as determined by the department pursuant to Section 63J-1-504.

1272 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1273 requirements of Subsection (1):

1274 (a) be a graduate of an accredited educational program in radiologic technology or
1275 certified by the American Registry of Radiologic Technologists or any equivalent educational
1276 program approved by the division in collaboration with the board; and

1277 (b) have passed an examination approved by the division in collaboration with the
1278 board.

1279 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1280 the requirements of Subsection (1), have passed a basic examination and one or more specialty
1281 examinations that are competency based, using a task analysis of the scope of practice of
1282 radiology practical technicians in the state. The basic examination and the specialty
1283 examination shall be approved by the division in collaboration with the board and the licensing
1284 board of the profession within which the radiology practical technician will be practicing.

1285 ~~[(4) The division shall provide for administration of the radiology practical technician
1286 examination not less than monthly at offices designated by the division and located:]~~

1287 ~~[(a) in Salt Lake City; and]~~

1288 ~~[(b) within each local health department jurisdictional area.]~~

1289 ~~[(5)]~~ (4) (a) Except as provided in Subsection ~~[(5)(b);~~ (4)(b), each applicant for
1290 licensure as a radiologist assistant shall:

1291 (i) meet the requirements of Subsections (1) and (2);

1292 (ii) have a Bachelor of Science degree; and

1293 (iii) be certified as:

1294 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1295 (B) a radiology practitioner assistant by the Certification Board of Radiology

1296 Practitioner Assistants.

1297 (b) An individual who meets the requirements of Subsections [~~(5)(a)(i)~~] (4)(a)(i) and
1298 (iii), but not Subsection [~~(5)(a)(ii)~~] (4)(a)(ii), may be licensed as a radiologist assistant under
1299 this chapter until May 31, 2013, at which time, the individual must have completed the
1300 Bachelor of Science degree in order to retain the license of radiologist assistant.

1301 Section 17. Section **58-55-102** is amended to read:

1302 **58-55-102. Definitions.**

1303 In addition to the definitions in Section 58-1-102, as used in this chapter:

1304 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,
1305 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm
1306 system, except as provided in Subsection (1)(b).

1307 (b) "Alarm business" or "alarm company" does not include:

1308 (i) a person engaged in the manufacture or sale of alarm systems unless:

1309 (A) that person is also engaged in the installation, maintenance, alteration, repair,
1310 replacement, servicing, or monitoring of alarm systems;

1311 (B) the manufacture or sale occurs at a location other than a place of business
1312 established by the person engaged in the manufacture or sale; or

1313 (C) the manufacture or sale involves site visits at the place or intended place of
1314 installation of an alarm system; or

1315 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
1316 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
1317 of the alarm system owned by that owner.

1318 (2) "Alarm company agent":

1319 (a) except as provided in Subsection (2)(b), means any individual employed within this
1320 state by an alarm business; and

1321 (b) does not include an individual who:

1322 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
1323 servicing, or monitoring of an alarm system; and

1324 (ii) does not, during the normal course of the individual's employment with an alarm
1325 business, use or have access to sensitive alarm system information.

1326 (3) "Alarm company officer" means:

1327 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;

1328 (b) an individual appointed as an officer of an alarm company that is a corporation in
1329 accordance with Section 16-10a-830;

1330 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

1331 (d) a partner, as defined in Section 48-1d-102, of an alarm company.

1332 (4) "Alarm company owner" means:

1333 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
1334 through an entity controlled by the individual, 5% or more of the outstanding shares of an
1335 alarm company that:

1336 (i) is a corporation; and

1337 (ii) is not publicly listed or traded; or

1338 (b) an individual who owns directly, or indirectly through an entity controlled by the
1339 individual, 5% or more of the equity of an alarm company that is not a corporation.

1340 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
1341 registered as a sole proprietorship with the Division of Corporations and Commercial Code.

1342 (6) "Alarm company trustee" means an individual with control of or power of
1343 administration over property held in trust.

1344 ~~[(3)]~~ (7) (a) "Alarm system" means equipment and devices assembled for the purpose
1345 of:

1346 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
1347 premises; or

1348 (ii) signaling a robbery or attempted robbery on protected premises.

1349 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
1350 part of and interfaces with an alarm system for the purposes of detecting and deterring
1351 unauthorized intrusion or entry into or onto certain premises.

1352 ~~[(4)]~~ (8) "Apprentice electrician" means a person licensed under this chapter as an
1353 apprentice electrician who is learning the electrical trade under the immediate supervision of a
1354 master electrician, residential master electrician, a journeyman electrician, or a residential
1355 journeyman electrician.

1356 ~~[(5)]~~ (9) "Apprentice plumber" means a person licensed under this chapter as an
1357 apprentice plumber who is learning the plumbing trade under the immediate supervision of a
1358 master plumber, residential master plumber, journeyman plumber, or a residential journeyman

1359 plumber.

1360 ~~[(6)]~~ (10) "Approved continuing education" means instruction provided through
1361 courses under a program established under Subsection 58-55-302.5(2).

1362 ~~[(7)]~~ (11) (a) "Approved precicensure course provider" means a provider that is the
1363 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
1364 Contractors, or the Utah Home Builders Association, and that meets the requirements
1365 established by rule by the commission with the concurrence of the director, to teach the
1366 25-hour course described in Subsection 58-55-302(1)(e)(iii).

1367 (b) "Approved precicensure course provider" may only include a provider that, in
1368 addition to any other locations, offers the 25-hour course described in Subsection
1369 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake
1370 County, Utah County, Davis County, or Weber County.

1371 ~~[(8)]~~ (12) "Board" means the Electrician Licensing Board, Alarm System Security and
1372 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

1373 ~~[(9)]~~ (13) "Combustion system" means an assembly consisting of:

1374 (a) piping and components with a means for conveying, either continuously or
1375 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
1376 appliance;

1377 (b) the electric control and combustion air supply and venting systems, including air
1378 ducts; and

1379 (c) components intended to achieve control of quantity, flow, and pressure.

1380 ~~[(10)]~~ (14) "Commission" means the Construction Services Commission created under
1381 Section 58-55-103.

1382 ~~[(11)]~~ (15) "Construction trade" means any trade or occupation involving:

1383 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
1384 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
1385 or other project, development, or improvement to other than personal property; and

1386 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
1387 defined in Section 15A-1-302; or

1388 (b) installation or repair of a residential or commercial natural gas appliance or
1389 combustion system.

1390 [~~(12)~~] (16) "Construction trades instructor" means a person licensed under this chapter
1391 to teach one or more construction trades in both a classroom and project environment, where a
1392 project is intended for sale to or use by the public and is completed under the direction of the
1393 instructor, who has no economic interest in the project.

1394 [~~(13)~~] (17) (a) "Contractor" means any person who for compensation other than wages
1395 as an employee undertakes any work in the construction, plumbing, or electrical trade for
1396 which licensure is required under this chapter and includes:

1397 (i) a person who builds any structure on the person's own property for the purpose of
1398 sale or who builds any structure intended for public use on the person's own property;

1399 (ii) any person who represents that the person is a contractor, or will perform a service
1400 described in this Subsection [~~(13);~~] (17) by advertising on a website or social media, or any
1401 other means;

1402 (iii) any person engaged as a maintenance person, other than an employee, who
1403 regularly engages in activities set forth under the definition of "construction trade";

1404 (iv) any person engaged in, or offering to engage in, any construction trade for which
1405 licensure is required under this chapter; or

1406 (v) a construction manager, construction consultant, construction assistant, or any other
1407 person who, for a fee:

1408 (A) performs or offers to perform construction consulting;

1409 (B) performs or offers to perform management of construction subcontractors;

1410 (C) provides or offers to provide a list of subcontractors or suppliers; or

1411 (D) provides or offers to provide management or counseling services on a construction
1412 project.

1413 (b) "Contractor" does not include:

1414 (i) an alarm company or alarm company agent; or

1415 (ii) a material supplier who provides consulting to customers regarding the design and
1416 installation of the material supplier's products.

1417 [~~(14)~~] (18) (a) "Electrical trade" means the performance of any electrical work involved
1418 in the installation, construction, alteration, change, repair, removal, or maintenance of facilities,
1419 buildings, or appendages or appurtenances.

1420 (b) "Electrical trade" does not include:

- 1421 (i) transporting or handling electrical materials;
- 1422 (ii) preparing clearance for raceways for wiring;
- 1423 (iii) work commonly done by unskilled labor on any installations under the exclusive
- 1424 control of electrical utilities;
- 1425 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
- 1426 hazard; or
- 1427 (v) work involving class two or class three power-limited circuits as defined in the
- 1428 National Electrical Code.

1429 ~~[(15)]~~ (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#),

1430 except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or

1431 an incline platform lift.

1432 ~~[(16)]~~ (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed

1433 under this chapter that is engaged in the business of erecting, constructing, installing, altering,

1434 servicing, repairing, or maintaining an elevator.

1435 ~~[(17)]~~ (21) "Elevator mechanic" means an individual who is licensed under this chapter

1436 as an elevator mechanic and who is engaged in erecting, constructing, installing, altering,

1437 servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator

1438 contractor.

1439 ~~[(18)]~~ (22) "Employee" means an individual as defined by the division by rule giving

1440 consideration to the definition adopted by the Internal Revenue Service and the Department of

1441 Workforce Services.

1442 ~~[(19)]~~ (23) "Engage in a construction trade" means to:

1443 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged

1444 in a construction trade; or

1445 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person

1446 to believe one is or will act as a contractor.

1447 ~~[(20)]~~ (24) (a) "Financial responsibility" means a demonstration of a current and

1448 expected future condition of financial solvency evidencing a reasonable expectation to the

1449 division and the board that an applicant or licensee can successfully engage in business as a

1450 contractor without jeopardy to the public health, safety, and welfare.

1451 (b) Financial responsibility may be determined by an evaluation of the total history

1452 concerning the licensee or applicant including past, present, and expected condition and record
1453 of financial solvency and business conduct.

1454 ~~[(21)]~~ (25) "Gas appliance" means any device that uses natural gas to produce light,
1455 heat, power, steam, hot water, refrigeration, or air conditioning.

1456 ~~[(22)]~~ (26) (a) "General building contractor" means a person licensed under this
1457 chapter as a general building contractor qualified by education, training, experience, and
1458 knowledge to perform or superintend construction of structures for the support, shelter, and
1459 enclosure of persons, animals, chattels, or movable property of any kind or any of the
1460 components of that construction except plumbing, electrical work, mechanical work, work
1461 related to the operating integrity of an elevator, and manufactured housing installation, for
1462 which the general building contractor shall employ the services of a contractor licensed in the
1463 particular specialty, except that a general building contractor engaged in the construction of
1464 single-family and multifamily residences up to four units may perform the mechanical work
1465 and hire a licensed plumber or electrician as an employee.

1466 (b) The division may by rule exclude general building contractors from engaging in the
1467 performance of other construction specialties in which there is represented a substantial risk to
1468 the public health, safety, and welfare, and for which a license is required unless that general
1469 building contractor holds a valid license in that specialty classification.

1470 ~~[(23)]~~ (27) (a) "General electrical contractor" means a person licensed under this
1471 chapter as a general electrical contractor qualified by education, training, experience, and
1472 knowledge to perform the fabrication, construction, and installation of generators,
1473 transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or
1474 apparatus that uses electrical energy.

1475 (b) The scope of work of a general electrical contractor may be further defined by rules
1476 made by the commission, with the concurrence of the director, in accordance with Title 63G,
1477 Chapter 3, Utah Administrative Rulemaking Act.

1478 ~~[(24)]~~ (28) (a) "General engineering contractor" means a person licensed under this
1479 chapter as a general engineering contractor qualified by education, training, experience, and
1480 knowledge to perform or superintend construction of fixed works or components of fixed
1481 works requiring specialized engineering knowledge and skill in any of the following:

1482 (i) irrigation;

- 1483 (ii) drainage;
- 1484 (iii) water power;
- 1485 (iv) water supply;
- 1486 (v) flood control;
- 1487 (vi) an inland waterway;
- 1488 (vii) a harbor;
- 1489 (viii) a railroad;
- 1490 (ix) a highway;
- 1491 (x) a tunnel;
- 1492 (xi) an airport;
- 1493 (xii) an airport runway;
- 1494 (xiii) a sewer;
- 1495 (xiv) a bridge;
- 1496 (xv) a refinery;
- 1497 (xvi) a pipeline;
- 1498 (xvii) a chemical plant;
- 1499 (xviii) an industrial plant;
- 1500 (xix) a pier;
- 1501 (xx) a foundation;
- 1502 (xxi) a power plant; or
- 1503 (xxii) a utility plant or installation.
- 1504 (b) A general engineering contractor may not perform or superintend:
- 1505 (i) construction of a structure built primarily for the support, shelter, and enclosure of
- 1506 persons, animals, and chattels; or
- 1507 (ii) performance of:
- 1508 (A) plumbing work;
- 1509 (B) electrical work; or
- 1510 (C) mechanical work.
- 1511 ~~[(25)]~~ (29) (a) "General plumbing contractor" means a person licensed under this
- 1512 chapter as a general plumbing contractor qualified by education, training, experience, and
- 1513 knowledge to perform the fabrication or installation of material and fixtures to create and

1514 maintain sanitary conditions in a building by providing permanent means for a supply of safe
1515 and pure water, a means for the timely and complete removal from the premises of all used or
1516 contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life
1517 and the occupation of such premises, and a safe and adequate supply of gases for lighting,
1518 heating, and industrial purposes.

1519 (b) The scope of work of a general plumbing contractor may be further defined by rules
1520 made by the commission, with the concurrence of the director, in accordance with Title 63G,
1521 Chapter 3, Utah Administrative Rulemaking Act.

1522 [~~26~~] (30) "Immediate supervision" means reasonable direction, oversight, inspection,
1523 and evaluation of the work of a person:

1524 (a) as the division specifies in rule;

1525 (b) by, as applicable, a qualified electrician or plumber;

1526 (c) as part of a planned program of training; and

1527 (d) to ensure that the end result complies with applicable standards.

1528 [~~27~~] (31) "Individual" means a natural person.

1529 [~~28~~] (32) "Journeyman electrician" means a person licensed under this chapter as a
1530 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
1531 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

1532 [~~29~~] (33) "Journeyman plumber" means a person licensed under this chapter as a
1533 journeyman plumber having the qualifications, training, experience, and technical knowledge
1534 to engage in the plumbing trade.

1535 [~~30~~] (34) "Master electrician" means a person licensed under this chapter as a master
1536 electrician having the qualifications, training, experience, and knowledge to properly plan,
1537 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
1538 for light, heat, power, and other purposes.

1539 [~~31~~] (35) "Master plumber" means a person licensed under this chapter as a master
1540 plumber having the qualifications, training, experience, and knowledge to properly plan and
1541 layout projects and supervise persons in the plumbing trade.

1542 [~~32~~] (36) "Person" means a natural person, sole proprietorship, joint venture,
1543 corporation, limited liability company, association, or organization of any type.

1544 [~~33~~] (37) (a) "Plumbing trade" means the performance of any mechanical work

1545 pertaining to the installation, alteration, change, repair, removal, maintenance, or use in
1546 buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and
1547 fittings for the:

- 1548 (i) delivery of the water supply;
- 1549 (ii) discharge of liquid and water carried waste;
- 1550 (iii) building drainage system within the walls of the building; and
- 1551 (iv) delivery of gases for lighting, heating, and industrial purposes.

1552 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
1553 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
1554 safe and adequate supply of gases, together with their devices, appurtenances, and connections
1555 where installed within the outside walls of the building.

1556 [~~34~~] (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
1557 licensed electrician apprentices that are allowed to be under the immediate supervision of a
1558 licensed supervisor as established by the provisions of this chapter and by rules made by the
1559 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1560 Utah Administrative Rulemaking Act.

1561 [~~35~~] (39) "Residential and small commercial contractor" means a person licensed
1562 under this chapter as a residential and small commercial contractor qualified by education,
1563 training, experience, and knowledge to perform or superintend the construction of
1564 single-family residences, multifamily residences up to four units, and commercial construction
1565 of not more than three stories above ground and not more than 20,000 square feet, or any of the
1566 components of that construction except plumbing, electrical work, mechanical work, and
1567 manufactured housing installation, for which the residential and small commercial contractor
1568 shall employ the services of a contractor licensed in the particular specialty, except that a
1569 residential and small commercial contractor engaged in the construction of single-family and
1570 multifamily residences up to four units may perform the mechanical work and hire a licensed
1571 plumber or electrician as an employee.

1572 [~~36~~] (40) "Residential building," as it relates to the license classification of residential
1573 journeyman plumber and residential master plumber, means a single or multiple family
1574 dwelling of up to four units.

1575 [~~37~~] (41) (a) "Residential electrical contractor" means a person licensed under this

1576 chapter as a residential electrical contractor qualified by education, training, experience, and
1577 knowledge to perform the fabrication, construction, and installation of services, disconnecting
1578 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
1579 appliances, and fixtures in a residential unit.

1580 (b) The scope of work of a residential electrical contractor may be further defined by
1581 rules made by the commission, with the concurrence of the director, in accordance with Title
1582 63G, Chapter 3, Utah Administrative Rulemaking Act.

1583 [~~(38)~~] (42) "Residential journeyman electrician" means a person licensed under this
1584 chapter as a residential journeyman electrician having the qualifications, training, experience,
1585 and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat,
1586 power, and other purposes on buildings using primarily nonmetallic sheath cable.

1587 [~~(39)~~] (43) "Residential journeyman plumber" means a person licensed under this
1588 chapter as a residential journeyman plumber having the qualifications, training, experience, and
1589 knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

1590 [~~(40)~~] (44) "Residential master electrician" means a person licensed under this chapter
1591 as a residential master electrician having the qualifications, training, experience, and
1592 knowledge to properly plan, layout, and supervise the wiring, installation, and repair of
1593 electrical apparatus and equipment for light, heat, power, and other purposes on residential
1594 projects.

1595 [~~(41)~~] (45) "Residential master plumber" means a person licensed under this chapter as
1596 a residential master plumber having the qualifications, training, experience, and knowledge to
1597 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
1598 plumbing of residential buildings.

1599 [~~(42)~~] (46) (a) "Residential plumbing contractor" means a person licensed under this
1600 chapter as a residential plumbing contractor qualified by education, training, experience, and
1601 knowledge to perform the fabrication or installation of material and fixtures to create and
1602 maintain sanitary conditions in residential buildings by providing permanent means for a
1603 supply of safe and pure water, a means for the timely and complete removal from the premises
1604 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
1605 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
1606 for lighting, heating, and residential purposes.

1607 (b) The scope of work of a residential plumbing contractor may be further defined by
1608 rules made by the commission, with the concurrence of the director, in accordance with Title
1609 63G, Chapter 3, Utah Administrative Rulemaking Act.

1610 [~~(43)~~] (47) "Residential project," as it relates to an electrician or electrical contractor,
1611 means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard
1612 rules and regulations governing this work, including the National Electrical Code, and in which
1613 the voltage does not exceed 250 volts line to line and 125 volts to ground.

1614 (48) "Responsible management personnel" means:

1615 (a) a qualifying agent;

1616 (b) an operations manager; or

1617 (c) a site manager.

1618 [~~(44)~~] (49) "Sensitive alarm system information" means:

1619 (a) a pass code or other code used in the operation of an alarm system;

1620 (b) information on the location of alarm system components at the premises of a
1621 customer of the alarm business providing the alarm system;

1622 (c) information that would allow the circumvention, bypass, deactivation, or other
1623 compromise of an alarm system of a customer of the alarm business providing the alarm
1624 system; and

1625 (d) any other similar information that the division by rule determines to be information
1626 that an individual employed by an alarm business should use or have access to only if the
1627 individual is licensed as provided in this chapter.

1628 [~~(45)~~] (50) (a) "Specialty contractor" means a person licensed under this chapter under
1629 a specialty contractor classification established by rule, who is qualified by education, training,
1630 experience, and knowledge to perform those construction trades and crafts requiring
1631 specialized skill, the regulation of which are determined by the division to be in the best
1632 interest of the public health, safety, and welfare.

1633 (b) A specialty contractor may perform work in crafts or trades other than those in
1634 which the specialty contractor is licensed if they are incidental to the performance of the
1635 specialty contractor's licensed craft or trade.

1636 [~~(46)~~] (51) "Unincorporated entity" means an entity that is not:

1637 (a) an individual;

1638 (b) a corporation; or
1639 (c) publicly traded.
1640 [(47)] (52) "Unlawful conduct" means the same as that term is defined in Sections
1641 58-1-501 and 58-55-501.
1642 [(48)] (53) "Unprofessional conduct" means the same as that term is defined in
1643 Sections 58-1-501 and 58-55-502 and as may be further defined by rule.
1644 [(49)] (54) "Wages" means amounts due to an employee for labor or services whether
1645 the amount is fixed or ascertained on a time, task, piece, commission, or other basis for
1646 calculating the amount.
1647 Section 18. Section 58-55-302 is amended to read:
1648 **58-55-302. Qualifications for licensure.**
1649 (1) Each applicant for a license under this chapter shall:
1650 (a) submit an application prescribed by the division;
1651 (b) pay a fee as determined by the department under Section 63J-1-504;
1652 (c) meet the examination requirements established by this section and by rule by the
1653 commission with the concurrence of the director, which requirements include:
1654 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
1655 contractor, no division-administered examination is required;
1656 (ii) for licensure as a general building contractor, general engineering contractor,
1657 residential and small commercial contractor, general plumbing contractor, residential plumbing
1658 contractor, general electrical contractor, or residential electrical contractor, the only required
1659 division-administered examination is a division-administered examination that covers
1660 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
1661 have been previously completed as part of applying for any other license under this chapter,
1662 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
1663 course described in Subsection (1)(e)(iv); and
1664 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
1665 division-administered examination if the applicant is a business entity;
1666 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
1667 (e) if an applicant for a contractor's license:
1668 (i) produce satisfactory evidence of financial responsibility, except for a construction

1669 trades instructor for whom evidence of financial responsibility is not required;

1670 (ii) produce satisfactory evidence of:

1671 (A) except as provided in Subsection (2)(a), and except that no employment experience

1672 is required for licensure as a specialty contractor, two years full-time paid employment

1673 experience in the construction industry, which employment experience, unless more

1674 specifically described in this section, may be related to any contracting classification and does

1675 not have to include supervisory experience; and

1676 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

1677 necessary for the protection of the public health, safety, and welfare;

1678 (iii) except as otherwise provided by rule by the commission with the concurrence of

1679 the director, complete a 25-hour course established by rule by the commission with the

1680 concurrence of the director, which is taught by an approved prelicensure course provider, and

1681 which course may include:

1682 (A) construction business practices;

1683 (B) bookkeeping fundamentals;

1684 (C) mechanics lien fundamentals;

1685 (D) other aspects of business and construction principles considered important by the

1686 commission with the concurrence of the director; and

1687 (E) for no additional fee, a provider-administered examination at the end of the

1688 25-hour course;

1689 (iv) complete a five-hour business and law course established by rule by the

1690 commission with the concurrence of the director, which is taught by an approved prelicensure

1691 course provider, if an applicant for licensure as a general building contractor, general

1692 engineering contractor, residential and small commercial contractor, general plumbing

1693 contractor, residential plumbing contractor, general electrical contractor, or residential

1694 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was

1695 completed before July 1, 2019, the applicant does not need to take the business and law course;

1696 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's

1697 license or a licensed master residential electrician if an applicant for a residential electrical

1698 contractor's license;

1699 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or

1700 a licensed master residential plumber if an applicant for a residential plumbing contractor's
1701 license; or

1702 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
1703 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1704 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
1705 individuals who hold an ownership interest in the applicant as of the day on which the
1706 application is filed that includes for each individual:

1707 (A) the individual's name, address, birth date, and social security number or other
1708 satisfactory evidence of the applicant's identity permitted under rules made by the division in
1709 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1710 (B) whether the individual will engage in a construction trade; and

1711 (f) if an applicant for a construction trades instructor license, satisfy any additional
1712 requirements established by rule.

1713 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
1714 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
1715 evidence of two years full-time paid employment experience as a building inspector, which
1716 shall include at least one year full-time experience as a licensed combination inspector.

1717 (b) The applicant shall file the following with the division before the division issues
1718 the license:

1719 (i) proof of workers' compensation insurance which covers employees of the applicant
1720 in accordance with applicable Utah law;

1721 (ii) proof of public liability insurance in coverage amounts and form established by rule
1722 except for a construction trades instructor for whom public liability insurance is not required;
1723 and

1724 (iii) proof of registration as required by applicable law with the:

1725 (A) Department of Commerce;

1726 (B) Division of Corporations and Commercial Code;

1727 (C) Unemployment Insurance Division in the Department of Workforce Services, for
1728 purposes of Title 35A, Chapter 4, Employment Security Act;

1729 (D) State Tax Commission; and

1730 (E) Internal Revenue Service.

1731 (3) In addition to the general requirements for each applicant in Subsection (1),
1732 applicants shall comply with the following requirements to be licensed in the following
1733 classifications:

1734 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1735 (A) has been a licensed journeyman plumber for at least two years and had two years of
1736 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1737 (B) has received at least an associate of applied science degree or similar degree
1738 following the completion of a course of study approved by the division and had one year of

1739 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1740 (C) meets the qualifications for expedited licensure as established by rules made by the
1741 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1742 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1743 and skills to be a licensed master plumber.

1744 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
1745 least four years of practical experience as a licensed apprentice under the supervision of a
1746 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
1747 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
1748 master plumber license under this chapter, and satisfies the requirements of this Subsection
1749 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

1750 (iii) An individual holding a valid plumbing contractor's license or residential
1751 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
1752 2008:

1753 (A) considered to hold a current master plumber license under this chapter if licensed
1754 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
1755 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
1756 58-55-303; and

1757 (B) considered to hold a current residential master plumber license under this chapter if
1758 licensed as a residential plumbing contractor and a residential journeyman plumber, and
1759 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
1760 that license under Section 58-55-303.

1761 (b) A master residential plumber applicant shall produce satisfactory evidence that the

1762 applicant:

1763 (i) has been a licensed residential journeyman plumber for at least two years and had
1764 two years of supervisory experience as a licensed residential journeyman plumber in
1765 accordance with division rule; or

1766 (ii) meets the qualifications for expedited licensure as established by rules made by the
1767 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1768 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1769 and skills to be a licensed master residential plumber.

1770 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1771 (i) successful completion of the equivalent of at least four years of full-time training
1772 and instruction as a licensed apprentice plumber under supervision of a licensed master
1773 plumber or journeyman plumber and in accordance with a planned program of training
1774 approved by the division;

1775 (ii) at least eight years of full-time experience approved by the division in collaboration
1776 with the Plumbers Licensing Board; or

1777 (iii) meeting the qualifications for expedited licensure as established by rules made by
1778 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1779 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1780 and skills to be a licensed journeyman plumber.

1781 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1782 (i) completion of the equivalent of at least three years of full-time training and
1783 instruction as a licensed apprentice plumber under the supervision of a licensed residential
1784 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
1785 accordance with a planned program of training approved by the division;

1786 (ii) completion of at least six years of full-time experience in a maintenance or repair
1787 trade involving substantial plumbing work; or

1788 (iii) meeting the qualifications for expedited licensure as established by rules made by
1789 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1790 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1791 and skills to be a licensed residential journeyman plumber.

1792 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be

1793 in accordance with the following:

1794 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
1795 under the immediate supervision of a licensed master plumber, licensed residential master
1796 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

1797 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
1798 apprentice plumber may work without supervision for a period not to exceed eight hours in any
1799 24-hour period; and

1800 (iii) rules made by the commission, with the concurrence of the director, in accordance
1801 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
1802 apprentices allowed under the immediate supervision of a licensed supervisor, including the
1803 ratio of apprentices in their fourth year of training or later that are allowed to be under the
1804 immediate supervision of a licensed supervisor.

1805 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1806 (i) is a graduate electrical engineer of an accredited college or university approved by
1807 the division and has one year of practical electrical experience as a licensed apprentice
1808 electrician;

1809 (ii) is a graduate of an electrical trade school, having received an associate of applied
1810 sciences degree following successful completion of a course of study approved by the division,
1811 and has two years of practical experience as a licensed journeyman electrician;

1812 (iii) has four years of practical experience as a journeyman electrician; or

1813 (iv) meets the qualifications for expedited licensure as established by rules made by the
1814 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1815 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1816 and skills to be a licensed master electrician.

1817 (g) A master residential electrician applicant shall produce satisfactory evidence that
1818 the applicant:

1819 (i) has at least two years of practical experience as a residential journeyman electrician;
1820 or

1821 (ii) meets the qualifications for expedited licensure as established by rules made by the
1822 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1823 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

1824 and skills to be a master residential electrician.

1825 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
1826 applicant:

1827 (i) has successfully completed at least four years of full-time training and instruction as
1828 a licensed apprentice electrician under the supervision of a master electrician or journeyman
1829 electrician and in accordance with a planned training program approved by the division;

1830 (ii) has at least eight years of full-time experience approved by the division in
1831 collaboration with the Electricians Licensing Board; or

1832 (iii) meets the qualifications for expedited licensure as established by rules made by the
1833 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1834 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1835 and skills to be a licensed journeyman electrician.

1836 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
1837 that the applicant:

1838 (i) has successfully completed two years of training in an electrical training program
1839 approved by the division;

1840 (ii) has four years of practical experience in wiring, installing, and repairing electrical
1841 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
1842 journeyman, residential master, or residential journeyman electrician; or

1843 (iii) meets the qualifications for expedited licensure as established by rules made by the
1844 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
1845 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
1846 and skills to be a licensed residential journeyman electrician.

1847 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
1848 be in accordance with the following:

1849 (i) A licensed apprentice electrician shall be under the immediate supervision of a
1850 licensed master, journeyman, residential master, or residential journeyman electrician;

1851 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
1852 apprentice electrician may work without supervision for a period not to exceed eight hours in
1853 any 24-hour period;

1854 (iii) rules made by the commission, with the concurrence of the director, in accordance

1855 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
1856 apprentices allowed under the immediate supervision of a licensed supervisor, including the
1857 ratio of apprentices in their fourth year of training or later that are allowed to be under the
1858 immediate supervision of a licensed supervisor; and

1859 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
1860 residential project, or more if established by rules made by the commission, in concurrence
1861 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1862 Act.

1863 (k) An alarm company applicant shall:

1864 (i) have a qualifying agent who ~~[is an officer, director, partner, proprietor, or manager~~
1865 ~~of the applicant who]:~~

1866 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an
1867 alarm company trustee, or other responsible management personnel;

1868 ~~[(A)]~~ (B) demonstrates 6,000 hours of experience in the alarm company business;

1869 ~~[(B)]~~ (C) demonstrates 2,000 hours of experience as a manager or administrator in the
1870 alarm company business or in a construction business; and

1871 ~~[(C)]~~ (D) passes an examination component established by rule by the commission
1872 with the concurrence of the director;

1873 (ii) provide the name, address, date of birth, social security number, fingerprint card,
1874 and consent to a background check in accordance with Section [58-55-302.1](#) and requirements

1875 established by division rule made in accordance with Title 63G, Chapter 3, Utah

1876 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
1877 company proprietor, alarm company trustee, and responsible management personnel with direct
1878 responsibility for managing operations of the applicant within the state;

1879 ~~[(ii) if a corporation, provide:]~~

1880 ~~[(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
1881 ~~of all corporate officers, directors, and those responsible management personnel employed~~
1882 ~~within the state or having direct responsibility for managing operations of the applicant within~~
1883 ~~the state; and]~~

1884 ~~[(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards~~
1885 ~~of all shareholders owning 5% or more of the outstanding shares of the corporation, except this~~

1886 shall not be required if the stock is publicly listed and traded;]

1887 [(iii) if a limited liability company, provide:]

1888 [(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1889 of all company officers, and those responsible management personnel employed within the
1890 state or having direct responsibility for managing operations of the applicant within the state;
1891 and]

1892 [(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1893 of all individuals owning 5% or more of the equity of the company;]

1894 [(iv) if a partnership, provide the names, addresses, dates of birth, social security
1895 numbers, and fingerprint cards of all general partners, and those responsible management
1896 personnel employed within the state or having direct responsibility for managing operations of
1897 the applicant within the state;]

1898 [(v) if a proprietorship, provide the names, addresses, dates of birth, social security
1899 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
1900 employed within the state or having direct responsibility for managing operations of the
1901 applicant within the state;]

1902 [(vi) if a trust, provide the names, addresses, dates of birth, social security numbers,
1903 and fingerprint cards of the trustee, and those responsible management personnel employed
1904 within the state or having direct responsibility for managing operations of the applicant within
1905 the state;]

1906 [(vii) (iii) document that none of the [applicant's officers, directors, shareholders
1907 described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible
1908 management personnel] persons described in Subsection (3)(k)(ii):

1909 (A) have been declared by any court of competent jurisdiction incompetent by reason
1910 of mental defect or disease and not been restored; or

1911 [(viii) (B) [document that none of the applicant's officers, directors, shareholders
1912 described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management
1913 personnel] are currently suffering from habitual drunkenness or from drug addiction or
1914 dependence;

1915 [(ix) (iv) file and maintain with the division evidence of:

1916 (A) comprehensive general liability insurance in form and in amounts to be established

1917 by rule by the commission with the concurrence of the director;

1918 (B) workers' compensation insurance that covers employees of the applicant in
1919 accordance with applicable Utah law; and

1920 (C) registration as is required by applicable law with the:

1921 (I) Division of Corporations and Commercial Code;

1922 (II) Unemployment Insurance Division in the Department of Workforce Services, for
1923 purposes of Title 35A, Chapter 4, Employment Security Act;

1924 (III) State Tax Commission; and

1925 (IV) Internal Revenue Service; and

1926 ~~[(*)]~~ (v) meet with the division and board.

1927 (l) Each applicant for licensure as an alarm company agent shall:

1928 (i) submit an application in a form prescribed by the division accompanied by
1929 fingerprint cards;

1930 (ii) pay a fee determined by the department under Section [63J-1-504](#);

1931 (iii) submit to and pass a criminal background check in accordance with Section
1932 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
1933 Chapter 3, Utah Administrative Rulemaking Act;

1934 ~~[(iii)]~~ (iv) not have been declared by any court of competent jurisdiction incompetent
1935 by reason of mental defect or disease and not been restored;

1936 ~~[(iv)]~~ (v) not be currently suffering from habitual drunkenness or from drug addiction
1937 or dependence; and

1938 ~~[(v)]~~ (vi) meet with the division and board if requested by the division or the board.

1939 (m) (i) Each applicant for licensure as an elevator mechanic shall:

1940 (A) provide documentation of experience and education credits of not less than three
1941 years work experience in the elevator industry, in construction, maintenance, or service and
1942 repair; and

1943 (B) satisfactorily complete a written examination administered by the division
1944 established by rule under Section [58-1-203](#); or

1945 (C) provide certificates of completion of an apprenticeship program for elevator
1946 mechanics, having standards substantially equal to those of this chapter and registered with the
1947 United States Department of Labor Bureau Apprenticeship and Training or a state

1948 apprenticeship council.

1949 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
1950 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
1951 repairing, or maintaining an elevator, the contractor may:

1952 (I) notify the division of the unavailability of licensed personnel; and

1953 (II) request the division issue a temporary elevator mechanic license to an individual
1954 certified by the contractor as having an acceptable combination of documented experience and
1955 education to perform the work described in this Subsection (3)(m)(ii)(A).

1956 (B) (I) The division may issue a temporary elevator mechanic license to an individual
1957 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
1958 the appropriate fee as determined by the department under Section [63J-1-504](#).

1959 (II) The division shall specify the time period for which the license is valid and may
1960 renew the license for an additional time period upon its determination that a shortage of
1961 licensed elevator mechanics continues to exist.

1962 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1963 division may make rules establishing when Federal Bureau of Investigation records shall be
1964 checked for applicants as an alarm company or alarm company agent under this section and
1965 Section [58-55-302.1](#).

1966 [~~(5) For each applicant described in Subsection (3)(k) or (l), the division shall provide~~
1967 ~~an appropriate number of copies of fingerprint cards to the Department of Public Safety with~~
1968 ~~the division's request to:]~~

1969 [~~(a) conduct a search of records of the Department of Public Safety for criminal history~~
1970 ~~information relating to each applicant for licensure as an alarm company or alarm company~~
1971 ~~agent and each applicant's officers, directors, shareholders described in Subsection~~
1972 ~~(3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and]~~

1973 [~~(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
1974 ~~requiring a check of records of the Federal Bureau of Investigation for criminal history~~
1975 ~~information under this section.]~~

1976 [~~(6) The Department of Public Safety shall send to the division:]~~

1977 [~~(a) a written record of criminal history, or certification of no criminal history record,~~
1978 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~

1979 of a fingerprint card from the division and a request for review of Department of Public Safety
1980 records; and]

1981 [~~(b)~~ the results of the Federal Bureau of Investigation review concerning an applicant
1982 in a timely manner after receipt of information from the Federal Bureau of Investigation.]

1983 [~~(7)(a)~~ The division shall charge each applicant for licensure as an alarm company or
1984 alarm company agent a fee, in accordance with Section ~~63J-1-504~~, equal to the cost of
1985 performing the records reviews under this section.]

1986 [~~(b)~~ The division shall pay the Department of Public Safety the costs of all records
1987 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
1988 costs of records reviews under this section.]

1989 [~~(8)~~ Information obtained by the division from the reviews of criminal history records
1990 of the Department of Public Safety and the Federal Bureau of Investigation shall be used or
1991 disseminated by the division only for the purpose of determining if an applicant for licensure as
1992 an alarm company or alarm company agent is qualified for licensure.]

1993 [~~(9)~~] (5) (a) An application for licensure under this chapter shall be denied if:

1994 (i) the applicant has had a previous license, which was issued under this chapter,
1995 suspended or revoked within two years before the date of the applicant's application;

1996 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

1997 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1998 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
1999 status, performing similar functions, or directly or indirectly controlling the applicant has
2000 served in any similar capacity with any person or entity which has had a previous license,
2001 which was issued under this chapter, suspended or revoked within two years before the date of
2002 the applicant's application;

2003 (iii) (A) the applicant is an individual or sole proprietorship; and

2004 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2005 Subsection [~~(9)(a)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which
2006 was issued under this chapter, suspended or revoked within two years before the date of the
2007 applicant's application; or

2008 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
2009 an unincorporated entity at the time the entity's license under this chapter was revoked; and

2010 (B) the application for licensure is filed within 60 months after the revocation of the
2011 unincorporated entity's license.

2012 (b) An application for licensure under this chapter shall be reviewed by the appropriate
2013 licensing board prior to approval if:

2014 (i) the applicant has had a previous license, which was issued under this chapter,
2015 suspended or revoked more than two years before the date of the applicant's application;

2016 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

2017 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
2018 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
2019 status, performing similar functions, or directly or indirectly controlling the applicant has
2020 served in any similar capacity with any person or entity which has had a previous license,
2021 which was issued under this chapter, suspended or revoked more than two years before the date
2022 of the applicant's application; or

2023 (iii) (A) the applicant is an individual or sole proprietorship; and

2024 (B) any owner or agent acting as a qualifier has served in any capacity listed in
2025 Subsection [~~(9)(b)(ii)(B)~~] (5)(a)(ii)(B) in any entity which has had a previous license, which
2026 was issued under this chapter, suspended or revoked more than two years before the date of the
2027 applicant's application.

2028 [~~(10)~~] (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership
2029 status report with the division every 30 days after the day on which the license is issued if the
2030 licensee has more than five owners who are individuals who:

2031 (A) own an interest in the contractor that is an unincorporated entity;

2032 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
2033 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
2034 unincorporated entity; and

2035 (C) engage, or will engage, in a construction trade in the state as owners of the
2036 contractor described in Subsection [~~(10)(a)(i)(A)~~] (6)(a)(i)(A).

2037 (ii) If the licensee has five or fewer owners described in Subsection [~~(10)(a)(i)~~]
2038 (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal
2039 of licensure.

2040 (b) An ownership status report required under this Subsection [~~(10)~~] (6) shall:

- 2041 (i) specify each addition or deletion of an owner:
- 2042 (A) for the first ownership status report, after the day on which the unincorporated
- 2043 entity is licensed under this chapter; and
- 2044 (B) for a subsequent ownership status report, after the day on which the previous
- 2045 ownership status report is filed;
- 2046 (ii) be in a format prescribed by the division that includes for each owner, regardless of
- 2047 the owner's percentage ownership in the unincorporated entity, the information described in
- 2048 Subsection (1)(e)(vi);
- 2049 (iii) list the name of:
- 2050 (A) each officer or manager of the unincorporated entity; and
- 2051 (B) each other individual involved in the operation, supervision, or management of the
- 2052 unincorporated entity; and
- 2053 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
- 2054 if the ownership status report indicates there is a change described in Subsection ~~[(10)(b)(i)]~~
- 2055 (6)(b)(i).
- 2056 (c) The division may, at any time, audit an ownership status report under this
- 2057 Subsection ~~[(10)]~~ (6):
- 2058 (i) to determine if financial responsibility has been demonstrated or maintained as
- 2059 required under Section 58-55-306; and
- 2060 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
- 2061 Subsection 58-55-502(8) or (9).
- 2062 ~~[(11)]~~ (7) (a) An unincorporated entity that provides labor to an entity licensed under
- 2063 this chapter by providing an individual who owns an interest in the unincorporated entity to
- 2064 engage in a construction trade in Utah shall file with the division:
- 2065 (i) before the individual who owns an interest in the unincorporated entity engages in a
- 2066 construction trade in Utah, a current list of the one or more individuals who hold an ownership
- 2067 interest in the unincorporated entity that includes for each individual:
- 2068 (A) the individual's name, address, birth date, and social security number; and
- 2069 (B) whether the individual will engage in a construction trade; and
- 2070 (ii) every 30 days after the day on which the unincorporated entity provides the list
- 2071 described in Subsection ~~[(11)(a)(i)]~~ (7)(a)(i), an ownership status report containing the

2072 information that would be required under Subsection [~~(10)~~] (6) if the unincorporated entity
2073 were a licensed contractor.

2074 (b) When filing an ownership list described in Subsection [~~(11)(a)(i)~~] (7)(a)(i) or an
2075 ownership status report described in Subsection [~~(11)(a)(ii)~~], (7)(a)(i) an unincorporated entity
2076 shall pay a fee set by the division in accordance with Section 63J-1-504.

2077 [~~(12)~~] (8) This chapter may not be interpreted to create or support an express or
2078 implied independent contractor relationship between an unincorporated entity described in
2079 Subsection [~~(10)~~] (6) or [~~(11)~~] (7) and the owners of the unincorporated entity for any purpose,
2080 including income tax withholding.

2081 [~~(13)~~] (9) (a) A social security number provided under Subsection (1)(e)(vi) or
2082 (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

2083 (b) The division may designate an applicant's evidence of identity under Subsection
2084 (1)(e)(iv) as a private record in accordance with Section 63G-2-302.

2085 Section 19. Section **58-55-302.1** is enacted to read:

2086 **58-55-302.1. Criminal background check.**

2087 (1) An applicant for licensure under this chapter who requires a criminal background
2088 check shall:

2089 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2090 application is filed; and

2091 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2092 Identification and the Federal Bureau of Investigation regarding the application.

2093 (2) The division shall:

2094 (a) in addition to other fees authorized by this chapter, collect from each applicant
2095 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2096 Identification is authorized to collect for the services provided under Section 53-10-108 and the
2097 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2098 obtaining federal criminal history record information;

2099 (b) submit from each applicant the fingerprint card and the fees described in
2100 Subsection (2)(a) to the Bureau of Criminal Identification; and

2101 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2102 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2103 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2104 Section 53-10-108:

2105 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2106 and regional criminal records databases;

2107 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2108 criminal history background check; and

2109 (c) provide the results from the state, regional, and nationwide criminal history
2110 background checks to the division.

2111 (4) For purposes of conducting a criminal background check required under this
2112 section, the division shall have direct access to criminal background information maintained
2113 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2114 (5) The division may not disseminate outside of the division any criminal history
2115 record information that the division obtains from the Bureau of Criminal Identification or the
2116 Federal Bureau of Investigation under the criminal background check requirements of this
2117 section.

2118 (6) (a) A new license issued under Section 58-55-302 is conditional pending
2119 completion of the criminal background check.

2120 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2121 criminal background check required in Section 58-55-302 demonstrates the applicant or the
2122 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2123 responsible management personnel has failed to accurately disclose a criminal history, the
2124 license is immediately and automatically revoked upon notice to the licensee by the division.

2125 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2126 entitled to a postrevocation hearing to challenge the revocation.

2127 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
2128 Chapter 4, Administrative Procedures Act.

2129 Section 20. Section **58-55-303** is amended to read:

2130 **58-55-303. Term of license -- Expiration -- Renewal.**

2131 (1) (a) Each license issued under this chapter shall be issued in accordance with a
2132 two-year renewal cycle established by rule.

2133 (b) The division may by rule extend or shorten a renewal period by as much as one year

2134 to stagger the renewal cycle it administers.

2135 (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding
2136 Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a
2137 license is automatically suspended 60 days after the licensee:

2138 (A) becomes, after the time of licensing, an unincorporated entity that is subject to the
2139 ownership status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~]

2140 58-55-302(6)(a)(i); or

2141 (B) transfers its license to an unincorporated entity that is subject to the ownership
2142 status report filing requirements of Subsection [~~58-55-302(10)(a)(i)~~] 58-55-302(6)(a)(i).

2143 (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the
2144 expiration of the 60-day period in Subsection (1)(c)(i):

2145 (A) the licensee submits an application for renewal of the license; and

2146 (B) the division renews the licensee's license pursuant to the licensee's application for
2147 renewal.

2148 (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),
2149 the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
2150 make a final determination concerning the suspension.

2151 (2) At the time of renewal, the licensee shall show satisfactory evidence of:

2152 (a) continuing financial responsibility as required under Section 58-55-306;

2153 (b) for a contractor licensee, completion of six hours of approved continuing education,
2154 as required in Section 58-55-302.5; and

2155 (c) if the licensee is an apprentice electrician or plumber, journeyman electrician or
2156 plumber, master electrician or plumber, residential journeyman electrician or plumber, or
2157 residential master electrician or plumber, completion of the number of hours of continuing
2158 education specified under Section 58-55-302.7.

2159 (3) Each license automatically expires on the expiration date shown on the license
2160 unless the licensee renews the license in accordance with Section 58-1-308.

2161 (4) The requirements of Subsection [~~58-55-302(9)~~] 58-55-302(5) shall also apply to
2162 applicants seeking to renew or reinstate a license.

2163 (5) In addition to any other requirements imposed by law, if a license has been
2164 suspended or revoked for any reason, the applicant:

- 2165 (a) shall pay in full all fines imposed by the division;
- 2166 (b) resolve any outstanding citations or disciplinary actions with the division;
- 2167 (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;
- 2168 (d) complete a new financial responsibility review as required under Section
- 2169 58-55-306, using only titled assets; and
- 2170 (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,
- 2171 Residence Lien Restriction and Lien Recovery Fund Act.

2172 Section 21. Section 58-55-503 is amended to read:

2173 **58-55-503. Penalty for unlawful conduct -- Citations.**

2174 (1) As used in this section:

2175 (a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does
2176 not include a sole proprietorship, joint venture, corporation, limited liability company,
2177 association, or organization of any type.

2178 (b) "Qualifying violation" means a violation under:

2179 (i) Subsection 58-55-308(2);

2180 (ii) Subsections 58-55-501(1) through (3), (9), (10), (12), (14), (16)(e), (18), or (20)
2181 through (28);

2182 (iii) Subsection 58-55-502(4)(a) or (11); or

2183 (iv) Subsection 58-55-504(2).

2184 (2) (a) [(†)] A person who violates Subsection [~~58-55-308(2), Subsection 58-55-501(1),~~
2185 ~~(2), (3), (4), (5), (6);~~ 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), [(21), (22),
2186 ~~(23), (24), (25), (26), (27), or]~~ or (21) through (28), Subsection 58-55-308(2), or Subsection
2187 58-55-504(2), or who fails to comply with a citation issued under this section after [it] the
2188 citation is final, is guilty of a class A misdemeanor.

2189 [(ii) ~~As used in this section in reference to Subsection 58-55-504(2), "person" means an~~
2190 ~~individual and does not include a sole proprietorship, joint venture, corporation, limited~~
2191 ~~liability company, association, or organization of any type.]~~

2192 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
2193 awarded and may not accept a contract for the performance of the work.

2194 [(2)] (3) A person who violates [the provisions of] Subsection 58-55-501(13) is guilty
2195 of:

2196 (a) an infraction [~~unless the~~]; or
 2197 (b) if the violator did so with the intent to deprive the person to whom money is to be
 2198 paid of the money received, [~~in which case the violator is guilty~~] of theft[;] as classified in
 2199 Section 76-6-412.

2200 [(3)] (4) Grounds for immediate suspension of a licensee's license by the division and
 2201 the commission include:

2202 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
 2203 58-55-501, or Subsection 58-55-504(2); and

2204 (b) the failure by a licensee to make application to, report to, or notify the division with
 2205 respect to any matter for which application, notification, or reporting is required under this
 2206 chapter or rules adopted under this chapter, including:

- 2207 (i) applying to the division for a new license to engage in a new specialty classification
- 2208 or to do business under a new form of organization or business structure;
- 2209 (ii) filing a current financial statement with the division; and
- 2210 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2211 [(4)] (5) (a) (i) If upon inspection or investigation, the division concludes that a person
 2212 has [~~violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),~~
 2213 ~~(10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection~~
 2214 ~~58-55-502(4)(a) or (11), Subsection 58-55-504(2);~~] committed a qualifying violation or
 2215 violated any rule or order issued with respect to [~~these subsections~~] a qualifying violation, and
 2216 that disciplinary action is appropriate, the director or the director's designee from within the
 2217 division shall:

2218 (A) promptly issue a citation to the person according to this chapter and any pertinent
 2219 rules[;];

2220 (B) attempt to negotiate a stipulated settlement[;]; or

2221 (C) notify the person to appear before an adjudicative proceeding conducted under
 2222 Title 63G, Chapter 4, Administrative Procedures Act.

2223 (ii) A person who [~~is in violation of the provisions of Subsection 58-55-308(2),~~
 2224 ~~Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (20), (21), (22), (23), (24),~~
 2225 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)~~] committed a qualifying violation, as
 2226 evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an

2227 adjudicative proceeding, may be assessed a fine [~~pursuant to this Subsection (4)~~] and may, in
 2228 addition to or in lieu of, be ordered to cease and desist from [~~violating Subsection~~
 2229 ~~58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(c), (18), (20), (21), (24),~~
 2230 ~~(25), (26), (27), or (28), or Subsection 58-55-504(2)~~] engaging in the qualifying violation.

2231 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
 2232 ~~58-55-401~~ may not be assessed through a citation.

2233 (b) [~~(f)~~] A citation shall:

2234 (i) be in writing and describe with particularity the nature of the violation, including a
 2235 reference to the provision of the chapter, rule, or order alleged to have been violated[-];

2236 (ii) [~~A citation shall~~] clearly state that the recipient must notify the division in writing
 2237 within 20 calendar days [~~of service of the citation~~] after the day on which the citation is served
 2238 if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4,
 2239 Administrative Procedures Act[-]; and

2240 (iii) [~~A citation shall~~] clearly explain the consequences of failure to timely contest the
 2241 citation or to make payment of any fines assessed by the citation within the time specified in
 2242 the citation.

2243 (c) A citation issued under this section, or a copy of a citation, may be served upon a
 2244 person upon whom a summons may be served:

2245 (i) in accordance with the Utah Rules of Civil Procedure;

2246 (ii) personally or upon the person's agent by a division investigator or by a person
 2247 specially designated by the director; or

2248 (iii) by mail.

2249 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
 2250 to whom the citation was issued fails to request a hearing to contest the citation, the citation
 2251 becomes the final order of the division and is not subject to further agency review.

2252 (ii) The period to contest a citation may be extended by the division for cause.

2253 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
 2254 the license of a licensee who fails to comply with a citation after the citation becomes final.

2255 (f) The failure of an applicant for licensure to comply with a citation after the citation
 2256 becomes final is a ground for denial of license.

2257 (g) A citation may not be issued under this section after the expiration of one year

2258 ~~[following]~~ after the date on which the violation that is the subject of the citation is reported to
 2259 the division.

2260 (h) (i) Except as provided in Subsections ~~[(4)(h)(ii)]~~ (5)(h)(ii) and ~~[(5); (6)]~~, the
 2261 director or the director's designee shall assess a fine in accordance with the following:

2262 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a fine of
 2263 up to \$1,000;

2264 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine
 2265 of up to \$2,000; and

2266 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a)]~~ (5)(a), a
 2267 fine of up to \$2,000 for each day of continued offense.

2268 (ii) Except as provided in Subsection ~~[(5); (6)]~~, if a person violates Subsection
 2269 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in
 2270 accordance with the following:

2271 (A) for a first offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine of
 2272 up to \$2,000;

2273 (B) for a second offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a), a fine
 2274 of up to \$4,000; and

2275 (C) for any subsequent offense handled ~~[pursuant to]~~ under Subsection ~~[(4)(a);]~~ (5)(a),
 2276 a fine of up to \$4,000 for each day of continued offense.

2277 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
 2278 Subsection ~~[(4)(h)]~~ (5)(h), an offense constitutes a second or subsequent offense if:

2279 (A) the division previously issued a final order determining that a person committed a
 2280 first or second ~~[offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),~~
 2281 ~~(3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection~~
 2282 58-55-504(2)] qualifying violation; or

2283 (B) (I) the division initiated an action for a first or second offense;

2284 (II) a final order has not been issued by the division in the action initiated under
 2285 Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I);

2286 (III) the division determines during an investigation that occurred after the initiation of
 2287 the action under Subsection ~~[(4)(i)(i)(B)(I)]~~ (5)(i)(i)(B)(I) that the person committed a second
 2288 or subsequent ~~[violation of the provisions of Subsection 58-55-308(2), Subsection~~

2289 ~~58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(c), (18), (19), (23), (24), (25), (26), (27), (28),~~
 2290 ~~or Subsection 58-55-504(2)]~~ qualifying violation; and

2291 (IV) after determining that the person committed a second or subsequent [~~offense~~]
 2292 qualifying violation under Subsection [~~(4)(i)(i)(B)(III)~~] (5)(i)(i)(B)(III), the division issues a
 2293 final order on the action initiated under Subsection [~~(4)(i)(i)(B)(I)~~] (5)(i)(i)(B)(I).

2294 (ii) In issuing a final order for a second or subsequent offense under Subsection
 2295 [~~(4)(i)(i)~~] (5)(i)(i), the division shall comply with the requirements of this section.

2296 (j) In addition to any other licensure sanction or fine imposed under this section, the
 2297 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
 2298 two or more times within a 12-month period, unless, with respect to a violation of Subsection
 2299 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
 2300 legal working status of the individual who was the subject of the violation using a status
 2301 verification system, as defined in Section 13-47-102.

2302 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
 2303 for each individual is considered a separate violation.

2304 [~~(5)~~] (6) If a person violates Section 58-55-501, the division may not treat the violation
 2305 as a subsequent violation of a previous violation if the violation occurs five years or more after
 2306 the day on which the person committed the previous violation.

2307 [~~(6)~~] (7) If, after an investigation, the division determines that a person has committed
 2308 multiple of the same type of violation of Section 58-55-501, the division may treat each
 2309 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
 2310 each violation.

2311 [~~(7)~~] (8) (a) A penalty imposed by the director under Subsection [~~(4)(i)~~] (5) shall be
 2312 deposited into the Commerce Service Account created by Section 13-1-2.

2313 (b) A penalty that is not paid may be collected by the director by either referring the
 2314 matter to a collection agency or bringing an action in the district court of the county in which
 2315 the person against whom the penalty is imposed resides or in the county where the office of the
 2316 director is located.

2317 (c) A county attorney or the attorney general of the state shall provide legal assistance
 2318 and advice to the director in an action to collect a penalty.

2319 (d) In an action brought to collect a penalty, the court shall award reasonable attorney

2320 fees and costs to the prevailing party.

2321 Section 22. Section **58-63-102** is amended to read:

2322 **58-63-102. Definitions.**

2323 In addition to the definitions in Section **58-1-102**, as used in this chapter:

2324 (1) "Agreement for services" means a written and signed agreement between a security
2325 service provider and a client that:

2326 (a) contains clear language that addresses and assigns financial responsibility;

2327 (b) describes the length, duties, and scope of the security services that will be provided;

2328 and

2329 (c) describes the compensation that will be paid by the client for the security services,
2330 including the compensation for each security officer.

2331 (2) "Armed courier service" means a person engaged in business as a contract security
2332 company who transports or offers to transport tangible personal property from one place or
2333 point to another under the control of an armed security officer employed by that service.

2334 (3) "Armed private security officer" means an individual:

2335 (a) employed by a contract security company;

2336 (b) whose primary duty is:

2337 (i) guarding personal or real property; or

2338 (ii) providing protection or security to the life and well being of humans or animals;

2339 and

2340 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2341 performance of the individual's duties.

2342 (4) "Armored car company" means a person engaged in business under contract to
2343 others who transports or offers to transport tangible personal property, currency, valuables,
2344 jewelry, SNAP benefits as defined in Section **35A-1-102**, or any other high value items, that
2345 require secured delivery from one place to another under the control of an armored car security
2346 officer employed by the company using a specially equipped motor vehicle offering a high
2347 degree of security.

2348 (5) "Armored car security officer" means an individual:

2349 (a) employed by an armored car company;

2350 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry,

2351 SNAP benefits as defined in Section [35A-1-102](#), or other high value items that require secured
2352 delivery from one place to another; and

2353 (c) who wears, carries, possesses, or has immediate access to a firearm in the
2354 performance of the individual's duties.

2355 (6) "Board" means the Security Services Licensing Board created in Section
2356 [58-63-201](#).

2357 (7) "Client" means a person, company, or entity that contracts for and receives security
2358 services from a contract security company or an armored car company.

2359 (8) "Contract security company" means a company that [~~is registered with the Division~~
2360 ~~of Corporations and Commercial Code and~~] is engaged in business to provide security services
2361 to another person, business, or entity on a contractual basis by assignment of an armed or
2362 unarmed private security officer.

2363 [~~(9) "Corporate officer" means an individual who is on file with the Division of~~
2364 ~~Corporations and Commercial Code as:]~~

2365 [~~(a) a corporate officer of a contract security company or an armored car company that~~
2366 ~~is a corporation; or]~~

2367 [~~(b) a sole proprietor of a contract security company or an armored car company that is~~
2368 ~~not a corporation.]~~

2369 [~~(10)~~] (9) "Company officer" means:

2370 (a) a governing person, as defined in Section [48-3a-102](#), of an armored car company or
2371 contract security company;

2372 (b) an individual appointed as an officer of an armored car company or contract
2373 security company that is a corporation in accordance with Section [16-10a-830](#);

2374 (c) a general partner, as defined in Section [48-2e-102](#), of an armored car company or
2375 contract security company; or

2376 (d) a partner, as defined in Section [48-1d-102](#), of an armored car company or contract
2377 security company.

2378 (10) "Company owner" means:

2379 (a) a shareholder, as defined in Section [16-10a-102](#), who owns directly, or indirectly
2380 through an entity controlled by the individual, 5% or more of the outstanding shares of an
2381 armored car company or contract security company that:

2382 (i) is a corporation; and
2383 (ii) is not publicly listed or traded; or
2384 (b) an individual who owns directly, or indirectly through an entity controlled by the
2385 individual, 5% or more of the equity of an armored car company or contract security company
2386 that is not a corporation.
2387 (11) "Company proprietor" means the sole proprietor of an armored car company or
2388 contract security company that is registered as a sole proprietorship with the Division of
2389 Corporations and Commercial Code.
2390 (12) "Company trustee" means an individual with control of or power of administration
2391 over property held in trust.
2392 (13) "Financial responsibility," when referring to a contract security company, means
2393 that a contract security company may only provide security services to a client if the contract
2394 security company:
2395 (a) enters into an agreement for services with the client;
2396 (b) maintains a current general liability insurance policy with:
2397 (i) at least an annual \$1,000,000 per occurrence limit;
2398 (ii) at least an annual \$2,000,000 aggregate limit; and
2399 (iii) the following riders:
2400 (A) general liability;
2401 (B) assault and battery;
2402 (C) personal injury;
2403 (D) false arrest;
2404 (E) libel and slander;
2405 (F) invasion of privacy;
2406 (G) broad form property damage;
2407 (H) damage to property in the care, custody, or control of the security service provider;
2408 and
2409 (I) errors and omissions;
2410 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per
2411 occurrence limit and that covers each security officer employed by the contract security
2412 company; and

2413 (d) maintains a federal employer identification number and an unemployment
2414 insurance employer account as required under state and federal law.

2415 ~~[(11)]~~ (14) "Identification card" means a personal pocket or wallet size card issued by
2416 the division to each armored car and armed or unarmed private security officer licensed under
2417 this chapter.

2418 ~~[(12)]~~ (15) "Law enforcement agency" means the same as that term is defined in
2419 Section [53-1-102](#).

2420 ~~[(13)] "Owner" means an individual who is listed with the Division of Corporations and~~
2421 ~~Commercial Code as a majority stockholder of a company, a general partner of a partnership,~~
2422 ~~or the proprietor of a sole proprietorship.]~~

2423 ~~[(14)]~~ (16) "Peace officer" means a person who:

2424 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer
2425 Classifications; and

2426 (b) derives total or special law enforcement powers from, and is an employee of, the
2427 federal government, the state, or a political subdivision, agency, department, branch, or service
2428 of either, of a municipality, or a unit of local government.

2429 ~~[(15)]~~ (17) "Regular basis" means at least 20 hours per month.

2430 ~~[(16)]~~ (18) "Responsible management personnel" means ~~[an individual who is~~
2431 ~~responsible for managing an applicant's operations.];~~

2432 (a) a qualifying agent;

2433 (b) an operations manager; or

2434 (c) a site manager.

2435 ~~[(17)]~~ (19) (a) "Security officer" means an individual who is licensed as an armed or
2436 unarmed private security officer under this chapter and who:

2437 (i) is employed by a contract security company securing, guarding, or otherwise
2438 protecting tangible personal property, real property, or the life and well being of human or
2439 animal life against:

2440 (A) trespass or other unlawful intrusion or entry;

2441 (B) larceny;

2442 (C) vandalism or other abuse;

2443 (D) arson or other criminal activity; or

2444 (E) personal injury caused by another person or as a result of an act or omission by
2445 another person;

2446 (ii) is controlling, regulating, or directing the flow of movements of an individual or
2447 vehicle; or

2448 (iii) providing street patrol service.

2449 (b) "Security officer" does not include an individual whose duties include taking
2450 admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other
2451 materials of individuals who are entering a sports venue, concert venue, theatrical venue,
2452 convention center, fairgrounds, public assembly facility, or mass gathering location if:

2453 (i) the individual carries out these duties without the use of specialized equipment;

2454 (ii) the authority of the individual is limited to denying entry or passage of another
2455 individual into or within the facility; and

2456 (iii) the individual is not authorized to use physical force in the performance of the
2457 individual's duties under this Subsection [~~(17)(b)~~] (19)(b).

2458 [~~(18)~~] (20) "Security service provider" means a contract security company or an
2459 armored car company licensed under this chapter.

2460 [~~(19)~~] (21) "Security system" means equipment, a device, or an instrument installed
2461 for:

2462 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from
2463 the premises protected by the system; or

2464 (b) signaling the commission of criminal activity at the election of an individual having
2465 control of the features of the security system.

2466 [~~(20)~~] (22) "Specialized resource, motor vehicle, or equipment" means an item of
2467 tangible personal property specifically designed for use in law enforcement or in providing
2468 security or guard services, or that is specially equipped with a device or feature designed for
2469 use in providing law enforcement, security, or guard services, but does not include:

2470 (a) standardized clothing, whether or not bearing a company name or logo, if the
2471 clothing does not bear the words "security" or "guard"; or

2472 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that
2473 may be used without modification in providing security or guard services.

2474 [~~(21)~~] (23) "Street patrol service" means a contract security company that provides

2475 patrols by means of foot, vehicle, or other method of transportation using public streets,
2476 thoroughfares, or property in the performance of the company's duties and responsibilities.

2477 ~~[(22)]~~ (24) "Unarmed private security officer" means an individual:

2478 (a) employed by a contract security company;

2479 (b) whose primary duty is guarding personal or real property or providing protection or
2480 security to the life and well being of humans or animals;

2481 (c) who does not wear, carry, possess, or have immediate access to a firearm in the
2482 performance of the individual's duties; and

2483 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge,
2484 emblem, insignia, or other device that identifies the individual as a security officer.

2485 ~~[(23)]~~ (25) "Unlawful conduct" means the same as that term is defined in Sections
2486 58-1-501 and 58-63-501.

2487 ~~[(24)]~~ (26) "Unprofessional conduct" means the same as that term is defined in
2488 Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

2489 Section 23. Section 58-63-302 is amended to read:

2490 **58-63-302. Qualifications for licensure.**

2491 (1) Each applicant for licensure as an armored car company or a contract security
2492 company shall:

2493 (a) submit an application in a form prescribed by the division;

2494 (b) pay a fee determined by the department under Section 63J-1-504;

2495 (c) have a qualifying agent who:

2496 (i) ~~[shall meet]~~ meets with the division and the board and ~~[demonstrate]~~ demonstrates
2497 that the applicant and the qualifying agent meet the requirements of this section;

2498 (ii) is a resident of the state ~~[and]~~;

2499 (iii) is responsible management personnel or ~~[an]~~ a company owner of the applicant;

2500 ~~[(iii)]~~ (iv) exercises material day-to-day authority in the conduct of the applicant's
2501 business by making substantive technical and administrative decisions and whose primary
2502 employment is with the applicant;

2503 ~~[(iv)]~~ (v) is not concurrently acting as a qualifying agent or employee of another
2504 armored car company or contract security company and is not engaged in any other
2505 employment on a regular basis;

2506 ~~[(v)]~~ (vi) is not involved in any activity that would conflict with the qualifying agent's
2507 duties and responsibilities under this chapter to ensure that the qualifying agent's and the
2508 applicant's performance under this chapter does not jeopardize the health or safety of the
2509 general public;

2510 ~~[(vi)]~~ (vii) is not an employee of a government agency;

2511 ~~[(vii)]~~ (viii) passes an examination component established by rule by the division in
2512 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
2513 Rulemaking Act; and

2514 ~~[(viii)]~~ (ix) (A) demonstrates 6,000 hours of compensated experience as a manager,
2515 supervisor, or administrator of an armored car company or a contract security company; or

2516 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
2517 collaboration with the board with a federal, United States military, state, county, or municipal
2518 law enforcement agency;

2519 ~~(d)~~ provide the name, address, date of birth, social security number, fingerprint card,
2520 and consent to a criminal background check in accordance with Section [58-55-302.1](#) and
2521 requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah
2522 Administrative Rulemaking Act, for each company officer, company owner, company
2523 proprietor, company trustee, and responsible management personnel with direct responsibility
2524 for managing operations of the applicant within the state;

2525 ~~[(d) if a corporation, provide:]~~

2526 ~~[(i) the names, addresses, dates of birth, and social security numbers of all corporate~~
2527 ~~officers, directors, and responsible management personnel; and]~~

2528 ~~[(ii) the names, addresses, dates of birth, and social security numbers, of all~~
2529 ~~shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by~~
2530 ~~the division if the stock is publicly listed and traded;]~~

2531 ~~[(e) if a limited liability company, provide:]~~

2532 ~~[(i) the names, addresses, dates of birth, and social security numbers of all company~~
2533 ~~officers, and responsible management personnel; and]~~

2534 ~~[(ii) the names, addresses, dates of birth, and social security numbers of all individuals~~
2535 ~~owning 5% or more of the equity of the company;]~~

2536 ~~[(f) if a partnership, provide the names, addresses, dates of birth, and social security~~

2537 ~~numbers of all general partners, and responsible management personnel;]~~
 2538 ~~[(g) if a proprietorship, provide the names, addresses, dates of birth, and social security~~
 2539 ~~numbers of the proprietor, and responsible management personnel;]~~
 2540 ~~[(h)] (e) have [good moral character in that officers, directors, shareholders described~~
 2541 ~~in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have]~~
 2542 company officers, company owners, company proprietors, company trustees, and responsible
 2543 management personnel who have not been convicted of:
 2544 (i) a felony; or
 2545 ~~[(ii) a misdemeanor involving moral turpitude; or]~~
 2546 ~~[(iii)] (ii) a crime that when considered with the duties and responsibilities of a contract~~
 2547 ~~security company or an armored car company by the division and the board indicates that the~~
 2548 ~~best interests of the public are not served by granting the applicant a license;~~
 2549 ~~[(i)] (f) document that none of the [applicant's officers, directors, shareholders~~
 2550 ~~described in Subsection (1)(d)(ii), partners, proprietors, and responsible management~~
 2551 ~~personnel] persons described in Subsection (1)(e):~~
 2552 (i) have been declared by a court of competent jurisdiction incompetent by reason of
 2553 mental defect or disease and not been restored; ~~[and]~~ or
 2554 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;
 2555 ~~[(j)] (g) file and maintain with the division evidence of:~~
 2556 (i) comprehensive general liability insurance in a form and in amounts established by
 2557 rule by the division in collaboration with the board and in accordance with Title 63G, Chapter
 2558 3, Utah Administrative Rulemaking Act;
 2559 (ii) workers' compensation insurance that covers employees of the applicant in
 2560 accordance with applicable Utah law;
 2561 (iii) registration with the Division of Corporations and Commercial Code; and
 2562 (iv) registration as required by applicable law with the:
 2563 (A) Unemployment Insurance Division in the Department of Workforce Services, for
 2564 purposes of Title 35A, Chapter 4, Employment Security Act;
 2565 (B) State Tax Commission; and
 2566 (C) Internal Revenue Service; and
 2567 ~~[(k)] (h) meet with the division and board if requested by the division or board.~~

- 2568 (2) Each applicant for licensure as an armed private security officer [~~shall~~]:
- 2569 (a) shall submit an application in a form prescribed by the division;
- 2570 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2571 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2572 convicted of:
- 2573 (i) a felony; or
- 2574 [~~(ii) a misdemeanor involving moral turpitude; or~~]
- 2575 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an armed
- 2576 private security officer by the division and the board indicates that the best interests of the
- 2577 public are not served by granting the applicant a license;
- 2578 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
- 2579 Sec. 922(g);
- 2580 (e) may not have been declared incompetent by a court of competent jurisdiction by
- 2581 reason of mental defect or disease and not been restored;
- 2582 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
- 2583 dependence;
- 2584 (g) shall successfully complete basic education and training requirements established
- 2585 by rule by the division in collaboration with the board and in accordance with Title 63G,
- 2586 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
- 2587 hours of classroom or online curriculum;
- 2588 (h) shall successfully complete firearms training requirements established by rule by
- 2589 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
- 2590 Administrative Rulemaking Act, which shall include a minimum of 12 hours of training;
- 2591 (i) shall pass the examination requirement established by rule by the division in
- 2592 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
- 2593 Administrative Rulemaking Act;
- 2594 (j) shall submit to and pass a background check in accordance with Section
- 2595 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2596 Chapter 3, Utah Administrative Rulemaking Act; and
- 2597 [~~(j)~~] (k) shall meet with the division and board if requested by the division or the board.
- 2598 (3) Each applicant for licensure as an unarmed private security officer [~~shall~~]:

- 2599 (a) shall submit an application in a form prescribed by the division;
- 2600 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2601 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2602 convicted of:
- 2603 (i) a felony; or
- 2604 [~~(ii) a misdemeanor involving moral turpitude; or~~]
- 2605 [~~(iii)~~] (ii) a crime that when considered with the duties and responsibilities of an
- 2606 unarmed private security officer by the division and the board indicates that the best interests of
- 2607 the public are not served by granting the applicant a license;
- 2608 (d) may not have been declared incompetent by a court of competent jurisdiction by
- 2609 reason of mental defect or disease and not been restored;
- 2610 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
- 2611 dependence;
- 2612 (f) shall successfully complete basic education and training requirements established
- 2613 by rule by the division in collaboration with the board and in accordance with Title 63G,
- 2614 Chapter 3, Utah Administrative Rulemaking Act, which shall include a minimum of eight
- 2615 hours of classroom or online curriculum;
- 2616 (g) shall pass the examination requirement established by rule by the division in
- 2617 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
- 2618 Administrative Rulemaking Act;
- 2619 (h) shall submit to and pass a background check in accordance with Section
- 2620 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
- 2621 Chapter 3, Utah Administrative Rulemaking Act; and
- 2622 [~~(h)~~] (i) shall meet with the division and board if requested by the division or board.
- 2623 (4) Each applicant for licensure as an armored car security officer [~~shall~~]:
- 2624 (a) shall submit an application in a form prescribed by the division;
- 2625 (b) shall pay a fee determined by the department under Section [63J-1-504](#);
- 2626 (c) [~~have good moral character in that the applicant has not~~] may not have been
- 2627 convicted of:
- 2628 (i) a felony; or
- 2629 [~~(ii) a misdemeanor involving moral turpitude; or~~]

2630 [(iii)] (ii) a crime that when considered with the duties and responsibilities of an
2631 armored car security officer by the division and the board indicates that the best interests of the
2632 public are not served by granting the applicant a license;

2633 (d) may not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
2634 Sec. 922(g);

2635 (e) may not have been declared incompetent by a court of competent jurisdiction by
2636 reason of mental defect or disease and not been restored;

2637 (f) may not be currently suffering from habitual drunkenness or from drug addiction or
2638 dependence;

2639 (g) shall successfully complete basic education and training requirements established
2640 by rule by the division in collaboration with the board and in accordance with Title 63G,
2641 Chapter 3, Utah Administrative Rulemaking Act;

2642 (h) shall successfully complete firearms training requirements established by rule by
2643 the division in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah
2644 Administrative Rulemaking Act;

2645 (i) shall pass the examination requirements established by rule by the division in
2646 collaboration with the board[;] and in accordance with Title 63G, Chapter 3, Utah
2647 Administrative Rulemaking Act;

2648 (j) shall submit to and pass a background check in accordance with Section
2649 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
2650 Chapter 3, Utah Administrative Rulemaking Act; and

2651 [(j)] (k) shall meet with the division and board if requested by the division or the board.

2652 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2653 division may make a rule establishing when the division shall request a Federal Bureau of
2654 Investigation records' review for an applicant who is applying for licensure or licensure renewal
2655 under this chapter.

2656 [~~(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),~~
2657 ~~(3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint~~
2658 ~~cards to the Department of Public Safety with the division's request to:]~~

2659 [~~(a) conduct a search of records of the Department of Public Safety for criminal history~~
2660 ~~information relating to each applicant for licensure under this chapter and each applicant's~~

2661 ~~officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and~~
2662 ~~responsible management personnel; and]~~

2663 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2664 ~~requiring a check of records of the FBI for criminal history information under this section.]~~

2665 ~~[(7) The Department of Public Safety shall send the division:]~~

2666 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~
2667 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2668 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2669 ~~records; and]~~

2670 ~~[(b) the results of the FBI review concerning an applicant in a timely manner after~~
2671 ~~receipt of information from the FBI.]~~

2672 ~~[(8) (a) The division shall charge each applicant a fee, in accordance with Section~~
2673 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2674 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
2675 ~~reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews~~
2676 ~~under this chapter.]~~

2677 ~~[(9) The division shall use or disseminate the information it obtains from the reviews~~
2678 ~~of criminal history records of the Department of Public Safety and the FBI only to determine if~~
2679 ~~an applicant for licensure or licensure renewal under this chapter is qualified for licensure.]~~

2680 Section 24. Section **58-63-302.1** is enacted to read:

2681 **58-63-302.1. Criminal background check.**

2682 (1) An applicant for licensure under this chapter who requires a criminal background
2683 check shall:

2684 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2685 application is filed; and

2686 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2687 Identification and the Federal Bureau of Investigation regarding the application.

2688 (2) The division shall:

2689 (a) in addition to other fees authorized by this chapter, collect from each applicant
2690 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal

2691 Identification is authorized to collect for the services provided under Section [53-10-108](#) and the

2692 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2693 obtaining federal criminal history record information;

2694 (b) submit from each applicant the fingerprint card and the fees described in
2695 Subsection (2)(a) to the Bureau of Criminal Identification; and

2696 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2697 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2698 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2699 Section 53-10-108:

2700 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2701 and regional criminal records databases;

2702 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2703 criminal history background check; and

2704 (c) provide the results from the state, regional, and nationwide criminal history
2705 background checks to the division.

2706 (4) For purposes of conducting a criminal background check required under this
2707 section, the division shall have direct access to criminal background information maintained
2708 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2709 (5) The division may not disseminate outside of the division any criminal history
2710 record information that the division obtains from the Bureau of Criminal Identification or the
2711 Federal Bureau of Investigation under the criminal background check requirements of this
2712 section.

2713 (6) (a) A new license issued under Section 58-63-302 is conditional pending
2714 completion of the criminal background check.

2715 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2716 criminal background check required in Section 58-68-302 demonstrates the applicant or the
2717 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2718 responsible management personnel has failed to accurately disclose a criminal history, the
2719 license is immediately and automatically revoked upon notice to the licensee by the division.

2720 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2721 entitled to a postrevocation hearing to challenge the revocation.

2722 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,

2723 Chapter 4, Administrative Procedures Act.

2724 Section 25. Section **58-64-302** is amended to read:

2725 **58-64-302. Qualifications for licensure.**

2726 (1) Each applicant for licensure as a deception detection examiner:

2727 (a) shall submit an application in a form prescribed by the division;

2728 (b) shall pay a fee determined by the department under Section [63J-1-504](#);

2729 (c) may not have been convicted of a felony~~[, a misdemeanor involving moral~~
2730 ~~turpitude,~~] or any other crime that when considered with the duties and responsibilities of a

2731 deception detection examiner is considered by the division to indicate that the best interests of
2732 the public will not be served by granting the applicant a license;

2733 (d) may not have been declared by any court of competent jurisdiction incompetent by
2734 reason of mental defect or disease and not been restored;

2735 (e) may not be currently suffering from habitual drunkenness or from drug addiction or
2736 dependence;

2737 (f) shall have completed one of the following:

2738 (i) have earned a bachelor's degree from a four year university or college meeting
2739 standards established by the division by rule made in accordance with Title 63G, Chapter 3,
2740 Utah Administrative Rulemaking Act;

2741 (ii) have completed not less than 8,000 hours of investigation experience approved by
2742 the division; or

2743 (iii) have completed a combination of university or college education and investigation
2744 experience, as defined by rule made by the division in accordance with Title 63G, Chapter 3,
2745 Utah Administrative Rulemaking Act, as being equivalent to the requirements under
2746 Subsection (1)(f)(i) or (1)(f)(ii);

2747 (g) shall have successfully completed a training program in detection deception
2748 meeting criteria established by rule made by the division~~[; and]~~ in accordance with Title 63G,
2749 Chapter 3, Utah Administrative Rulemaking Act;

2750 (h) shall submit to and pass a background check in accordance with Section
2751 [58-64-302.1](#) and requirements established by division rule made in accordance with Title 63G,
2752 Chapter 3, Utah Administrative Rulemaking Act; and

2753 ~~[(h)]~~ (i) shall have performed satisfactorily as a licensed deception detection intern for

2754 a period of not less than one year and shall have satisfactorily conducted not less than 100
2755 deception detection examinations under the supervision of a licensed deception detection
2756 examiner.

2757 (2) Each applicant for licensure as a deception detection intern:

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 intern is considered by the division to indicate that the best interests of the
2763 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 (2)(f)(i) or (2)(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 provide the division with an intern supervision agreement in a form

2785 prescribed by the division under which:

- 2786 (i) a licensed deception detection examiner agrees to supervise the intern; and
- 2787 (ii) the applicant agrees to be supervised by that licensed deception detection examiner.

2788 (3) Each applicant for licensure as a deception detection examination administrator:

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 examination administrator is considered by the division to indicate that the
2794 best interests of the public will not be served by granting the applicant a license;

2795 (d) may not have been declared by a 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 earned an associate degree from a state-accredited university or college or
2800 have an equivalent number of years' work experience; ~~[and]~~

2801 (g) shall submit to and pass a background check in accordance with Section
2802 [58-55-302.1](#) and requirements established by division rule made in accordance with Title 63G,
2803 Chapter 3, Utah Administrative Rulemaking Act; and

2804 ~~[(g)]~~ (h) shall have successfully completed a training program and have obtained
2805 certification in deception detection examination administration provided by the manufacturer
2806 of a scientific or technology-based software application solution that is approved by the
2807 director.

2808 ~~[(4) To determine if an applicant meets the qualifications of Subsection (1)(c), (2)(c),~~
2809 ~~or (3)(c) the division shall provide an appropriate number of copies of fingerprint cards to the~~
2810 ~~Department of Public Safety with the division's request to:]~~

2811 ~~[(a) conduct a search of records of the Department of Public Safety for criminal history~~
2812 ~~information relating to each applicant for licensure under this chapter; and]~~

2813 ~~[(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant~~
2814 ~~requiring a check of records of the F.B.I. for criminal history information under this section:]~~

2815 ~~[(5) The Department of Public Safety shall send to the division:]~~

2816 ~~[(a) a written record of criminal history, or certification of no criminal history record,~~
2817 ~~as contained in the records of the Department of Public Safety in a timely manner after receipt~~
2818 ~~of a fingerprint card from the division and a request for review of Department of Public Safety~~
2819 ~~records; and]~~

2820 ~~[(b) the results of the F.B.I. review concerning an applicant in a timely manner after~~
2821 ~~receipt of information from the F.B.I.]~~

2822 ~~[(6) (a) The division shall charge each applicant a fee, in accordance with Section~~
2823 ~~63J-1-504, equal to the cost of performing the records reviews under this section.]~~

2824 ~~[(b) The division shall pay the Department of Public Safety the costs of all records~~
2825 ~~reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews~~
2826 ~~under this chapter.]~~

2827 ~~[(7) Information obtained by the division from the reviews of criminal history records~~
2828 ~~of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division~~
2829 ~~only for the purpose of determining if an applicant for licensure under this chapter is qualified~~
2830 ~~for licensure.]~~

2831 Section 26. Section ~~58-64-302.1~~ is enacted to read:

2832 **58-64-302.1. Criminal background check.**

2833 (1) An applicant for licensure under this chapter who requires a criminal background
2834 check shall:

2835 (a) submit fingerprint cards in a form acceptable to the division at the time the license
2836 application is filed; and

2837 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
2838 Identification and the Federal Bureau of Investigation regarding the application.

2839 (2) The division shall:

2840 (a) in addition to other fees authorized by this chapter, collect from each applicant
2841 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
2842 Identification is authorized to collect for the services provided under Section 53-10-108 and the
2843 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
2844 obtaining federal criminal history record information;

2845 (b) submit from each applicant the fingerprint card and the fees described in
2846 Subsection (2)(a) to the Bureau of Criminal Identification; and

2847 (c) obtain and retain in division records a signed waiver approved by the Bureau of
2848 Criminal Identification in accordance with Section 53-10-108 for each applicant.

2849 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
2850 Section 53-10-108:

2851 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
2852 and regional criminal records databases;

2853 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
2854 criminal history background check; and

2855 (c) provide the results from the state, regional, and nationwide criminal history
2856 background checks to the division.

2857 (4) For purposes of conducting a criminal background check required under this
2858 section, the division shall have direct access to criminal background information maintained
2859 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

2860 (5) The division may not disseminate outside of the division any criminal history
2861 record information that the division obtains from the Bureau of Criminal Identification or the
2862 Federal Bureau of Investigation under the criminal background check requirements of this
2863 section.

2864 (6) (a) A new license issued under Section 58-64-302 is conditional pending
2865 completion of the criminal background check.

2866 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
2867 criminal background check required in Section 58-64-302 demonstrates the applicant or the
2868 applicant's officer, director, shareholder, general partner, proprietor, trustee, or other
2869 responsible management personnel has failed to accurately disclose a criminal history, the
2870 license is immediately and automatically revoked upon notice to the licensee by the division.

2871 (c) A person whose conditional license has been revoked under Subsection (6)(b) is
2872 entitled to a postrevocation hearing to challenge the revocation.

2873 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
2874 Chapter 4, Administrative Procedures Act.