

**Representative Raymond P. Ward** proposes the following substitute bill:

**HEALTH AND HUMAN SERVICES RECODIFICATION -  
CROSS REFERENCES, TITLES 31A-58**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

House Sponsor: Raymond P. Ward

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**LONG TITLE**

**General Description:**

This bill updates cross references to the Utah Health and Human Services Code in Titles 31A through 58.

**Highlighted Provisions:**

This bill:

▶ makes technical updates in Titles 31A through 58 to cross references to the Utah Health and Human Services Code that are renumbered and amended in:

- S.B. 38, Health and Human Services Recodification - Administration, Licensing, and Recovery Services;
  - S.B. 39, Health and Human Services Recodification - Health Care Assistance and Data;
  - S.B. 40, Health and Human Services Recodification - Health Care Delivery and Repeals; and
  - S.B. 41, Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health; and
- ▶ makes technical and corresponding changes.

**Money Appropriated in this Bill:**



26 None

27 **Other Special Clauses:**

28 This bill provides revisor instructions.

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **31A-22-614.5**, as last amended by Laws of Utah 2017, Chapter 168

33 **31A-22-625**, as last amended by Laws of Utah 2014, Chapters 290, 300

34 **31A-22-633**, as last amended by Laws of Utah 2013, Chapter 167

35 **31A-22-636**, as last amended by Laws of Utah 2022, Chapter 198

36 **31A-22-645**, as enacted by Laws of Utah 2017, Chapter 168

37 **31A-22-649**, as enacted by Laws of Utah 2018, Chapter 119

38 **31A-22-649.5**, as last amended by Laws of Utah 2021, Chapters 19, 404 and last

39 amended by Coordination Clause, Laws of Utah 2021, Chapter 404

40 **31A-22-651**, as enacted by Laws of Utah 2019, Chapter 256

41 **31A-22-1016**, as enacted by Laws of Utah 2019, Chapter 341

42 **31A-22-1602**, as last amended by Laws of Utah 2009, Chapter 349

43 **31A-23a-402**, as last amended by Laws of Utah 2019, Chapter 193

44 **31A-23b-102**, as last amended by Laws of Utah 2018, Chapter 319

45 **31A-23b-211**, as last amended by Laws of Utah 2014, Chapter 425

46 **31A-26-301.6**, as last amended by Laws of Utah 2020, Chapter 32

47 **31A-45-402**, as enacted by Laws of Utah 2017, Chapter 292

48 **31A-45-501**, as last amended by Laws of Utah 2021, Chapter 252

49 **32B-1-102**, as last amended by Laws of Utah 2022, Chapter 447

50 **32B-1-703**, as renumbered and amended by Laws of Utah 2019, Chapter 403

51 **32B-2-208**, as enacted by Laws of Utah 2010, Chapter 276

52 **32B-10-702**, as enacted by Laws of Utah 2010, Chapter 276

53 **34-55-102**, as enacted by Laws of Utah 2019, Chapter 126

54 **34A-2-102**, as last amended by Laws of Utah 2019, Chapter 121

55 **34A-2-111**, as last amended by Laws of Utah 2015, Chapter 258

56 **34A-2-417**, as last amended by Laws of Utah 2018, Chapter 443

- 57 [34A-2-418](#), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 58 [34A-2-422](#), as last amended by Laws of Utah 2018, Chapter 443
- 59 [34A-3-201](#), as renumbered and amended by Laws of Utah 2020, Fifth Special Session,
- 60 Chapter 5
- 61 [34A-11-102](#), as enacted by Laws of Utah 2002, Chapter 120
- 62 [35A-1-102](#), as last amended by Laws of Utah 2018, Chapters 415, 427
- 63 [35A-3-103](#), as last amended by Laws of Utah 2022, Chapter 255
- 64 [35A-3-207](#), as last amended by Laws of Utah 2015, Chapter 221
- 65 [35A-3-212](#), as enacted by Laws of Utah 2022, Chapter 21
- 66 [35A-3-308](#), as last amended by Laws of Utah 2015, Chapter 221
- 67 [35A-3-401](#), as last amended by Laws of Utah 2015, Chapters 72, 189 and 221
- 68 [35A-3-603](#), as last amended by Laws of Utah 2020, Chapter 29
- 69 [35A-9-202](#), as enacted by Laws of Utah 2022, Chapter 36
- 70 [35A-15-102](#), as last amended by Laws of Utah 2022, Chapters 316, 348
- 71 [39-1-64](#), as enacted by Laws of Utah 2004, Chapter 82
- 72 [41-1a-230.5](#), as last amended by Laws of Utah 2021, Chapter 378
- 73 [41-1a-230.7](#), as enacted by Laws of Utah 2021, Chapter 395
- 74 [41-1a-422](#), as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335,
- 75 451, and 456
- 76 [41-6a-404](#), as last amended by Laws of Utah 2021, Chapters 211, 216
- 77 [41-6a-501](#), as last amended by Laws of Utah 2022, Chapter 116
- 78 [41-6a-502.5](#), as last amended by Laws of Utah 2022, Chapters 134, 415
- 79 [41-6a-505](#), as last amended by Laws of Utah 2022, Chapters 116, 134 and 137
- 80 [41-6a-517](#), as last amended by Laws of Utah 2022, Chapter 116
- 81 [41-6a-523](#), as last amended by Laws of Utah 2019, Chapter 349
- 82 [41-6a-1717](#), as enacted by Laws of Utah 2013, Chapter 251
- 83 [41-22-8](#), as last amended by Laws of Utah 2022, Chapter 68
- 84 [49-11-1401](#), as last amended by Laws of Utah 2021, Chapter 193
- 85 [49-12-202](#), as last amended by Laws of Utah 2021, Chapter 193
- 86 [49-13-202](#), as last amended by Laws of Utah 2021, Chapter 193
- 87 [49-20-201](#), as last amended by Laws of Utah 2022, Chapter 347

88           **49-20-401**, as last amended by Laws of Utah 2022, Chapter 302  
89           **49-20-414**, as last amended by Laws of Utah 2019, Chapter 249  
90           **49-20-421**, as last amended by Laws of Utah 2021, Chapter 255  
91           **51-2a-102**, as last amended by Laws of Utah 2017, Chapter 441  
92           **51-7-2**, as last amended by Laws of Utah 2022, Chapters 186, 298  
93           **51-9-201**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20  
94           **51-9-203**, as last amended by Laws of Utah 2020, Chapters 302, 347  
95           **52-4-205**, as last amended by Laws of Utah 2022, Chapters 237, 290, 332, 335, 422,  
96 and 478  
97           **53-1-106**, as last amended by Laws of Utah 2021, Chapters 344, 360  
98           **53-2a-218**, as enacted by Laws of Utah 2021, Chapter 437  
99           **53-2c-102**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 1  
100           **53-3-102**, as last amended by Laws of Utah 2022, Chapter 162  
101           **53-3-105**, as last amended by Laws of Utah 2022, Chapters 146, 259  
102           **53-3-106**, as last amended by Laws of Utah 2022, Chapters 92, 255  
103           **53-3-205**, as last amended by Laws of Utah 2022, Chapter 46  
104           **53-3-207**, as last amended by Laws of Utah 2022, Chapter 158  
105           **53-3-214.7**, as last amended by Laws of Utah 2021, Chapter 378  
106           **53-3-214.8**, as last amended by Laws of Utah 2003, Chapter 30  
107           **53-3-804**, as last amended by Laws of Utah 2021, Chapter 191  
108           **53-3-805**, as last amended by Laws of Utah 2022, Chapter 158  
109           **53-5-707**, as last amended by Laws of Utah 2021, Chapters 12, 277  
110           **53-10-102**, as last amended by Laws of Utah 2022, Chapters 192, 447  
111           **53-10-104**, as last amended by Laws of Utah 2018, Chapter 169  
112           **53-10-108**, as last amended by Laws of Utah 2022, Chapters 192, 255  
113           **53-10-202**, as last amended by Laws of Utah 2021, Chapter 103  
114           **53-10-208.1**, as last amended by Laws of Utah 2021, Chapter 159  
115           **53-10-403**, as last amended by Laws of Utah 2022, Chapters 116, 430  
116           **53-10-405**, as last amended by Laws of Utah 2019, Chapter 349  
117           **53-10-801**, as last amended by Laws of Utah 2022, Chapter 255 and renumbered and  
118 amended by Laws of Utah 2022, Chapter 430

- 119            [53-10-802](#), as renumbered and amended by Laws of Utah 2022, Chapter 430
- 120            [53-10-804](#), as renumbered and amended by Laws of Utah 2022, Chapter 430
- 121            [53-13-105](#), as last amended by Laws of Utah 2022, Chapter 10
- 122            [53-13-110](#), as last amended by Laws of Utah 2022, Chapter 335
- 123            [53-21-101](#), as enacted by Laws of Utah 2022, Chapter 114
- 124            [53B-1-111](#), as enacted by Laws of Utah 2016, Chapter 45
- 125            [53B-17-301](#), as last amended by Laws of Utah 2015, Chapter 72
- 126            [53B-17-903](#), as enacted by Laws of Utah 2022, Chapter 452
- 127            [53B-17-1203](#), as last amended by Laws of Utah 2020, Chapter 365
- 128            [53B-26-202](#), as last amended by Laws of Utah 2022, Chapter 224
- 129            [53B-28-202](#), as last amended by Laws of Utah 2022, Chapter 335
- 130            [53B-28-303](#), as last amended by Laws of Utah 2022, Chapter 335
- 131            [53E-1-201](#), as last amended by Laws of Utah 2022, Chapters 147, 229, 274, 285, 291,
- 132 354, and 461
- 133            [53E-3-503](#), as last amended by Laws of Utah 2020, Chapters 330, 408
- 134            [53E-8-405](#), as renumbered and amended by Laws of Utah 2018, Chapter 1
- 135            [53E-8-408](#), as last amended by Laws of Utah 2019, Chapter 186
- 136            [53E-9-301](#), as last amended by Laws of Utah 2020, Chapter 408
- 137            [53E-9-307](#), as last amended by Laws of Utah 2020, Chapter 408
- 138            [53E-9-308](#), as last amended by Laws of Utah 2022, Chapter 335
- 139            [53F-2-415](#), as last amended by Laws of Utah 2022, Chapter 409
- 140            [53F-2-522](#), as enacted by Laws of Utah 2020, Chapter 202
- 141            [53F-4-401](#), as last amended by Laws of Utah 2022, Chapter 316
- 142            [53F-5-207](#), as last amended by Laws of Utah 2022, Chapter 36
- 143            [53G-6-302](#), as last amended by Laws of Utah 2022, Chapter 335
- 144            [53G-6-601](#), as renumbered and amended by Laws of Utah 2018, Chapter 3
- 145            [53G-8-802](#), as last amended by Laws of Utah 2022, Chapter 399
- 146            [53G-9-211](#), as enacted by Laws of Utah 2021, Chapter 309
- 147            [53G-9-301](#), as last amended by Laws of Utah 2022, Chapter 255
- 148            [53G-9-303](#), as last amended by Laws of Utah 2021, Chapter 258
- 149            [53G-9-304](#), as renumbered and amended by Laws of Utah 2018, Chapter 3

- 150 **53G-9-402**, as last amended by Laws of Utah 2019, Chapter 293
- 151 **53G-9-404**, as repealed and reenacted by Laws of Utah 2019, Chapter 87
- 152 **53G-9-502**, as last amended by Laws of Utah 2019, Chapter 293
- 153 **53G-9-702**, as last amended by Laws of Utah 2021, Chapter 105
- 154 **58-1-112**, as enacted by Laws of Utah 2022, Chapter 224
- 155 **58-1-307**, as last amended by Laws of Utah 2020, Chapter 339
- 156 **58-1-312**, as enacted by Laws of Utah 2020, Chapter 93
- 157 **58-1-405**, as enacted by Laws of Utah 2008, Chapter 242
- 158 **58-1-501.5**, as last amended by Laws of Utah 2008, Chapter 250
- 159 **58-1-501.7**, as last amended by Laws of Utah 2020, Chapter 354
- 160 **58-1-509**, as enacted by Laws of Utah 2019, Chapter 346
- 161 **58-4a-102**, as enacted by Laws of Utah 2020, Chapter 107
- 162 **58-5a-102**, as last amended by Laws of Utah 2022, Chapter 290
- 163 **58-5a-103**, as last amended by Laws of Utah 2018, Chapter 247
- 164 **58-9-610**, as last amended by Laws of Utah 2009, Chapters 68, 223
- 165 **58-9-616**, as enacted by Laws of Utah 2018, Chapter 326
- 166 **58-11a-501**, as last amended by Laws of Utah 2016, Chapters 238, 274
- 167 **58-13-2**, as last amended by Laws of Utah 2022, Chapter 241
- 168 **58-13-2.6**, as last amended by Laws of Utah 2008, Chapter 76
- 169 **58-13-3**, as last amended by Laws of Utah 2022, Chapter 241
- 170 **58-13-5**, as last amended by Laws of Utah 2013, Chapter 278
- 171 **58-15-303**, as renumbered and amended by Laws of Utah 2022, Chapter 415
- 172 **58-17b-102**, as last amended by Laws of Utah 2021, Chapters 127, 340
- 173 **58-17b-302**, as last amended by Laws of Utah 2022, Chapter 353
- 174 **58-17b-309**, as last amended by Laws of Utah 2022, Chapter 353
- 175 **58-17b-309.7**, as last amended by Laws of Utah 2021, Chapter 340
- 176 **58-17b-501**, as last amended by Laws of Utah 2018, Chapter 295
- 177 **58-17b-502**, as last amended by Laws of Utah 2022, Chapter 465
- 178 **58-17b-503**, as last amended by Laws of Utah 2022, Chapter 465
- 179 **58-17b-507**, as last amended by Laws of Utah 2016, Chapters 202, 207 and 208 and
- 180 last amended by Coordination Clause, Laws of Utah 2016, Chapter 202

- 181 **58-17b-602**, as last amended by Laws of Utah 2017, Chapter 384
- 182 **58-17b-606**, as last amended by Laws of Utah 2010, Chapter 101
- 183 **58-17b-620**, as last amended by Laws of Utah 2022, Chapters 255, 465

184 **Utah Code Sections Affected by Coordination Clause:**

- 185 **58-17b-302**, as last amended by Laws of Utah 2022, Chapter 353

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

188 Section 1. Section **31A-22-614.5** is amended to read:

189 **31A-22-614.5. Uniform claims processing -- Electronic exchange of health**  
190 **information.**

191 (1) (a) Except as provided in Subsection (1)(c), an insurer offering health insurance  
192 shall use a uniform claim form and uniform billing and claim codes.

193 (b) Beginning January 1, 2011, all health benefit plans, and dental and vision plans,  
194 shall provide for the electronic exchange of uniform:

- 195 (i) eligibility and coverage information; and
- 196 (ii) coordination of benefits information.

197 (c) For purposes of Subsection (1)(a), "health insurance" does not include a policy or  
198 certificate that provides benefits solely for:

- 199 (i) income replacement; or
- 200 (ii) long-term care.

201 (2) (a) The uniform electronic standards and information required in Subsection (1)  
202 shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3,  
203 Utah Administrative Rulemaking Act.

204 (b) When adopting rules under this section the commissioner:

205 (i) shall:

206 (A) consult with national and state organizations involved with the standardized  
207 exchange of health data, and the electronic exchange of health data, to develop the standards  
208 for the use and electronic exchange of uniform:

- 209 (I) claim forms;
- 210 (II) billing and claim codes;
- 211 (III) insurance eligibility and coverage information; and

212 (IV) coordination of benefits information; and  
213 (B) meet federal mandatory minimum standards following the adoption of national  
214 requirements for transaction and data elements in the federal Health Insurance Portability and  
215 Accountability Act;

216 (ii) may not require an insurer or administrator to use a specific software product or  
217 vendor; and

218 (iii) may require an insurer who participates in the all payer database created under  
219 Section [~~26-33a-106.1~~] [26B-8-504](#) to allow data regarding demographic and insurance  
220 coverage information to be electronically shared with the state's designated secure health  
221 information master person index to be used:

222 (A) in compliance with data security standards established by:

223 (I) the federal Health Insurance Portability and Accountability Act; and

224 (II) the electronic commerce agreements established in a business associate agreement;

225 and

226 (B) for the purpose of coordination of health benefit plans.

227 (3) (a) The commissioner shall coordinate the administrative rules adopted under the  
228 provisions of this section with the administrative rules adopted by the Department of Health  
229 and Human Services for the implementation of the standards for the electronic exchange of  
230 clinical health information under Section [~~26-1-37~~] [26B-8-411](#). The department shall establish  
231 procedures for developing the rules adopted under this section, which ensure that the  
232 Department of Health and Human Services is given the opportunity to comment on proposed  
233 rules.

234 (b) (i) The commissioner may provide information to health care providers regarding  
235 resources available to a health care provider to verify whether a health care provider's practice  
236 management software system meets the uniform electronic standards for data exchange  
237 required by this section.

238 (ii) The commissioner may provide the information described in Subsection (3)(b)(i)  
239 by partnering with:

240 (A) a not-for-profit, broad based coalition of state health care insurers and health care  
241 providers who are involved in the electronic exchange of the data required by this section; or

242 (B) some other person that the commissioner determines is appropriate to provide the



243 information described in Subsection (3)(b)(i).

244 (c) The commissioner shall regulate any fees charged by insurers to the providers for:

245 (i) uniform claim forms;

246 (ii) electronic billing; or

247 (iii) the electronic exchange of clinical health information permitted by Section

248 ~~[26-1-37]~~ [26B-8-411](#).

249 (4) This section does not require a person to provide information concerning an

250 employer self-insured employee welfare benefit plan as defined in 29 U.S.C. Sec. 1002(1).

251 Section 2. Section ~~31A-22-625~~ is amended to read:

252 **31A-22-625. Catastrophic coverage of mental health conditions.**

253 (1) As used in this section:

254 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan  
255 that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or  
256 outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden  
257 on an insured for the evaluation and treatment of a mental health condition than for the  
258 evaluation and treatment of a physical health condition.

259 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing  
260 factors, such as deductibles, copayments, or coinsurance, before reaching a maximum  
261 out-of-pocket limit.

262 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket  
263 limit for physical health conditions and another maximum out-of-pocket limit for mental health  
264 conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit  
265 for mental health conditions may not exceed the out-of-pocket limit for physical health  
266 conditions.

267 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that  
268 pays for at least 50% of covered services for the diagnosis and treatment of mental health  
269 conditions.

270 (ii) "50/50 mental health coverage" may include a restriction on:

271 (A) episodic limits;

272 (B) inpatient or outpatient service limits; or

273 (C) maximum out-of-pocket limits.

274 (c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

275 (d) (i) "Mental health condition" means a condition or disorder involving mental illness  
276 that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as  
277 periodically revised.

278 (ii) "Mental health condition" does not include the following when diagnosed as the  
279 primary or substantial reason or need for treatment:

280 (A) a marital or family problem;

281 (B) a social, occupational, religious, or other social maladjustment;

282 (C) a conduct disorder;

283 (D) a chronic adjustment disorder;

284 (E) a psychosexual disorder;

285 (F) a chronic organic brain syndrome;

286 (G) a personality disorder;

287 (H) a specific developmental disorder or learning disability; or

288 (I) an intellectual disability.

289 (e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

290 (2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer  
291 that it insures or seeks to insure a choice between:

292 (i) (A) catastrophic mental health coverage; or

293 (B) federally qualified mental health coverage as described in Subsection (3); and

294 (ii) 50/50 mental health coverage.

295 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

296 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels  
297 that exceed the minimum requirements of this section; or

298 (ii) coverage that excludes benefits for mental health conditions.

299 (c) A small employer may, at its option, regardless of the employer's previous coverage  
300 for mental health conditions, choose either:

301 (i) coverage offered under Subsection (2)(a)(i);

302 (ii) 50/50 mental health coverage; or

303 (iii) coverage offered under Subsection (2)(b).

304 (d) An insurer is exempt from the 30% index rating restriction in Section

305 31A-30-106.1 and, for the first year only that the employer chooses coverage that meets or  
306 exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section  
307 31A-30-106.1, for a small employer with 20 or less enrolled employees who chooses coverage  
308 that meets or exceeds catastrophic mental health coverage.

309 (3) (a) An insurer shall offer a large employer mental health and substance use disorder  
310 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.  
311 300gg-26, and federal regulations adopted pursuant to that act.

312 (b) An insurer shall provide in an individual or small employer health benefit plan,  
313 mental health and substance use disorder benefits in compliance with Sections 2705 and 2711  
314 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted  
315 pursuant to that act.

316 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer  
317 through a managed care organization or system in a manner consistent with Chapter 8, Health  
318 Maintenance Organizations and Limited Health Plans, regardless of whether the insurance  
319 policy uses a managed care organization or system for the treatment of physical health  
320 conditions.

321 (b) (i) Notwithstanding any other provision of this title, an insurer may:

322 (A) establish a closed panel of providers for catastrophic mental health coverage; and

323 (B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider  
324 unless:

325 (I) the insured is referred to a nonpanel provider with the prior authorization of the  
326 insurer; and

327 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment  
328 guidelines.

329 (ii) If an insured receives services from a nonpanel provider in the manner permitted by  
330 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the  
331 average amount paid by the insurer for comparable services of panel providers under a  
332 noncapitated arrangement who are members of the same class of health care providers.

333 (iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a  
334 referral to a nonpanel provider.

335 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a

336 mental health condition shall be rendered:

337 (i) by a mental health therapist as defined in Section 58-60-102; or

338 (ii) in a health care facility:

339 (A) licensed or otherwise authorized to provide mental health services pursuant to:

340 (I) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,  
341 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

342 (II) [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter 2,  
343 Part 1, Human Services Programs and Facilities; and

344 (B) that provides a program for the treatment of a mental health condition pursuant to a  
345 written plan.

346 (5) The commissioner may prohibit an insurance policy that provides mental health  
347 coverage in a manner that is inconsistent with this section.

348 (6) The commissioner may adopt rules, in accordance with Title 63G, Chapter 3, Utah  
349 Administrative Rulemaking Act, as necessary to ensure compliance with this section.

350 Section 3. Section 31A-22-633 is amended to read:

351 **31A-22-633. Exemptions from standards.**

352 Notwithstanding the provisions of [~~Title 31A, Insurance Code~~] this title, any accident  
353 and health insurer or health maintenance organization may offer a choice of coverage that is  
354 less or different than is otherwise required by applicable state law if:

355 (1) the Department of Health and Human Services offers a choice of coverage as part  
356 of a Medicaid waiver under [~~Title 26, Chapter 18, Medical Assistance Act~~] Title 26B, Chapter  
357 3, Health Care - Administration and Assistance, which includes:

358 (a) less or different coverage than the basic coverage;

359 (b) less or different coverage than is otherwise required in an insurance policy or health  
360 maintenance organization contract under applicable state law; or

361 (c) less or different coverage than required by Subsection 31A-22-605(4)(b); and

362 (2) the choice of coverage offered by the carrier:

363 (a) is the same or similar coverage as the coverage offered by the Department of Health  
364 and Human Services under Subsection (1);

365 (b) is offered to the same or similar population as the coverage offered by the  
366 Department of Health and Human Services under Subsection (1); and

367 (c) contains an explanation for each insured of coverage exclusions and limitations.

368 Section 4. Section 31A-22-636 is amended to read:

369 **31A-22-636. Standardized health insurance information cards.**

370 (1) As used in this section, "insurer" means:

371 (a) an insurer governed by this part as described in Section 31A-22-600;

372 (b) a health maintenance organization governed by Chapter 8, Health Maintenance  
373 Organizations and Limited Health Plans;

374 (c) a third party administrator; and

375 (d) notwithstanding Subsection 31A-1-103(3)(f) and Section 31A-22-600, a health,  
376 medical, or conversion policy offered under Title 49, Chapter 20, Public Employees' Benefit  
377 and Insurance Program Act.

378 (2) In accordance with Subsection (3), an insurer shall use and issue a health benefit  
379 plan information card for the insurer's enrollees upon the purchase or renewal of, or enrollment  
380 in, a health benefit plan.

381 (3) The health benefit plan information card shall include:

382 (a) the covered person's name;

383 (b) the name of the carrier and the carrier network name;

384 (c) the contact information for the carrier or health benefit plan administrator;

385 (d) general information regarding copayments and deductibles; and

386 (e) an indication of whether the health benefit plan is regulated by the state.

387 (4) (a) The commissioner shall work with the Department of Health and Human  
388 Services, the Health Data Authority, health care providers groups, and with state and national  
389 organizations that develop uniform standards for the electronic exchange of health insurance  
390 claims or uniform standards for the electronic exchange of clinical health records.

391 (b) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah  
392 Administrative Rulemaking Act, to adopt standardized electronic interchange technology.

393 (c) After rules are adopted under Subsection (4)(a), health care providers and their  
394 licensing boards under Title 58, Occupations and Professions, and health facilities licensed  
395 under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,  
396 Chapter 2, Part 2, Health Care Facility Licensing and Inspection, shall work together to  
397 implement the adoption of card swipe technology.

398 Section 5. Section 31A-22-645 is amended to read:

399 **31A-22-645. Alcohol and drug dependency treatment.**

400 (1) An insurer offering a health benefit plan providing coverage for alcohol or drug  
401 dependency treatment may require an inpatient facility to be licensed by:

402 (a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2,~~  
403 ~~Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs  
404 and Facilities; or

405 (ii) the Department of Health and Human Services; or

406 (b) for an inpatient facility located outside the state, a state agency similar to one  
407 described in Subsection (1)(a).

408 (2) For inpatient coverage provided pursuant to Subsection (1), an insurer may require  
409 an inpatient facility to be accredited by the following:

410 (a) the Joint Commission; and

411 (b) one other nationally recognized accrediting agency.

412 Section 6. Section 31A-22-649 is amended to read:

413 **31A-22-649. Coverage of telepsychiatric consultations.**

414 (1) As used in this section:

415 (a) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~]  
416 26B-4-704.

417 (b) "Telepsychiatric consultation" means a consultation between a physician and a  
418 board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in  
419 the state, that utilizes:

420 (i) the health records of the patient, provided from the patient or the referring  
421 physician;

422 (ii) a written, evidence-based patient questionnaire; and

423 (iii) telehealth services that meet industry security and privacy standards, including  
424 compliance with the:

425 (A) Health Insurance Portability and Accountability Act; and

426 (B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No.  
427 111-5, 123 Stat. 226, 467, as amended.

428 (2) Beginning January 1, 2019, a health benefit plan that offers coverage for mental

429 health services shall:

430 (a) provide coverage for a telepsychiatric consultation during or after an initial visit  
431 between the patient and a referring in-network physician;

432 (b) provide coverage for a telepsychiatric consultation from an out-of-network board  
433 certified psychiatrist if a telepsychiatric consultation is not made available to a physician within  
434 seven business days after the initial request is made by the physician to an in-network provider  
435 of telepsychiatric consultations; and

436 (c) reimburse for the services described in Subsections (2)(a) and (b) at the equivalent  
437 in-network or out-of-network rate set by the health benefit plan after taking into account  
438 cost-sharing that may be required under the health benefit plan.

439 (3) A single telepsychiatric consultation includes all contacts, services, discussion, and  
440 information review required to complete an individual request from a referring physician for a  
441 patient.

442 (4) An insurer may satisfy the requirement to cover a telepsychiatric consultation  
443 described in Subsection (2)(a) for a patient by:

444 (a) providing coverage for behavioral health treatment, as defined in Section  
445 [31A-22-642](#), in person or using telehealth services; and

446 (b) ensuring that the patient receives an appointment for the behavioral health  
447 treatment in person or using telehealth services on a date that is within seven business days  
448 after the initial request is made by the in-network referring physician.

449 (5) A referring physician who uses a telepsychiatric consultation for a patient shall, at  
450 the time that the questionnaire described in Subsection (1)(b)(ii) is completed, notify the  
451 patient that:

452 (a) the referring physician plans to request a telepsychiatric consultation; and

453 (b) additional charges to the patient may apply.

454 (6) (a) An insurer may receive a temporary waiver from the department from the  
455 requirements in this section if the insurer demonstrates to the department that the insurer is  
456 unable to provide the benefits described in this section due to logistical reasons.

457 (b) An insurer that receives a waiver from the department under Subsection (6)(a) is  
458 subject to the requirements of this section beginning July 1, 2019.

459 (7) This section does not limit an insurer from engaging in activities that ensure

460 payment integrity or facilitate review and investigation of improper practices by health care  
461 providers.

462 Section 7. Section **31A-22-649.5** is amended to read:

463 **31A-22-649.5. Insurance parity for telemedicine services -- Method of technology**  
464 **used.**

465 (1) As used in this section:

466 (a) "Mental health condition" means a mental disorder or a substance-related disorder  
467 that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as  
468 periodically revised.

469 (b) "Telemedicine services" means the same as that term is defined in Section  
470 [~~26-60-102~~] [26B-4-704](#).

471 (2) Notwithstanding the provisions of Section [31A-22-618.5](#), a health benefit plan  
472 offered in the individual market, the small group market, or the large group market shall:

473 (a) provide coverage for:

474 (i) telemedicine services that are covered by Medicare; and

475 (ii) treatment of a mental health condition through telemedicine services if:

476 (A) the health benefit plan provides coverage for the treatment of the mental health  
477 condition through in-person services; and

478 (B) the health benefit plan determines treatment of the mental health condition through  
479 telemedicine services meets the appropriate standard of care; and

480 (b) reimburse a network provider that provides the telemedicine services described in  
481 Subsection (2)(a) at a negotiated commercially reasonable rate.

482 (3) (a) Notwithstanding Section [31A-45-303](#), a health benefit plan providing coverage  
483 under Subsection (2)(a) may not impose originating site restrictions, geographic restrictions, or  
484 distance-based restrictions.

485 (b) A network provider that provides the telemedicine services described in Subsection  
486 (2)(a) may utilize any synchronous audiovisual technology for the telemedicine services that is  
487 compliant with the federal Health Insurance Portability and Accountability Act of 1996.

488 Section 8. Section **31A-22-651** is amended to read:

489 **31A-22-651. Insurance coverage for assisted outpatient treatment.**

490 (1) As used in this section, "assisted outpatient treatment" means the same as that term



491 is defined in Section [~~62A-15-602~~] [26B-5-301](#).

492 (2) A health insurance provider may not deny an insured the benefits of the insured's  
493 policy solely because the health care that the insured receives is provided under a court order  
494 for assisted outpatient treatment, as provided in Section [~~62A-15-630.5~~] [26B-5-351](#).

495 Section 9. Section **31A-22-1016** is amended to read:

496 **31A-22-1016. Workers' compensation coverage for medical cannabis operations.**

497 A licensed and admitted workers' compensation insurer may issue coverage to:

- 498 (1) a cannabis production establishment as defined in Section [4-41a-102](#); or
- 499 (2) a medical cannabis pharmacy as defined in Section [~~26-61a-102~~] [26B-4-201](#).

500 Section 10. Section **31A-22-1602** is amended to read:

501 **31A-22-1602. Genetic testing restrictions.**

502 Except as provided under Section [31A-22-620](#), with respect to a matter related to  
503 genetic testing and private genetic information, an insurer shall comply with the applicable  
504 provisions of [~~Title 26, Chapter 45~~] [Title 13, Chapter 60, Part 2, Genetic Testing and Procedure](#)  
505 [Privacy Act](#), including Section [~~26-45-104~~] [13-60-205](#).

506 Section 11. Section **31A-23a-402** is amended to read:

507 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**  
508 **discrimination -- Coercion or intimidation -- Restriction on choice.**

509 (1) (a) (i) Any of the following may not make or cause to be made any communication  
510 that contains false or misleading information, relating to an insurance product or contract, any  
511 insurer, or any licensee under this title, including information that is false or misleading  
512 because it is incomplete:

- 513 (A) a person who is or should be licensed under this title;
- 514 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);
- 515 (C) a person whose primary interest is as a competitor of a person licensed under this  
516 title; and
- 517 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

518 (ii) As used in this Subsection (1), "false or misleading information" includes:

- 519 (A) assuring the nonobligatory payment of future dividends or refunds of unused  
520 premiums in any specific or approximate amounts, but reporting fully and accurately past  
521 experience is not false or misleading information; and

- 522 (B) with intent to deceive a person examining it:
- 523 (I) filing a report;
- 524 (II) making a false entry in a record; or
- 525 (III) wilfully refraining from making a proper entry in a record.
- 526 (iii) A licensee under this title may not:
- 527 (A) use any business name, slogan, emblem, or related device that is misleading or
- 528 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee
- 529 already in business; or
- 530 (B) use any name, advertisement, or other insurance promotional material that would
- 531 cause a reasonable person to mistakenly believe that a state or federal government agency and
- 532 the Children's Health Insurance Program created in [~~Title 26, Chapter 40, Utah Children's~~
- 533 ~~Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program:
- 534 (I) is responsible for the insurance sales activities of the person;
- 535 (II) stands behind the credit of the person;
- 536 (III) guarantees any returns on insurance products of or sold by the person; or
- 537 (IV) is a source of payment of any insurance obligation of or sold by the person.
- 538 (iv) A person who is not an insurer may not assume or use any name that deceptively
- 539 implies or suggests that person is an insurer.
- 540 (v) A person other than persons licensed as health maintenance organizations under
- 541 Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term
- 542 "Health Maintenance Organization" or "HMO" in referring to itself.
- 543 (b) A licensee's violation creates a rebuttable presumption that the violation was also
- 544 committed by the insurer if:
- 545 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
- 546 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
- 547 insurer:
- 548 (A) that the licensee represents; or
- 549 (B) for whom the licensee processes claims; and
- 550 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
- 551 insurer.
- 552 (2) (a) A title insurer, individual title insurance producer, or agency title insurance

553 producer or any officer or employee of the title insurer, individual title insurance producer, or  
554 agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give,  
555 directly or indirectly, as an inducement to obtaining any title insurance business:

556 (i) any rebate, reduction, or abatement of any rate or charge made incident to the  
557 issuance of the title insurance;

558 (ii) any special favor or advantage not generally available to others;

559 (iii) any money or other consideration, except if approved under Section 31A-2-405; or

560 (iv) material inducement.

561 (b) "Charge made incident to the issuance of the title insurance" includes escrow  
562 charges, and any other services that are prescribed in rule by the Title and Escrow Commission  
563 after consultation with the commissioner and subject to Section 31A-2-404.

564 (c) An insured or any other person connected, directly or indirectly, with the  
565 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to  
566 in Subsection (2)(a), including:

567 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices  
568 and Licensing Act;

569 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices  
570 Act;

571 (iii) a builder;

572 (iv) an attorney; or

573 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

574 (3) (a) An insurer may not unfairly discriminate among policyholders by charging  
575 different premiums or by offering different terms of coverage, except on the basis of  
576 classifications related to the nature and the degree of the risk covered or the expenses involved.

577 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons  
578 insured under a group, blanket, or franchise policy, and the terms of those policies are not  
579 unfairly discriminatory merely because they are more favorable than in similar individual  
580 policies.

581 (4) (a) This Subsection (4) applies to:

582 (i) a person who is or should be licensed under this title;

583 (ii) an employee of that licensee or person who should be licensed;

584 (iii) a person whose primary interest is as a competitor of a person licensed under this  
585 title; and

586 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

587 (b) A person described in Subsection (4)(a) may not commit or enter into any  
588 agreement to participate in any act of boycott, coercion, or intimidation that:

589 (i) tends to produce:

590 (A) an unreasonable restraint of the business of insurance; or

591 (B) a monopoly in that business; or

592 (ii) results in an applicant purchasing or replacing an insurance contract.

593 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an  
594 insurer or licensee under this chapter, another person who is required to pay for insurance as a  
595 condition for the conclusion of a contract or other transaction or for the exercise of any right  
596 under a contract.

597 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the  
598 coverage selected on reasonable grounds.

599 (b) The form of corporate organization of an insurer authorized to do business in this  
600 state is not a reasonable ground for disapproval, and the commissioner may by rule specify  
601 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from  
602 declining an application for insurance.

603 (6) A person may not make any charge other than insurance premiums and premium  
604 financing charges for the protection of property or of a security interest in property, as a  
605 condition for obtaining, renewing, or continuing the financing of a purchase of the property or  
606 the lending of money on the security of an interest in the property.

607 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of  
608 agency to the principal on demand.

609 (b) A licensee whose license is suspended, limited, or revoked under Section  
610 [31A-2-308](#), [31A-23a-111](#), or [31A-23a-112](#) may not refuse or fail to return the license to the  
611 commissioner on demand.

612 (8) (a) A person may not engage in an unfair method of competition or any other unfair  
613 or deceptive act or practice in the business of insurance, as defined by the commissioner by  
614 rule, after a finding that the method of competition, the act, or the practice:

- 615 (i) is misleading;
- 616 (ii) is deceptive;
- 617 (iii) is unfairly discriminatory;
- 618 (iv) provides an unfair inducement; or
- 619 (v) unreasonably restrains competition.

620 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the  
621 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an  
622 unfair method of competition or unfair or deceptive act or practice after a finding that the  
623 method of competition, the act, or the practice:

- 624 (i) is misleading;
- 625 (ii) is deceptive;
- 626 (iii) is unfairly discriminatory;
- 627 (iv) provides an unfair inducement; or
- 628 (v) unreasonably restrains competition.

629 Section 12. Section 31A-23b-102 is amended to read:

630 **31A-23b-102. Definitions.**

631 As used in this chapter:

632 (1) "Enroll" and "enrollment" mean to:

- 633 (a) (i) obtain personally identifiable information about an individual; and
- 634 (ii) inform an individual about accident and health insurance plans or public programs  
635 offered on an exchange;

636 (b) solicit insurance; or

637 (c) submit to the exchange:

- 638 (i) personally identifiable information about an individual; and
- 639 (ii) an individual's selection of a particular accident and health insurance plan or public  
640 program offered on the exchange.

641 (2) "Navigator":

642 (a) means a person who facilitates enrollment in an exchange by offering to assist, or  
643 who advertises any services to assist, with:

- 644 (i) the selection of and enrollment in a qualified health plan or a public program  
645 offered on an exchange; or

646 (ii) applying for premium subsidies through an exchange; and  
647 (b) includes a person who is an in-person assister or a certified application counselor as  
648 described in federal regulations or guidance issued under PPACA.

649 (3) "Personally identifiable information" is as defined in 45 C.F.R. Sec. 155.260.

650 (4) "Public programs" means the state Medicaid program in [~~Title 26, Chapter 18,~~  
651 ~~Medical Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance,  
652 and [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9,  
653 Utah Children's Health Insurance Program.

654 (5) "Resident" is as defined by rule made by the commissioner in accordance with Title  
655 63G, Chapter 3, Utah Administrative Rulemaking Act.

656 (6) "Solicit" means the same as that term is defined in Section [31A-23a-102](#).

657 Section 13. Section **31A-23b-211** is amended to read:

658 **31A-23b-211. Exceptions to navigator licensing.**

659 (1) For purposes of this section:

660 (a) "Negotiate" is as defined in Section [31A-23a-102](#).

661 (b) "Sell" is as defined in Section [31A-23a-102](#).

662 (c) "Solicit" is as defined in Section [31A-23a-102](#).

663 (2) The commissioner may not require a license as a navigator of:

664 (a) a person who is employed by or contracts with:

665 (i) a health care facility that is licensed under [~~Title 26, Chapter 21, Health Care~~  
666 ~~Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility  
667 Licensing and Inspection, to assist an individual with enrollment in a public program or an  
668 application for premium subsidy; or

669 (ii) the state, a political subdivision of the state, an entity of a political subdivision of  
670 the state, or a public school district to assist an individual with enrollment in a public program  
671 or an application for premium subsidy;

672 (b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social  
673 Security Act which assists an individual with enrollment in a public program or an application  
674 for premium subsidy;

675 (c) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,  
676 Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of

677 authority to sell, solicit, or negotiate accident and health insurance plans;

678 (d) an officer, director, or employee of a navigator:

679 (i) who does not receive compensation or commission from an insurer issuing an

680 insurance contract, an agency administering a public program, an individual who enrolled in a

681 public program or insurance product, or an exchange; and

682 (ii) whose activities:

683 (A) are executive, administrative, managerial, clerical, or a combination thereof;

684 (B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the

685 enrollment in a public program offered through the exchange;

686 (C) are in the capacity of a special agent or agency supervisor assisting an insurance

687 producer or navigator;

688 (D) are limited to providing technical advice and assistance to a licensed insurance

689 producer or navigator; or

690 (E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment

691 in a public program;

692 (e) a person who does not sell, solicit, or negotiate insurance and is not directly or

693 indirectly compensated by an insurer issuing an insurance contract, an agency administering a

694 public program, an individual who enrolled in a public program or insurance product, or an

695 exchange, including:

696 (i) an employer, association, officer, director, employee, or trustee of an employee trust

697 plan who is engaged in the administration or operation of a program:

698 (A) of employee benefits for the employer's or association's own employees or the

699 employees of a subsidiary or affiliate of an employer or association; and

700 (B) that involves the use of insurance issued by an insurer or enrollment in a public

701 health plan on an exchange;

702 (ii) an employee of an insurer or organization employed by an insurer who is engaging

703 in the inspection, rating, or classification of risk, or the supervision of training of insurance

704 producers; or

705 (iii) an employee who counsels or advises the employee's employer with regard to the

706 insurance interests of the employer, or a subsidiary or business affiliate of the employer; and

707 (f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the

708 Indian Health Care Improvement Act, which assists a person with enrollment in a public  
709 program or an application for a premium subsidy.

710 (3) The exemption from licensure under Subsections (2)(a), (b), and (f) does not apply  
711 if a person described in Subsections (2)(a), (b), and (f) enrolls a person in a private insurance  
712 plan.

713 (4) The commissioner may by rule exempt a class of persons from the license  
714 requirement of Subsection 31A-23b-201(1) if:

715 (a) the functions performed by the class of persons do not require:

716 (i) special competence;

717 (ii) special trustworthiness; or

718 (iii) regulatory surveillance made possible by licensing; or

719 (b) other existing safeguards make regulation unnecessary.

720 Section 14. Section 31A-26-301.6 is amended to read:

721 **31A-26-301.6. Health care claims practices.**

722 (1) As used in this section:

723 (a) "Health care provider" means a person licensed to provide health care under:

724 (i) [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B,  
725 Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

726 (ii) Title 58, Occupations and Professions.

727 (b) "Insurer" means an admitted or authorized insurer, as defined in Section

728 31A-1-301, and includes:

729 (i) a health maintenance organization; and

730 (ii) a third party administrator that is subject to this title, provided that nothing in this  
731 section may be construed as requiring a third party administrator to use its own funds to pay  
732 claims that have not been funded by the entity for which the third party administrator is paying  
733 claims.

734 (c) "Provider" means a health care provider to whom an insurer is obligated to pay  
735 directly in connection with a claim by virtue of:

736 (i) an agreement between the insurer and the provider;

737 (ii) a health insurance policy or contract of the insurer; or

738 (iii) state or federal law.



739 (2) An insurer shall timely pay every valid insurance claim submitted by a provider in  
740 accordance with this section.

741 (3) (a) Except as provided in Subsection (4), within 30 days of the day on which the  
742 insurer receives a written claim, an insurer shall:

743 (i) pay the claim; or

744 (ii) deny the claim and provide a written explanation for the denial.

745 (b) (i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a)  
746 may be extended by 15 days if the insurer:

747 (A) determines that the extension is necessary due to matters beyond the control of the  
748 insurer; and

749 (B) before the end of the 30-day period described in Subsection (3)(a), notifies the  
750 provider and insured in writing of:

751 (I) the circumstances requiring the extension of time; and

752 (II) the date by which the insurer expects to pay the claim or deny the claim with a  
753 written explanation for the denial.

754 (ii) If an extension is necessary due to a failure of the provider or insured to submit the  
755 information necessary to decide the claim:

756 (A) the notice of extension required by this Subsection (3)(b) shall specifically describe  
757 the required information; and

758 (B) the insurer shall give the provider or insured at least 45 days from the day on which  
759 the provider or insured receives the notice before the insurer denies the claim for failure to  
760 provide the information requested in Subsection (3)(b)(ii)(A).

761 (4) (a) In the case of a claim for income replacement benefits, within 45 days of the day  
762 on which the insurer receives a written claim, an insurer shall:

763 (i) pay the claim; or

764 (ii) deny the claim and provide a written explanation of the denial.

765 (b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a)  
766 may be extended for 30 days if the insurer:

767 (i) determines that the extension is necessary due to matters beyond the control of the  
768 insurer; and

769 (ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies

770 the insured of:

771 (A) the circumstances requiring the extension of time; and

772 (B) the date by which the insurer expects to pay the claim or deny the claim with a  
773 written explanation for the denial.

774 (c) Subject to Subsections (4)(d) and (e), the time period for complying with  
775 Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the  
776 30-day extension period provided in Subsection (4)(b) ends if before the day on which the  
777 30-day extension period ends, the insurer:

778 (i) determines that due to matters beyond the control of the insurer a decision cannot be  
779 rendered within the 30-day extension period; and

780 (ii) notifies the insured of:

781 (A) the circumstances requiring the extension; and

782 (B) the date as of which the insurer expects to pay the claim or deny the claim with a  
783 written explanation for the denial.

784 (d) A notice of extension under this Subsection (4) shall specifically explain:

785 (i) the standards on which entitlement to a benefit is based; and

786 (ii) the unresolved issues that prevent a decision on the claim.

787 (e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of  
788 the insured to submit the information necessary to decide the claim:

789 (i) the notice of extension required by Subsection (4)(b) or (c) shall specifically  
790 describe the necessary information; and

791 (ii) the insurer shall give the insured at least 45 days from the day on which the insured  
792 receives the notice before the insurer denies the claim for failure to provide the information  
793 requested in Subsection (4)(b) or (c).

794 (5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or  
795 (4)(c), due to an insured or provider failing to submit information necessary to decide a claim,  
796 the period for making the benefit determination shall be tolled from the date on which the  
797 notification of the extension is sent to the insured or provider until the date on which the  
798 insured or provider responds to the request for additional information.

799 (6) An insurer shall pay all sums to the provider or insured that the insurer is obligated  
800 to pay on the claim, and provide a written explanation of the insurer's decision regarding any

801 part of the claim that is denied within 20 days of receiving the information requested under  
802 Subsection (3)(b), (4)(b), or (4)(c).

803 (7) (a) Whenever an insurer makes a payment to a provider on any part of a claim  
804 under this section, the insurer shall also send to the insured an explanation of benefits paid.

805 (b) Whenever an insurer denies any part of a claim under this section, the insurer shall  
806 also send to the insured:

807 (i) a written explanation of the part of the claim that was denied; and

808 (ii) notice of the adverse benefit determination review process established under  
809 Section [31A-22-629](#).

810 (c) This Subsection (7) does not apply to a person receiving benefits under the state  
811 Medicaid program as defined in Section [~~26-18-2~~] [26B-3-101](#), unless required by the  
812 Department of Health and Human Services or federal law.

813 (8) (a) A late fee shall be imposed on:

814 (i) an insurer that fails to timely pay a claim in accordance with this section; and

815 (ii) a provider that fails to timely provide information on a claim in accordance with  
816 this section.

817 (b) The late fee described in Subsection (8)(a) shall be determined by multiplying  
818 together:

819 (i) the total amount of the claim the insurer is obliged to pay;

820 (ii) the total number of days the response or the payment is late; and

821 (iii) 0.033% daily interest rate.

822 (c) Any late fee paid or collected under this Subsection (8) shall be separately  
823 identified on the documentation used by the insurer to pay the claim.

824 (d) For purposes of this Subsection (8), "late fee" does not include an amount that is  
825 less than \$1.

826 (9) Each insurer shall establish a review process to resolve claims-related disputes  
827 between the insurer and providers.

828 (10) An insurer or person representing an insurer may not engage in any unfair claim  
829 settlement practice with respect to a provider. Unfair claim settlement practices include:

830 (a) knowingly misrepresenting a material fact or the contents of an insurance policy in  
831 connection with a claim;

832 (b) failing to acknowledge and substantively respond within 15 days to any written  
833 communication from a provider relating to a pending claim;

834 (c) denying or threatening to deny the payment of a claim for any reason that is not  
835 clearly described in the insured's policy;

836 (d) failing to maintain a payment process sufficient to comply with this section;

837 (e) failing to maintain claims documentation sufficient to demonstrate compliance with  
838 this section;

839 (f) failing, upon request, to give to the provider written information regarding the  
840 specific rate and terms under which the provider will be paid for health care services;

841 (g) failing to timely pay a valid claim in accordance with this section as a means of  
842 influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to  
843 an unrelated claim, an undisputed part of a pending claim, or some other aspect of the  
844 contractual relationship;

845 (h) failing to pay the sum when required and as required under Subsection (8) when a  
846 violation has occurred;

847 (i) threatening to retaliate or actual retaliation against a provider for the provider  
848 applying this section;

849 (j) any material violation of this section; and

850 (k) any other unfair claim settlement practice established in rule or law.

851 (11) (a) The provisions of this section shall apply to each contract between an insurer  
852 and a provider for the duration of the contract.

853 (b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad  
854 faith insurance claim.

855 (c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer  
856 and a provider from including provisions in their contract that are more stringent than the  
857 provisions of this section.

858 (12) (a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the  
859 commissioner may conduct examinations to determine an insurer's level of compliance with  
860 this section and impose sanctions for each violation.

861 (b) The commissioner may adopt rules only as necessary to implement this section.

862 (c) The commissioner may establish rules to facilitate the exchange of electronic

863 confirmations when claims-related information has been received.

864 (d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules  
865 regarding the review process required by Subsection (9).

866 (13) Nothing in this section may be construed as limiting the collection rights of a  
867 provider under Section 31A-26-301.5.

868 (14) Nothing in this section may be construed as limiting the ability of an insurer to:

869 (a) recover any amount improperly paid to a provider or an insured:

870 (i) in accordance with Section 31A-31-103 or any other provision of state or federal  
871 law;

872 (ii) within 24 months of the amount improperly paid for a coordination of benefits  
873 error;

874 (iii) within 12 months of the amount improperly paid for any other reason not  
875 identified in Subsection (14)(a)(i) or (ii); or

876 (iv) within 36 months of the amount improperly paid when the improper payment was  
877 due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any  
878 other state or federal health care program;

879 (b) take any action against a provider that is permitted under the terms of the provider  
880 contract and not prohibited by this section;

881 (c) report the provider to a state or federal agency with regulatory authority over the  
882 provider for unprofessional, unlawful, or fraudulent conduct; or

883 (d) enter into a mutual agreement with a provider to resolve alleged violations of this  
884 section through mediation or binding arbitration.

885 (15) A health care provider may only seek recovery from the insurer for an amount  
886 improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

887 (16) (a) An insurer may offer the remittance of payment through a credit card or other  
888 similar arrangement.

889 (b) (i) A health care provider may elect not to receive remittance through a credit card  
890 or other similar arrangement.

891 (ii) An insurer:

892 (A) shall permit a health care provider's election described in Subsection (16)(b)(i) to  
893 apply to the health care provider's entire practice; and

894 (B) may not require a health care provider's election described in Subsection (16)(b)(i)  
895 to be made on a patient-by-patient basis.

896 (c) An insurer may not require a health care provider or insured to accept remittance  
897 through a credit card or other similar arrangement.

898 Section 15. Section **31A-45-402** is amended to read:

899 **31A-45-402. Alcohol and drug dependency treatment.**

900 (1) A managed care organization offering a health benefit plan providing coverage for  
901 alcohol or drug dependency treatment may require an inpatient facility to be licensed by:

902 (a) (i) the Department of Health and Human Services, under [~~Title 62A, Chapter 2,~~  
903 ~~Licensure of Programs and Facilities~~] Title 26B, Chapter 2, Part 1, Human Services Programs  
904 and Facilities; or

905 (ii) the Department of Health and Human Services; or

906 (b) for an inpatient facility located outside the state, a state agency similar to one  
907 described in Subsection (1)(a).

908 (2) For inpatient coverage provided pursuant to Subsection (1), a managed care  
909 organization may require an inpatient facility to be accredited by the following:

910 (a) the Joint Commission; and

911 (b) one other nationally recognized accrediting agency.

912 Section 16. Section **31A-45-501** is amended to read:

913 **31A-45-501. Access to health care providers.**

914 (1) As used in this section:

915 (a) "Class of health care provider" means a health care provider or a health care facility  
916 regulated by the state within the same professional, trade, occupational, or certification  
917 category established under Title 58, Occupations and Professions, or within the same facility  
918 licensure category established under [~~Title 26, Chapter 21, Health Care Facility Licensing and~~  
919 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

920 (b) "Covered health care services" or "covered services" means health care services for  
921 which an enrollee is entitled to receive under the terms of a managed care organization  
922 contract.

923 (c) "Credentialed staff member" means a health care provider with active staff  
924 privileges at an independent hospital or federally qualified health center.

925 (d) "Federally qualified health center" means as defined in the Social Security Act, 42  
926 U.S.C. Sec. 1395x.

927 (e) "Independent hospital" means a general acute hospital or a critical access hospital  
928 that:

929 (i) is either:

930 (A) located 20 miles or more from any other general acute hospital or critical access  
931 hospital; or

932 (B) licensed as of January 1, 2004;

933 (ii) is licensed pursuant to [~~Title 26, Chapter 21, Health Care Facility Licensing and~~  
934 ~~Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

935 (iii) is controlled by a board of directors of which 51% or more reside in the county  
936 where the hospital is located; and

937 (iv) (A) the hospital's board of directors is ultimately responsible for the policy and  
938 financial decisions of the hospital; or

939 (B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part,  
940 by an entity that owns or controls a health maintenance organization if the hospital is a  
941 contracting facility of the organization.

942 (f) "Noncontracting provider" means an independent hospital, federally qualified health  
943 center, or credentialed staff member that has not contracted with a managed care organization  
944 to provide health care services to enrollees of the managed care organization.

945 (2) Except for a managed care organization that is under the common ownership or  
946 control of an entity with a hospital located within 10 paved road miles of an independent  
947 hospital, a managed care organization shall pay for covered health care services rendered to an  
948 enrollee by an independent hospital, a credentialed staff member at an independent hospital, or  
949 a credentialed staff member at his local practice location if:

950 (a) the enrollee:

951 (i) lives or resides within 30 paved road miles of the independent hospital; or

952 (ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the  
953 independent hospital than a contracting hospital;

954 (b) the independent hospital is located prior to December 31, 2000 in a county with a  
955 population density of less than 100 people per square mile, or the independent hospital is

956 located in a county with a population density of less than 30 people per square mile; and

957 (c) the enrollee has complied with the prior authorization and utilization review  
958 requirements otherwise required by the managed care organization contract.

959 (3) A managed care organization shall pay for covered health care services rendered to  
960 an enrollee at a federally qualified health center if:

961 (a) the enrollee:

962 (i) lives or resides within 30 paved road miles of the federally qualified health center;

963 or

964 (ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the  
965 federally qualified health center than a contracting provider;

966 (b) the federally qualified health center is located in a county with a population density  
967 of less than 30 people per square mile; and

968 (c) the enrollee has complied with the prior authorization and utilization review  
969 requirements otherwise required by the managed care organization contract.

970 (4) (a) A managed care organization shall reimburse a noncontracting provider or the  
971 enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as the  
972 managed care organization pays to contracting providers under a noncapitated arrangement for  
973 comparable services.

974 (b) A managed care organization shall reimburse a federally qualified health center or  
975 the enrollee for covered services rendered pursuant to Subsection (3) a like amount as paid by  
976 the managed care organization under a noncapitated arrangement for comparable services to a  
977 contracting provider in the same class of health care providers as the provider who rendered the  
978 service.

979 (5) (a) A noncontracting independent hospital may not balance bill a patient when the  
980 managed care organization reimburses a noncontracting independent hospital or an enrollee in  
981 accordance with Subsection (4)(a).

982 (b) A noncontracting federally qualified health center may not balance bill a patient  
983 when the federally qualified health center or the enrollee receives reimbursement in accordance  
984 with Subsection (4)(b).

985 (6) A noncontracting provider may only refer an enrollee to another noncontracting  
986 provider so as to obligate the enrollee's managed care organization to pay for the resulting



987 services if:

988 (a) the noncontracting provider making the referral or the enrollee has received prior  
989 authorization from the organization for the referral; or

990 (b) the practice location of the noncontracting provider to whom the referral is made:

991 (i) is located in a county with a population density of less than 25 people per square  
992 mile; and

993 (ii) is within 30 paved road miles of:

994 (A) the place where the enrollee lives or resides; or

995 (B) the independent hospital or federally qualified health center at which the enrollee  
996 may receive covered services pursuant to Subsection (2) or (3).

997 (7) Notwithstanding this section, a managed care organization may contract directly  
998 with an independent hospital, federally qualified health center, or credentialed staff member.

999 (8) (a) A managed care organization that violates any provision of this section is  
1000 subject to sanctions as determined by the commissioner in accordance with Section [31A-2-308](#).

1001 (b) Violations of this section include:

1002 (i) failing to provide the notice required by Subsection (8)(d) by placing the notice in  
1003 any managed care organization's provider list that is supplied to enrollees, including any  
1004 website maintained by the managed care organization;

1005 (ii) failing to provide notice of an enrollee's rights under this section when:

1006 (A) an enrollee makes personal contact with the managed care organization by  
1007 telephone, electronic transaction, or in person; and

1008 (B) the enrollee inquires about the enrollee's rights to access an independent hospital or  
1009 federally qualified health center; and

1010 (iii) refusing to reprocess or reconsider a claim, initially denied by the managed care  
1011 organization, when the provisions of this section apply to the claim.

1012 (c) The commissioner shall, pursuant to Chapter 2, Part 2, Duties and Powers of  
1013 Commissioner:

1014 (i) adopt rules as necessary to implement this section;

1015 (ii) identify in rule:

1016 (A) the counties with a population density of less than 100 people per square mile;

1017 (B) independent hospitals as defined in Subsection (1)(e); and

1018 (C) federally qualified health centers as defined in Subsection (1)(d).

1019 (d) (i) A managed care organization shall:

1020 (A) use the information developed by the commissioner under Subsection (8)(c) to  
1021 identify the rural counties, independent hospitals, and federally qualified health centers that are  
1022 located in the managed care organization's service area; and

1023 (B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required  
1024 in Subsection (8)(d)(ii).

1025 (ii) The managed care organization shall provide the following notice, in bold type, to  
1026 enrollees as specified under Subsection (8)(b)(i), and shall keep the notice current:

1027 "You may be entitled to coverage for health care services from the following  
1028 noncontracted providers if you live or reside within 30 paved road miles of the listed providers,  
1029 or if you live or reside in closer proximity to the listed providers than to your contracted  
1030 providers:

1031 This list may change periodically, please check on our website or call for verification.  
1032 Please be advised that if you choose a noncontracted provider you will be responsible for any  
1033 charges not covered by your health insurance plan.

1034 If you have questions concerning your rights to see a provider on this list you may  
1035 contact your managed care organization at \_\_\_\_\_. If the managed care organization does  
1036 not resolve your problem, you may contact the Office of Consumer Health Assistance in the  
1037 Insurance Department, toll free."

1038 (e) A person whose interests are affected by an alleged violation of this section may  
1039 contact the Office of Consumer Health Assistance and request assistance, or file a complaint as  
1040 provided in Section [31A-2-216](#).

1041 Section 17. Section **32B-1-102** is amended to read:

1042 **32B-1-102. Definitions.**

1043 As used in this title:

1044 (1) "Airport lounge" means a business location:

1045 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

1046 (b) that is located at an international airport.

1047 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

1048 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

- 1049 (3) "Alcoholic beverage" means the following:
- 1050 (a) beer; or
- 1051 (b) liquor.
- 1052 (4) (a) "Alcoholic product" means a product that:
- 1053 (i) contains at least .5% of alcohol by volume; and
- 1054 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 1055 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 1056 in an amount equal to or greater than .5% of alcohol by volume.
- 1057 (b) "Alcoholic product" includes an alcoholic beverage.
- 1058 (c) "Alcoholic product" does not include any of the following common items that
- 1059 otherwise come within the definition of an alcoholic product:
- 1060 (i) except as provided in Subsection (4)(d), an extract;
- 1061 (ii) vinegar;
- 1062 (iii) preserved nonintoxicating cider;
- 1063 (iv) essence;
- 1064 (v) tincture;
- 1065 (vi) food preparation; or
- 1066 (vii) an over-the-counter medicine.
- 1067 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 1068 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1069 (5) "Alcohol training and education seminar" means a seminar that is:
- 1070 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1071 (b) described in Section [~~62A-15-401~~] [26B-5-205](#).
- 1072 (6) "Arena" means an enclosed building:
- 1073 (a) that is managed by:
- 1074 (i) the same person who owns the enclosed building;
- 1075 (ii) a person who has a majority interest in each person who owns or manages a space
- 1076 in the enclosed building; or
- 1077 (iii) a person who has authority to direct or exercise control over the management or
- 1078 policy of each person who owns or manages a space in the enclosed building;
- 1079 (b) that operates as a venue; and

- 1080 (c) that has an occupancy capacity of at least 12,500.
- 1081 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail  
1082 License Act, and Chapter 8c, Arena License Act.
- 1083 (8) "Banquet" means an event:
- 1084 (a) that is a private event or a privately sponsored event;
- 1085 (b) that is held at one or more designated locations approved by the commission in or  
1086 on the premises of:
- 1087 (i) a hotel;
- 1088 (ii) a resort facility;
- 1089 (iii) a sports center;
- 1090 (iv) a convention center;
- 1091 (v) a performing arts facility; or
- 1092 (vi) an arena;
- 1093 (c) for which there is a contract:
- 1094 (i) between a person operating a facility listed in Subsection (8)(b) and another person  
1095 that has common ownership of less than 20% with the person operating the facility; and
- 1096 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to  
1097 provide an alcoholic product at the event; and
- 1098 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1099 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter  
1100 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1101 (b) "Bar establishment license" includes:
- 1102 (i) a dining club license;
- 1103 (ii) an equity license;
- 1104 (iii) a fraternal license; or
- 1105 (iv) a bar license.
- 1106 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License  
1107 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1108 (11) (a) "Beer" means a product that:
- 1109 (i) contains:
- 1110 (A) at least .5% of alcohol by volume; and

- 1111 (B) no more than 5% of alcohol by volume or 4% by weight;
- 1112 (ii) is obtained by fermentation, infusion, or decoction of:
- 1113 (A) malt; or
- 1114 (B) a malt substitute; and
- 1115 (iii) is clearly marketed, labeled, and identified as:
- 1116 (A) beer;
- 1117 (B) ale;
- 1118 (C) porter;
- 1119 (D) stout;
- 1120 (E) lager;
- 1121 (F) a malt;
- 1122 (G) a malted beverage; or
- 1123 (H) seltzer.
- 1124 (b) "Beer" may contain:
- 1125 (i) hops extract; or
- 1126 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient.
- 1127 (c) "Beer" does not include:
- 1128 (i) a flavored malt beverage;
- 1129 (ii) a product that contains alcohol derived from:
- 1130 (A) spirituous liquor; or
- 1131 (B) wine; or
- 1132 (iii) a product that contains an additive masking or altering a physiological effect of
- 1133 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1134 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 1135 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1136 (13) "Beer retailer" means a business that:
- 1137 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 1138 for consumption on or off the business premises; and
- 1139 (b) is licensed as:
- 1140 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 1141 Retailer Local Authority; or

1142 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and  
1143 Chapter 6, Part 7, On-Premise Beer Retailer License.

1144 (14) "Beer wholesaling license" means a license:

1145 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

1146 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more  
1147 retail licensees or off-premise beer retailers.

1148 (15) "Billboard" means a public display used to advertise, including:

1149 (a) a light device;

1150 (b) a painting;

1151 (c) a drawing;

1152 (d) a poster;

1153 (e) a sign;

1154 (f) a signboard; or

1155 (g) a scoreboard.

1156 (16) "Brewer" means a person engaged in manufacturing:

1157 (a) beer;

1158 (b) heavy beer; or

1159 (c) a flavored malt beverage.

1160 (17) "Brewery manufacturing license" means a license issued in accordance with  
1161 Chapter 11, Part 5, Brewery Manufacturing License.

1162 (18) "Certificate of approval" means a certificate of approval obtained from the  
1163 department under Section [32B-11-201](#).

1164 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by  
1165 a bus company to a group of persons pursuant to a common purpose:

1166 (a) under a single contract;

1167 (b) at a fixed charge in accordance with the bus company's tariff; and

1168 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other  
1169 motor vehicle, and a driver to travel together to one or more specified destinations.

1170 (20) "Church" means a building:

1171 (a) set apart for worship;

1172 (b) in which religious services are held;

- 1173 (c) with which clergy is associated; and
- 1174 (d) that is tax exempt under the laws of this state.
- 1175 (21) "Commission" means the Alcoholic Beverage Services Commission created in
- 1176 Section [32B-2-201](#).
- 1177 (22) "Commissioner" means a member of the commission.
- 1178 (23) "Community location" means:
- 1179 (a) a public or private school;
- 1180 (b) a church;
- 1181 (c) a public library;
- 1182 (d) a public playground; or
- 1183 (e) a public park.
- 1184 (24) "Community location governing authority" means:
- 1185 (a) the governing body of the community location; or
- 1186 (b) if the commission does not know who is the governing body of a community
- 1187 location, a person who appears to the commission to have been given on behalf of the
- 1188 community location the authority to prohibit an activity at the community location.
- 1189 (25) "Container" means a receptacle that contains an alcoholic product, including:
- 1190 (a) a bottle;
- 1191 (b) a vessel; or
- 1192 (c) a similar item.
- 1193 (26) "Controlled group of manufacturers" means as the commission defines by rule
- 1194 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1195 (27) "Convention center" means a facility that is:
- 1196 (a) in total at least 30,000 square feet; and
- 1197 (b) otherwise defined as a "convention center" by the commission by rule.
- 1198 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 1199 where seating is provided to a patron for service of food.
- 1200 (b) "Counter" does not include a dispensing structure.
- 1201 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1202 (30) "Department" means the Department of Alcoholic Beverage Services created in
- 1203 Section [32B-2-203](#).

- 1204 (31) "Department compliance officer" means an individual who is:  
1205 (a) an auditor or inspector; and  
1206 (b) employed by the department.
- 1207 (32) "Department sample" means liquor that is placed in the possession of the  
1208 department for testing, analysis, and sampling.
- 1209 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail  
1210 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1211 commission as a dining club license.
- 1212 (34) "Director," unless the context requires otherwise, means the director of the  
1213 department.
- 1214 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this  
1215 title:  
1216 (a) against a person subject to administrative action; and  
1217 (b) that is brought on the basis of a violation of this title.
- 1218 (36) (a) Subject to Subsection (36)(b), "dispense" means:  
1219 (i) drawing an alcoholic product; and  
1220 (ii) using the alcoholic product at the location from which it was drawn to mix or  
1221 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1222 (b) The definition of "dispense" in this Subsection (36) applies only to:  
1223 (i) a full-service restaurant license;  
1224 (ii) a limited-service restaurant license;  
1225 (iii) a reception center license;  
1226 (iv) a beer-only restaurant license;  
1227 (v) a bar license;  
1228 (vi) an on-premise beer retailer;  
1229 (vii) an airport lounge license;  
1230 (viii) an on-premise banquet license; and  
1231 (ix) a hospitality amenity license.
- 1232 (37) "Dispensing structure" means a surface or structure on a licensed premises:  
1233 (a) where an alcoholic product is dispensed; or  
1234 (b) from which an alcoholic product is served.



1235 (38) "Distillery manufacturing license" means a license issued in accordance with  
1236 Chapter 11, Part 4, Distillery Manufacturing License.

1237 (39) "Distressed merchandise" means an alcoholic product in the possession of the  
1238 department that is saleable, but for some reason is unappealing to the public.

1239 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail  
1240 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1241 commission as an equity license.

1242 (41) "Event permit" means:

1243 (a) a single event permit; or

1244 (b) a temporary beer event permit.

1245 (42) "Exempt license" means a license exempt under Section 32B-1-201 from being  
1246 considered in determining the total number of retail licenses that the commission may issue at  
1247 any time.

1248 (43) (a) "Flavored malt beverage" means a beverage:

1249 (i) that contains at least .5% alcohol by volume;

1250 (ii) for which the producer is required to file a formula for approval with the federal  
1251 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage  
1252 is treated by processing, filtration, or another method of manufacture that is not generally  
1253 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt  
1254 liquor; and

1255 (iii) for which the producer is required to file a formula for approval with the federal  
1256 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage  
1257 includes an ingredient containing alcohol.

1258 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1259 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail  
1260 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1261 commission as a fraternal license.

1262 (45) "Full-service restaurant license" means a license issued in accordance with  
1263 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1264 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual  
1265 an alcoholic product, by sale or otherwise.

- 1266 (b) "Furnish" includes to:
- 1267 (i) serve;
- 1268 (ii) deliver; or
- 1269 (iii) otherwise make available.
- 1270 (47) "Guest" means an individual who meets the requirements of Subsection
- 1271 [32B-6-407\(9\)](#).
- 1272 (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- 1273 (49) "Health care practitioner" means:
- 1274 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1275 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1276 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1277 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 1278 Act;
- 1279 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1280 Nurse Practice Act;
- 1281 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1282 Practice Act;
- 1283 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1284 Therapy Practice Act;
- 1285 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1286 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1287 Professional Practice Act;
- 1288 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1289 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 1290 Practice Act;
- 1291 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1292 Hygienist Practice Act; and
- 1293 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
- 1294 Assistant Act.
- 1295 (50) (a) "Heavy beer" means a product that:
- 1296 (i) contains more than 5% alcohol by volume; and

- 1297 (ii) is obtained by fermentation, infusion, or decoction of:  
1298 (A) malt; or  
1299 (B) a malt substitute.
- 1300 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1301 (51) "Hospitality amenity license" means a license issued in accordance with Chapter  
1302 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1303 (52) (a) "Hotel" means a commercial lodging establishment that:  
1304 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;  
1305 (ii) is capable of hosting conventions, conferences, and food and beverage functions  
1306 under a banquet contract; and  
1307 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete  
1308 meals;  
1309 (B) has at least 1,000 square feet of function space consisting of meeting or dining  
1310 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or  
1311 (C) if the establishment is located in a small or unincorporated locality, has an  
1312 appropriate amount of function space consisting of meeting or dining rooms that can be  
1313 reserved for private use under a banquet contract, as determined by the commission.
- 1314 (b) "Hotel" includes a commercial lodging establishment that:  
1315 (i) meets the requirements under Subsection (52)(a); and  
1316 (ii) has one or more privately owned dwelling units.
- 1317 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail  
1318 License Act, and Chapter 8b, Hotel License Act.
- 1319 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,  
1320 Part 8, Identification Card Act.
- 1321 (55) "Industry representative" means an individual who is compensated by salary,  
1322 commission, or other means for representing and selling an alcoholic product of a  
1323 manufacturer, supplier, or importer of liquor.
- 1324 (56) "Industry representative sample" means liquor that is placed in the possession of  
1325 the department for testing, analysis, and sampling by a local industry representative on the  
1326 premises of the department to educate the local industry representative of the quality and  
1327 characteristics of the product.

1328 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing  
1329 of an alcoholic product is prohibited by:

- 1330 (a) law; or
- 1331 (b) court order.

1332 (58) "International airport" means an airport:

- 1333 (a) with a United States Customs and Border Protection office on the premises of the  
1334 airport; and
- 1335 (b) at which international flights may enter and depart.

1336 (59) "Intoxicated" means that a person:

1337 (a) is significantly impaired as to the person's mental or physical functions as a result of  
1338 the use of:

- 1339 (i) an alcoholic product;
- 1340 (ii) a controlled substance;
- 1341 (iii) a substance having the property of releasing toxic vapors; or
- 1342 (iv) a combination of Subsections (59)(a)(i) through (iii); and

1343 (b) exhibits plain and easily observed outward manifestations of behavior or physical  
1344 signs produced by the overconsumption of an alcoholic product.

1345 (60) "Investigator" means an individual who is:

- 1346 (a) a department compliance officer; or
- 1347 (b) a nondepartment enforcement officer.

1348 (61) "License" means:

- 1349 (a) a retail license;
- 1350 (b) a sublicense;
- 1351 (c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer

1352 State License;

1353 (d) a license issued in accordance with Chapter 11, Manufacturing and Related

1354 Licenses Act;

1355 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

1356 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

1357 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

1358 (62) "Licensee" means a person who holds a license.

1359 (63) "Limited-service restaurant license" means a license issued in accordance with  
1360 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

1361 (64) "Limousine" means a motor vehicle licensed by the state or a local authority, other  
1362 than a bus or taxicab:

1363 (a) in which the driver and a passenger are separated by a partition, glass, or other  
1364 barrier;

1365 (b) that is provided by a business entity to one or more individuals at a fixed charge in  
1366 accordance with the business entity's tariff; and

1367 (c) to give the one or more individuals the exclusive use of the limousine and a driver  
1368 to travel to one or more specified destinations.

1369 (65) (a) (i) "Liquor" means a liquid that:

1370 (A) is:

1371 (I) alcohol;

1372 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

1373 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

1374 (IV) other drink or drinkable liquid; and

1375 (B) (I) contains at least .5% alcohol by volume; and

1376 (II) is suitable to use for beverage purposes.

1377 (ii) "Liquor" includes:

1378 (A) heavy beer;

1379 (B) wine; and

1380 (C) a flavored malt beverage.

1381 (b) "Liquor" does not include beer.

1382 (66) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).

1383 (67) "Liquor transport license" means a license issued in accordance with Chapter 17,  
1384 Liquor Transport License Act.

1385 (68) "Liquor warehousing license" means a license that is issued:

1386 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

1387 (b) to a person, other than a licensed manufacturer, who engages in the importation for  
1388 storage, sale, or distribution of liquor regardless of amount.

1389 (69) "Local authority" means:

1390 (a) for premises that are located in an unincorporated area of a county, the governing  
1391 body of a county;

1392 (b) for premises that are located in an incorporated city, town, or metro township, the  
1393 governing body of the city, town, or metro township; or

1394 (c) for premises that are located in a project area as defined in Section 63H-1-102 and  
1395 in a project area plan adopted by the Military Installation Development Authority under Title  
1396 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation  
1397 Development Authority.

1398 (70) "Lounge or bar area" is as defined by rule made by the commission.

1399 (71) "Malt substitute" means:

1400 (a) rice;

1401 (b) grain;

1402 (c) bran;

1403 (d) glucose;

1404 (e) sugar; or

1405 (f) molasses.

1406 (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or  
1407 otherwise make an alcoholic product for personal use or for sale or distribution to others.

1408 (73) "Member" means an individual who, after paying regular dues, has full privileges  
1409 in an equity licensee or fraternal licensee.

1410 (74) (a) "Military installation" means a base, air field, camp, post, station, yard, center,  
1411 or homeport facility for a ship:

1412 (i) (A) under the control of the United States Department of Defense; or

1413 (B) of the National Guard;

1414 (ii) that is located within the state; and

1415 (iii) including a leased facility.

1416 (b) "Military installation" does not include a facility used primarily for:

1417 (i) civil works;

1418 (ii) a rivers and harbors project; or

1419 (iii) a flood control project.

1420 (75) "Minibar" means an area of a hotel guest room where one or more alcoholic

1421 products are kept and offered for self-service sale or consumption.

1422 (76) "Minor" means an individual under 21 years old.

1423 (77) "Nondepartment enforcement agency" means an agency that:

1424 (a) (i) is a state agency other than the department; or

1425 (ii) is an agency of a county, city, town, or metro township; and

1426 (b) has a responsibility to enforce one or more provisions of this title.

1427 (78) "Nondepartment enforcement officer" means an individual who is:

1428 (a) a peace officer, examiner, or investigator; and

1429 (b) employed by a nondepartment enforcement agency.

1430 (79) (a) "Off-premise beer retailer" means a beer retailer who is:

1431 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

1432 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's

1433 premises.

1434 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

1435 (80) "Off-premise beer retailer state license" means a state license issued in accordance  
1436 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

1437 (81) "On-premise banquet license" means a license issued in accordance with Chapter  
1438 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

1439 (82) "On-premise beer retailer" means a beer retailer who is:

1440 (a) authorized to sell, offer for sale, or furnish beer under a license issued in  
1441 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer  
1442 Retailer License; and

1443 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's  
1444 premises:

1445 (i) regardless of whether the beer retailer sells beer for consumption off the licensed  
1446 premises; and

1447 (ii) on and after March 1, 2012, operating:

1448 (A) as a tavern; or

1449 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).

1450 (83) "Opaque" means impenetrable to sight.

1451 (84) "Package agency" means a retail liquor location operated:

- 1452 (a) under an agreement with the department; and
- 1453 (b) by a person:
  - 1454 (i) other than the state; and
  - 1455 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
  - 1456 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1457 (85) "Package agent" means a person who holds a package agency.
- 1458 (86) "Patron" means an individual to whom food, beverages, or services are sold,
- 1459 offered for sale, or furnished, or who consumes an alcoholic product including:
  - 1460 (a) a customer;
  - 1461 (b) a member;
  - 1462 (c) a guest;
  - 1463 (d) an attendee of a banquet or event;
  - 1464 (e) an individual who receives room service;
  - 1465 (f) a resident of a resort; or
  - 1466 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
  - 1467 license.
- 1468 (87) (a) "Performing arts facility" means a multi-use performance space that:
  - 1469 (i) is primarily used to present various types of performing arts, including dance,
  - 1470 music, and theater;
  - 1471 (ii) contains over 2,500 seats;
  - 1472 (iii) is owned and operated by a governmental entity; and
  - 1473 (iv) is located in a city of the first class.
- 1474 (b) "Performing arts facility" does not include a space that is used to present sporting
- 1475 events or sporting competitions.
- 1476 (88) "Permittee" means a person issued a permit under:
  - 1477 (a) Chapter 9, Event Permit Act; or
  - 1478 (b) Chapter 10, Special Use Permit Act.
- 1479 (89) "Person subject to administrative action" means:
  - 1480 (a) a licensee;
  - 1481 (b) a permittee;
  - 1482 (c) a manufacturer;



- 1483 (d) a supplier;
- 1484 (e) an importer;
- 1485 (f) one of the following holding a certificate of approval:
- 1486 (i) an out-of-state brewer;
- 1487 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 1488 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1489 (g) staff of:
- 1490 (i) a person listed in Subsections (89)(a) through (f); or
- 1491 (ii) a package agent.
- 1492 (90) "Premises" means a building, enclosure, or room used in connection with the
- 1493 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1494 unless otherwise defined in this title or rules made by the commission.
- 1495 (91) "Prescription" means an order issued by a health care practitioner when:
- 1496 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1497 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1498 (b) the order is made in the course of that health care practitioner's professional
- 1499 practice; and
- 1500 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1501 (92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1502 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1503 (93) "Principal license" means:
- 1504 (a) a resort license;
- 1505 (b) a hotel license; or
- 1506 (c) an arena license.
- 1507 (94) (a) "Private event" means a specific social, business, or recreational event:
- 1508 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 1509 group; and
- 1510 (ii) that is limited in attendance to people who are specifically designated and their
- 1511 guests.
- 1512 (b) "Private event" does not include an event to which the general public is invited,
- 1513 whether for an admission fee or not.

1514 (95) "Privately sponsored event" means a specific social, business, or recreational  
1515 event:

1516 (a) that is held in or on the premises of an on-premise banquet licensee; and  
1517 (b) to which entry is restricted by an admission fee.

1518 (96) (a) "Proof of age" means:

1519 (i) an identification card;

1520 (ii) an identification that:

1521 (A) is substantially similar to an identification card;

1522 (B) is issued in accordance with the laws of a state other than Utah in which the  
1523 identification is issued;

1524 (C) includes date of birth; and

1525 (D) has a picture affixed;

1526 (iii) a valid driver license certificate that:

1527 (A) includes date of birth;

1528 (B) has a picture affixed; and

1529 (C) is issued:

1530 (I) under Title 53, Chapter 3, Uniform Driver License Act;

1531 (II) in accordance with the laws of the state in which it is issued; or

1532 (III) in accordance with federal law by the United States Department of State;

1533 (iv) a military identification card that:

1534 (A) includes date of birth; and

1535 (B) has a picture affixed; or

1536 (v) a valid passport.

1537 (b) "Proof of age" does not include a driving privilege card issued in accordance with  
1538 Section [53-3-207](#).

1539 (97) "Provisions applicable to a sublicense" means:

1540 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service  
1541 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

1542 (b) for a limited-service restaurant sublicense, the provisions applicable to a  
1543 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

1544 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment

1545 license under Chapter 6, Part 4, Bar Establishment License;

1546 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise  
1547 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

1548 (e) for an on-premise beer retailer sublicense, the provisions applicable to an  
1549 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

1550 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only  
1551 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

1552 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity  
1553 license under Chapter 6, Part 10, Hospitality Amenity License; and

1554 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,  
1555 Part 2, Spa Sublicense.

1556 (98) (a) "Public building" means a building or permanent structure that is:

1557 (i) owned or leased by:

1558 (A) the state; or

1559 (B) a local government entity; and

1560 (ii) used for:

1561 (A) public education;

1562 (B) transacting public business; or

1563 (C) regularly conducting government activities.

1564 (b) "Public building" does not include a building owned by the state or a local  
1565 government entity when the building is used by a person, in whole or in part, for a proprietary  
1566 function.

1567 (99) "Public conveyance" means a conveyance that the public or a portion of the public  
1568 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or  
1569 other public conveyance.

1570 (100) "Reception center" means a business that:

1571 (a) operates facilities that are at least 5,000 square feet; and

1572 (b) has as its primary purpose the leasing of the facilities described in Subsection  
1573 (100)(a) to a third party for the third party's event.

1574 (101) "Reception center license" means a license issued in accordance with Chapter 5,  
1575 Retail License Act, and Chapter 6, Part 8, Reception Center License.

- 1576 (102) (a) "Record" means information that is:
- 1577 (i) inscribed on a tangible medium; or
- 1578 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1579 (b) "Record" includes:
- 1580 (i) a book;
- 1581 (ii) a book of account;
- 1582 (iii) a paper;
- 1583 (iv) a contract;
- 1584 (v) an agreement;
- 1585 (vi) a document; or
- 1586 (vii) a recording in any medium.
- 1587 (103) "Residence" means a person's principal place of abode within Utah.
- 1588 (104) "Resident," in relation to a resort, means the same as that term is defined in
- 1589 Section [32B-8-102](#).
- 1590 (105) "Resort" means the same as that term is defined in Section [32B-8-102](#).
- 1591 (106) "Resort facility" is as defined by the commission by rule.
- 1592 (107) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 1593 License Act, and Chapter 8, Resort License Act.
- 1594 (108) "Responsible alcohol service plan" means a written set of policies and
- 1595 procedures that outlines measures to prevent employees from:
- 1596 (a) over-serving alcoholic beverages to customers;
- 1597 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
- 1598 intoxicated; and
- 1599 (c) serving alcoholic beverages to minors.
- 1600 (109) "Restaurant" means a business location:
- 1601 (a) at which a variety of foods are prepared;
- 1602 (b) at which complete meals are served; and
- 1603 (c) that is engaged primarily in serving meals.
- 1604 (110) "Restaurant license" means one of the following licenses issued under this title:
- 1605 (a) a full-service restaurant license;
- 1606 (b) a limited-service restaurant license; or

- 1607 (c) a beer-only restaurant license.
- 1608 (111) "Retail license" means one of the following licenses issued under this title:
- 1609 (a) a full-service restaurant license;
- 1610 (b) a master full-service restaurant license;
- 1611 (c) a limited-service restaurant license;
- 1612 (d) a master limited-service restaurant license;
- 1613 (e) a bar establishment license;
- 1614 (f) an airport lounge license;
- 1615 (g) an on-premise banquet license;
- 1616 (h) an on-premise beer license;
- 1617 (i) a reception center license;
- 1618 (j) a beer-only restaurant license;
- 1619 (k) a hospitality amenity license;
- 1620 (l) a resort license;
- 1621 (m) a hotel license; or
- 1622 (n) an arena license.
- 1623 (112) "Room service" means furnishing an alcoholic product to a person in a guest
- 1624 room or privately owned dwelling unit of a:
- 1625 (a) hotel; or
- 1626 (b) resort facility.
- 1627 (113) (a) "School" means a building in which any part is used for more than three
- 1628 hours each weekday during a school year as a public or private:
- 1629 (i) elementary school;
- 1630 (ii) secondary school; or
- 1631 (iii) kindergarten.
- 1632 (b) "School" does not include:
- 1633 (i) a nursery school;
- 1634 (ii) a day care center;
- 1635 (iii) a trade and technical school;
- 1636 (iv) a preschool; or
- 1637 (v) a home school.

1638 (114) "Secondary flavoring ingredient" means any spirituous liquor added to a  
1639 beverage for additional flavoring that is different in type, flavor, or brand from the primary  
1640 spirituous liquor in the beverage.

1641 (115) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for  
1642 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,  
1643 delivered for value, or by a means or under a pretext is promised or obtained, whether done by  
1644 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules  
1645 made by the commission.

1646 (116) "Serve" means to place an alcoholic product before an individual.

1647 (117) "Sexually oriented entertainer" means a person who while in a state of  
1648 seminudity appears at or performs:

1649 (a) for the entertainment of one or more patrons;

1650 (b) on the premises of:

1651 (i) a bar licensee; or

1652 (ii) a tavern;

1653 (c) on behalf of or at the request of the licensee described in Subsection (117)(b);

1654 (d) on a contractual or voluntary basis; and

1655 (e) whether or not the person is designated as:

1656 (i) an employee;

1657 (ii) an independent contractor;

1658 (iii) an agent of the licensee; or

1659 (iv) a different type of classification.

1660 (118) "Shared seating area" means the licensed premises of two or more restaurant  
1661 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in  
1662 accordance with Subsection [32B-5-207\(3\)](#).

1663 (119) "Single event permit" means a permit issued in accordance with Chapter 9, Part  
1664 3, Single Event Permit.

1665 (120) "Small brewer" means a brewer who manufactures less than 60,000 barrels of  
1666 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

1667 (a) if the brewer is part of a controlled group of manufacturers, including the combined  
1668 volume totals of production for all breweries that constitute the controlled group of

- 1669 manufacturers; and
- 1670 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
- 1671 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
- 1672 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1673 Rulemaking Act; and
- 1674 (ii) does not sell for consumption as, or in, a beverage.
- 1675 (121) "Small or unincorporated locality" means:
- 1676 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- 1677 (b) a town, as classified under Section 10-2-301; or
- 1678 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
- 1679 under Section 17-50-501.
- 1680 (122) "Spa sublicense" means a sublicense:
- 1681 (a) to a resort license or hotel license; and
- 1682 (b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.
- 1683 (123) "Special use permit" means a permit issued in accordance with Chapter 10,
- 1684 Special Use Permit Act.
- 1685 (124) (a) "Spirituous liquor" means liquor that is distilled.
- 1686 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 1687 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 1688 (125) "Sports center" is as defined by the commission by rule.
- 1689 (126) (a) "Staff" means an individual who engages in activity governed by this title:
- 1690 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 1691 holder;
- 1692 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 1693 certificate holder; or
- 1694 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 1695 or certificate holder.
- 1696 (b) "Staff" includes:
- 1697 (i) an officer;
- 1698 (ii) a director;
- 1699 (iii) an employee;

- 1700 (iv) personnel management;
- 1701 (v) an agent of the licensee, including a managing agent;
- 1702 (vi) an operator; or
- 1703 (vii) a representative.
- 1704 (127) "State of nudity" means:
- 1705 (a) the appearance of:
- 1706 (i) the nipple or areola of a female human breast;
- 1707 (ii) a human genital;
- 1708 (iii) a human pubic area; or
- 1709 (iv) a human anus; or
- 1710 (b) a state of dress that fails to opaquely cover:
- 1711 (i) the nipple or areola of a female human breast;
- 1712 (ii) a human genital;
- 1713 (iii) a human pubic area; or
- 1714 (iv) a human anus.
- 1715 (128) "State of seminudity" means a state of dress in which opaque clothing covers no
- 1716 more than:
- 1717 (a) the nipple and areola of the female human breast in a shape and color other than the
- 1718 natural shape and color of the nipple and areola; and
- 1719 (b) the human genitals, pubic area, and anus:
- 1720 (i) with no less than the following at its widest point:
- 1721 (A) four inches coverage width in the front of the human body; and
- 1722 (B) five inches coverage width in the back of the human body; and
- 1723 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 1724 (129) (a) "State store" means a facility for the sale of packaged liquor:
- 1725 (i) located on premises owned or leased by the state; and
- 1726 (ii) operated by a state employee.
- 1727 (b) "State store" does not include:
- 1728 (i) a package agency;
- 1729 (ii) a licensee; or
- 1730 (iii) a permittee.



1731 (130) (a) "Storage area" means an area on licensed premises where the licensee stores  
1732 an alcoholic product.

1733 (b) "Store" means to place or maintain in a location an alcoholic product.

1734 (131) "Sublicense" means:

1735 (a) any of the following licenses issued as a subordinate license to, and contingent on  
1736 the issuance of, a principal license:

1737 (i) a full-service restaurant license;

1738 (ii) a limited-service restaurant license;

1739 (iii) a bar establishment license;

1740 (iv) an on-premise banquet license;

1741 (v) an on-premise beer retailer license;

1742 (vi) a beer-only restaurant license; or

1743 (vii) a hospitality amenity license; or

1744 (b) a spa sublicense.

1745 (132) "Supplier" means a person who sells an alcoholic product to the department.

1746 (133) "Tavern" means an on-premise beer retailer who is:

1747 (a) issued a license by the commission in accordance with Chapter 5, Retail License  
1748 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

1749 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,  
1750 On-Premise Beer Retailer License.

1751 (134) "Temporary beer event permit" means a permit issued in accordance with  
1752 Chapter 9, Part 4, Temporary Beer Event Permit.

1753 (135) "Temporary domicile" means the principal place of abode within Utah of a  
1754 person who does not have a present intention to continue residency within Utah permanently or  
1755 indefinitely.

1756 (136) "Translucent" means a substance that allows light to pass through, but does not  
1757 allow an object or person to be seen through the substance.

1758 (137) "Unsaleable liquor merchandise" means a container that:

1759 (a) is unsaleable because the container is:

1760 (i) unlabeled;

1761 (ii) leaky;

- 1762 (iii) damaged;
- 1763 (iv) difficult to open; or
- 1764 (v) partly filled;
- 1765 (b) (i) has faded labels or defective caps or corks;
- 1766 (ii) has contents that are:
- 1767 (A) cloudy;
- 1768 (B) spoiled; or
- 1769 (C) chemically determined to be impure; or
- 1770 (iii) contains:
- 1771 (A) sediment; or
- 1772 (B) a foreign substance; or
- 1773 (c) is otherwise considered by the department as unfit for sale.
- 1774 (138) (a) "Wine" means an alcoholic product obtained by the fermentation of the
- 1775 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
- 1776 another ingredient is added.
- 1777 (b) "Wine" includes:
- 1778 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
- 1779 4.10; and
- 1780 (ii) hard cider.
- 1781 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
- 1782 in this title.
- 1783 (139) "Winery manufacturing license" means a license issued in accordance with
- 1784 Chapter 11, Part 3, Winery Manufacturing License.
- 1785 Section 18. Section **32B-1-703** is amended to read:
- 1786 **32B-1-703. Alcohol training and education for off-premise consumption.**
- 1787 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
- 1788 sell beer at retail for off-premise consumption shall require the following to have a valid record
- 1789 that the individual completed an alcohol training and education seminar in the time periods
- 1790 required by Subsection (1)(b):
- 1791 (i) an off-premise retail manager; or
- 1792 (ii) off-premise retail staff.

1793 (b) If an individual on the date the individual becomes staff to an off-premise beer  
1794 retailer does not have a valid record that the individual has completed an alcohol training and  
1795 education seminar for purposes of this part, the individual shall complete an alcohol training  
1796 and education seminar within 30 days of the day on which the individual becomes staff of an  
1797 off-premise beer retailer.

1798 (c) Section [~~62A-15-401~~] 26B-5-205 governs the validity of a record that an individual  
1799 has completed an alcohol training and education seminar required by this part.

1800 (2) In accordance with Section 32B-1-702, a local authority may immediately suspend  
1801 the license of an off-premise beer retailer that allows an individual to work as an off-premise  
1802 retail manager without having a valid record that the individual completed an alcohol training  
1803 and education seminar in accordance with Subsection (1).

1804 Section 19. Section **32B-2-208** is amended to read:

1805 **32B-2-208. Services of State Health Laboratory.**

1806 The State Health Laboratory shall make its services available to the department when  
1807 necessary. The department shall pay for the services from the Liquor Control Fund to the  
1808 Department of Health and Human Services.

1809 Section 20. Section **32B-10-702** is amended to read:

1810 **32B-10-702. Definitions.**

1811 As used in this part, "health care facility" means a facility that is licensed by the  
1812 Department of Health and Human Services under [~~Title 26, Chapter 21, Health Care Facility~~  
1813 ~~Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and  
1814 Inspection.

1815 Section 21. Section **34-55-102** is amended to read:

1816 **34-55-102. Definitions.**

1817 (1) "Emergency" means a condition in any part of this state that requires state  
1818 government emergency assistance to supplement the local efforts of the affected political  
1819 subdivision to save lives and to protect property, public health, welfare, or safety in the event  
1820 of a disaster, or to avoid or reduce the threat of a disaster.

1821 (2) "Emergency services volunteer" means:

1822 (a) a volunteer firefighter as defined in Section 49-16-102;

1823 (b) an individual licensed under Section [~~26-8a-302~~] 26B-4-116; or

1824 (c) an individual mobilized as part of a posse comitatus.

1825 (3) "Employer" means a person, including the state or a political subdivision of the  
1826 state, that has one or more workers employed in the same business, or in or about the same  
1827 establishment, under any contract of hire, express or implied, oral or written.

1828 (4) "Public safety agency" means a governmental entity that provides fire protection,  
1829 law enforcement, ambulance, medical, or other emergency services.

1830 Section 22. Section **34A-2-102** is amended to read:

1831 **34A-2-102. Definitions.**

1832 (1) As used in this chapter:

1833 (a) "Average weekly wages" means the average weekly wages as determined under  
1834 Section [34A-2-409](#).

1835 (b) "Award" means a final order of the commission as to the amount of compensation  
1836 due:

1837 (i) an injured employee; or

1838 (ii) a dependent of a deceased employee.

1839 (c) "Compensation" means the payments and benefits provided for in this chapter or  
1840 Chapter 3, Utah Occupational Disease Act.

1841 (d) (i) "Decision" means a ruling of:

1842 (A) an administrative law judge; or

1843 (B) in accordance with Section [34A-2-801](#):

1844 (I) the commissioner; or

1845 (II) the Appeals Board.

1846 (ii) "Decision" includes:

1847 (A) an award or denial of a medical, disability, death, or other related benefit under this  
1848 chapter or Chapter 3, Utah Occupational Disease Act; or

1849 (B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah  
1850 Occupational Disease Act.

1851 (e) "Director" means the director of the division, unless the context requires otherwise.

1852 (f) "Disability" means an administrative determination that may result in an entitlement  
1853 to compensation as a consequence of becoming medically impaired as to function. Disability  
1854 can be total or partial, temporary or permanent, industrial or nonindustrial.

- 1855 (g) "Division" means the Division of Industrial Accidents.
- 1856 (h) "First responder" means:
- 1857 (i) a law enforcement officer, as defined in Section [53-13-103](#);
- 1858 (ii) an emergency medical technician, as defined in Section [~~26-8c-102~~] [26B-4-137](#);
- 1859 (iii) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~]
- 1860 [26B-4-137](#);
- 1861 (iv) a paramedic, as defined in Section [~~26-8c-102~~] [26B-4-137](#);
- 1862 (v) a firefighter, as defined in Section [34A-3-113](#);
- 1863 (vi) a dispatcher, as defined in Section [53-6-102](#); or
- 1864 (vii) a correctional officer, as defined in Section [53-13-104](#).
- 1865 (i) "Impairment" is a purely medical condition reflecting an anatomical or functional
- 1866 abnormality or loss. Impairment may be either temporary or permanent, industrial or
- 1867 nonindustrial.
- 1868 (j) "Order" means an action of the commission that determines the legal rights, duties,
- 1869 privileges, immunities, or other interests of one or more specific persons, but not a class of
- 1870 persons.
- 1871 (k) (i) "Personal injury by accident arising out of and in the course of employment"
- 1872 includes an injury caused by the willful act of a third person directed against an employee
- 1873 because of the employee's employment.
- 1874 (ii) "Personal injury by accident arising out of and in the course of employment" does
- 1875 not include a disease, except as the disease results from the injury.
- 1876 (l) "Safe" and "safety," as applied to employment or a place of employment, means the
- 1877 freedom from danger to the life or health of employees reasonably permitted by the nature of
- 1878 the employment.
- 1879 (2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:
- 1880 (a) "Brother or sister" includes a half brother or sister.
- 1881 (b) "Child" includes:
- 1882 (i) a posthumous child; or
- 1883 (ii) a child legally adopted prior to an injury.
- 1884 Section 23. Section [34A-2-111](#) is amended to read:
- 1885 **34A-2-111. Managed health care programs -- Other safety programs.**

- 1886 (1) As used in this section:
- 1887 (a) (i) "Health care provider" means a person who furnishes treatment or care to
- 1888 persons who have suffered bodily injury.
- 1889 (ii) "Health care provider" includes:
- 1890 (A) a hospital;
- 1891 (B) a clinic;
- 1892 (C) an emergency care center;
- 1893 (D) a physician;
- 1894 (E) a nurse;
- 1895 (F) a nurse practitioner;
- 1896 (G) a physician's assistant;
- 1897 (H) a paramedic; or
- 1898 (I) an emergency medical technician.
- 1899 (b) "Physician" means any health care provider licensed under:
- 1900 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 1901 (ii) Title 58, Chapter 24b, Physical Therapy Practice Act;
- 1902 (iii) Title 58, Chapter 67, Utah Medical Practice Act;
- 1903 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 1904 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- 1905 (vi) Title 58, Chapter 70a, Utah Physician Assistant Act;
- 1906 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;
- 1907 (viii) Title 58, Chapter 72, Acupuncture Licensing Act;
- 1908 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and
- 1909 (x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.
- 1910 (c) "Preferred health care facility" means a facility:
- 1911 (i) that is a health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#); and
- 1912 (ii) designated under a managed health care program.
- 1913 (d) "Preferred provider physician" means a physician designated under a managed
- 1914 health care program.
- 1915 (e) "Self-insured employer" is as defined in Section [34A-2-201.5](#).
- 1916 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care

1917 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational  
1918 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).

1919 (b) (i) A preferred provider program may be developed if the preferred provider  
1920 program allows a selection by the employee of more than one physician in the health care  
1921 specialty required for treating the specific problem of an industrial patient.

1922 (ii) (A) Subject to the requirements of this section, if a preferred provider program is  
1923 developed by an insurance carrier or self-insured employer, an employee is required to use:

1924 (I) preferred provider physicians; and

1925 (II) preferred health care facilities.

1926 (B) If a preferred provider program is not developed, an employee may have free  
1927 choice of health care providers.

1928 (iii) The failure to do the following may, if the employee has been notified of the  
1929 preferred provider program, result in the employee being obligated for any charges in excess of  
1930 the preferred provider allowances:

1931 (A) use a preferred health care facility; or

1932 (B) initially receive treatment from a preferred provider physician.

1933 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a  
1934 self-insured employer or other employer may:

1935 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and

1936 (Bb) continue to contract with other health care providers; or

1937 (II) operate a health care facility; and

1938 (B) require employees to first seek treatment at the provided health care or contracted  
1939 facility.

1940 (v) An employee subject to a preferred provider program or employed by an employer  
1941 having its own health care facility may procure the services of any qualified health care  
1942 provider:

1943 (A) for emergency treatment, if a physician employed in the preferred provider  
1944 program or at the health care facility is not available for any reason;

1945 (B) for conditions the employee in good faith believes are nonindustrial; or

1946 (C) when an employee living in a rural area would be unduly burdened by traveling to:

1947 (I) a preferred provider physician; or

1948 (II) a preferred health care facility.

1949 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into

1950 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):

1951 (I) health care providers;

1952 (II) medical review organizations; or

1953 (III) vendors of medical goods, services, and supplies including medicines.

1954 (B) A contract described in Subsection (2)(c)(i)(A) may be made for the following

1955 purposes:

1956 (I) insurance carriers or self-insured employers may form groups in contracting for

1957 managed health care services with health care providers;

1958 (II) peer review;

1959 (III) methods of utilization review;

1960 (IV) use of case management;

1961 (V) bill audit;

1962 (VI) discounted purchasing; and

1963 (VII) the establishment of a reasonable health care treatment protocol program

1964 including the implementation of medical treatment and quality care guidelines that are:

1965 (Aa) scientifically based;

1966 (Bb) peer reviewed; and

1967 (Cc) consistent with standards for health care treatment protocol programs that the

1968 commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah

1969 Administrative Rulemaking Act, including the authority of the commission to approve a health

1970 care treatment protocol program before it is used or disapprove a health care treatment protocol

1971 program that does not comply with this Subsection (2)(c)(i)(B)(VII).

1972 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a

1973 condition of insuring an entity in its insurance contract.

1974 (3) (a) In addition to a managed health care program, an insurance carrier may require

1975 an employer to establish a work place safety program if the employer:

1976 (i) has an experience modification factor of 1.00 or higher, as determined by the

1977 National Council on Compensation Insurance; or

1978 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or



1979 higher.

1980 (b) A workplace safety program may include:

1981 (i) a written workplace accident and injury reduction program that:

1982 (A) promotes safe and healthful working conditions; and

1983 (B) is based on clearly stated goals and objectives for meeting those goals; and

1984 (ii) a documented review of the workplace accident and injury reduction program each

1985 calendar year delineating how procedures set forth in the program are met.

1986 (c) A written workplace accident and injury reduction program permitted under

1987 Subsection (3)(b)(i) should describe:

1988 (i) how managers, supervisors, and employees are responsible for implementing the

1989 program;

1990 (ii) how continued participation of management will be established, measured, and

1991 maintained;

1992 (iii) the methods used to identify, analyze, and control new or existing hazards,

1993 conditions, and operations;

1994 (iv) how the program will be communicated to all employees so that the employees are

1995 informed of work-related hazards and controls;

1996 (v) how workplace accidents will be investigated and corrective action implemented;

1997 and

1998 (vi) how safe work practices and rules will be enforced.

1999 (d) For the purposes of a workplace accident and injury reduction program of an

2000 eligible employer described in Subsection [34A-2-103\(7\)\(f\)](#), the workplace accident and injury

2001 reduction program shall:

2002 (i) include the provisions described in Subsections (3)(b) and (c), except that the

2003 employer shall conduct a documented review of the workplace accident and injury reduction

2004 program at least semiannually delineating how procedures set forth in the workplace accident

2005 and injury reduction program are met; and

2006 (ii) require a written agreement between the employer and all contractors and

2007 subcontractors on a project that states that:

2008 (A) the employer has the right to control the manner or method by which the work is

2009 executed;

2010 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor  
2011 violates the workplace accident and injury reduction program, the employer maintains the right  
2012 to:

2013 (I) terminate the contract with the contractor or subcontractor;

2014 (II) remove the contractor or subcontractor from the work site; or

2015 (III) require that the contractor or subcontractor not permit an employee that violates  
2016 the workplace accident and injury reduction program to work on the project for which the  
2017 employer is procuring work; and

2018 (C) the contractor or subcontractor shall provide safe and appropriate equipment  
2019 subject to the right of the employer to:

2020 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and

2021 (II) require that the contractor or subcontractor repair, replace, or remove equipment  
2022 the employer determines not to be safe or appropriate.

2023 (4) The premiums charged to any employer who fails or refuses to establish a  
2024 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over  
2025 any existing current rates and premium modifications charged that employer.

2026 Section 24. Section **34A-2-417** is amended to read:

2027 **34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.**

2028 (1) (a) Except with respect to prosthetic devices or in a permanent total disability case,  
2029 an employee is entitled to be compensated for a medical expense if:

2030 (i) the medical expense is:

2031 (A) reasonable in amount; and

2032 (B) necessary to treat the industrial accident; and

2033 (ii) the employee submits or makes a reasonable attempt to submit the medical  
2034 expense:

2035 (A) to the employee's employer or insurance carrier for payment; and

2036 (B) within one year from the later of:

2037 (I) the day on which the medical expense is incurred; or

2038 (II) the day on which the employee knows or in the exercise of reasonable diligence  
2039 should have known that the medical expense is related to the industrial accident.

2040 (b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a

2041 claim for a medical expense, an employee is entitled to be compensated for the medical  
2042 expense if the employee meets the requirements of Subsection (1)(a).

2043 (2) (a) A claim described in Subsection (2)(b) is barred, unless the employee:

2044 (i) files an application for hearing with the Division of Adjudication no later than six  
2045 years from the date of the accident; and

2046 (ii) by no later than 12 years from the date of the accident, is able to meet the  
2047 employee's burden of proving that the employee is due the compensation claimed under this  
2048 chapter.

2049 (b) Subsection (2)(a) applies to a claim for compensation for:

2050 (i) temporary total disability benefits;

2051 (ii) temporary partial disability benefits;

2052 (iii) permanent partial disability benefits; or

2053 (iv) permanent total disability benefits.

2054 (c) The commission may enter an order awarding or denying an employee's claim for  
2055 compensation under this chapter within a reasonable time period beyond 12 years from the date  
2056 of the accident, if:

2057 (i) the employee complies with Subsection (2)(a); and

2058 (ii) 12 years from the date of the accident:

2059 (A) (I) the employee is fully cooperating in a commission approved reemployment  
2060 plan; and

2061 (II) the results of that commission approved reemployment plan are not known; or

2062 (B) the employee is actively adjudicating issues of compensability before the  
2063 commission.

2064 (3) A claim for death benefits is barred unless an application for hearing is filed within  
2065 one year of the date of death of the employee.

2066 (4) (a) (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an  
2067 application for hearing within six years from the date of the accident, the Division of  
2068 Adjudication may enter an order to show cause why the employee's claim should not be  
2069 dismissed because the employee has failed to meet the employee's burden of proof to establish  
2070 an entitlement to compensation claimed in the application for hearing.

2071 (ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:

- 2072 (A) Division of Adjudication;  
2073 (B) employee's employer; or  
2074 (C) employer's insurance carrier.
- 2075 (b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:  
2076 (i) without prejudice; or  
2077 (ii) with prejudice only if:
- 2078 (A) the Division of Adjudication adjudicates the merits of the employee's entitlement  
2079 to the compensation claimed in the application for hearing; or  
2080 (B) the employee fails to comply with Subsection (2)(a)(ii).
- 2081 (c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is  
2082 subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.
- 2083 (5) A claim for compensation under this chapter is subject to a claim or lien for  
2084 recovery under Section [~~26-19-401~~] [26B-3-1009](#).
- 2085 Section 25. Section **34A-2-418** is amended to read:
- 2086 **34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial**  
2087 **means and appliances.**
- 2088 (1) In addition to the compensation provided in this chapter or Chapter 3, Utah  
2089 Occupational Disease Act, and subject to Subsection [34A-2-407\(11\)](#), the employer or the  
2090 insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for  
2091 medicines, and for artificial means, appliances, and prostheses necessary to treat the injured  
2092 employee.
- 2093 (2) The employer and the insurance carrier are not required to pay or reimburse for  
2094 cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in  
2095 Section [~~26-61a-102~~] [26B-4-201](#).
- 2096 (3) If death results from the injury, the employer or the insurance carrier shall pay the  
2097 burial expenses in ordinary cases as established by rule.
- 2098 (4) If a compensable accident results in the breaking of or loss of an employee's  
2099 artificial means or appliance including eyeglasses, the employer or insurance carrier shall  
2100 provide a replacement of the artificial means or appliance.
- 2101 (5) An administrative law judge may require the employer or insurance carrier to  
2102 maintain the artificial means or appliances or provide the employee with a replacement of any

2103 artificial means or appliance for the reason of breakage, wear and tear, deterioration, or  
2104 obsolescence.

2105 (6) An administrative law judge may, in unusual cases, order, as the administrative law  
2106 judge considers just and proper, the payment of additional sums:

2107 (a) for burial expenses; or

2108 (b) to provide for artificial means or appliances.

2109 Section 26. Section ~~34A-2-422~~ is amended to read:

2110 **34A-2-422. Compensation exempt from execution -- Transfer of payment rights.**

2111 (1) For purposes of this section:

2112 (a) "Payment rights under workers' compensation" means the right to receive  
2113 compensation under this chapter or Chapter 3, Utah Occupational Disease Act, including the  
2114 payment of a workers' compensation claim, award, benefit, or settlement.

2115 (b) (i) Subject to Subsection (1)(b)(ii), "transfer" means:

2116 (A) a sale;

2117 (B) an assignment;

2118 (C) a pledge;

2119 (D) an hypothecation; or

2120 (E) other form of encumbrance or alienation for consideration.

2121 (ii) "Transfer" does not include the creation or perfection of a security interest in a right  
2122 to receive a payment under a blanket security agreement entered into with an insured  
2123 depository institution, in the absence of any action to:

2124 (A) redirect the payments to:

2125 (I) the insured depository institution; or

2126 (II) an agent or successor in interest to the insured depository institution; or

2127 (B) otherwise enforce a blanket security interest against the payment rights.

2128 (2) Compensation before payment:

2129 (a) is exempt from:

2130 (i) all claims of creditors; and

2131 (ii) attachment or execution; and

2132 (b) shall be paid only to employees or their dependents, except as provided in Sections

2133 [~~26-19-401~~] [26B-3-1009](#) and [34A-2-417](#).

2134 (3) (a) Subject to Subsection (3)(b), beginning April 30, 2007, a person may not:  
2135 (i) transfer payment rights under workers' compensation; or  
2136 (ii) accept or take any action to provide for a transfer of payment rights under workers'  
2137 compensation.

2138 (b) A person may take an action prohibited under Subsection (3)(a) if the commission  
2139 approves the transfer of payment rights under workers' compensation:

2140 (i) before the transfer of payment rights under workers' compensation takes effect; and  
2141 (ii) upon a determination by the commission that:

2142 (A) the person transferring the payment rights under workers' compensation received  
2143 before executing an agreement to transfer those payment rights:

2144 (I) adequate notice that the transaction involving the transfer of payment rights under  
2145 workers' compensation involves the transfer of those payment rights; and

2146 (II) an explanation of the financial consequences of and alternatives to the transfer of  
2147 payment rights under workers' compensation in sufficient detail that the person transferring the  
2148 payment rights under workers' compensation made an informed decision to transfer those  
2149 payment rights; and

2150 (B) the transfer of payment rights under workers' compensation is in the best interest of  
2151 the person transferring the payment rights under workers' compensation taking into account the  
2152 welfare and support of that person's dependents.

2153 (c) The approval by the commission of the transfer of a person's payment rights under  
2154 workers' compensation is a full and final resolution of the person's payment rights under  
2155 workers' compensation that are transferred:

2156 (i) if the commission approves the transfer of the payment rights under workers'  
2157 compensation in accordance with Subsection (3)(b); and

2158 (ii) once the person no longer has a right to appeal the decision in accordance with this  
2159 title.

2160 Section 27. Section **34A-3-201** is amended to read:

2161 **34A-3-201. Definitions.**

2162 (1) As used in this part:

2163 (a) "COVID-19" means the disease caused by severe acute respiratory syndrome  
2164 coronavirus 2.

- 2165 (b) "First responder" means:
- 2166 (i) a first responder as defined in Section [34A-2-102](#);
- 2167 (ii) an individual employed by:
- 2168 (A) a health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#);
- 2169 (B) an office of a physician, chiropractor, or dentist;
- 2170 (C) a nursing home;
- 2171 (D) a retirement facility;
- 2172 (E) a home health care provider;
- 2173 (F) a pharmacy;
- 2174 (G) a facility that performs laboratory or medical testing on human specimens; or
- 2175 (H) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (G);
- 2176 (iii) an individual employed by, working with, or working at the direction of a local
- 2177 health department; or
- 2178 (iv) a volunteer, as defined in Section [67-20-2](#), providing services to a local health
- 2179 department in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.
- 2180 (c) "Physician" means an individual licensed under:
- 2181 (i) Title 58, Chapter 67, Utah Medical Practice Act;
- 2182 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 2183 (iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or
- 2184 (iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered
- 2185 nurse.
- 2186 (d) "Utah minimum wage" means the highest wage designated as Utah's minimum
- 2187 wage under Title 34, Chapter 40, Utah Minimum Wage Act.
- 2188 (2) For purposes of this part, an individual is diagnosed with COVID-19 if the
- 2189 individual:
- 2190 (a) through laboratory testing of a specimen the individual provides, tests positive for
- 2191 the virus that causes COVID-19; and
- 2192 (b) is diagnosed with COVID-19 by a physician.
- 2193 Section 28. Section [34A-11-102](#) is amended to read:
- 2194 **34A-11-102. Restrictions on employers.**
- 2195 With respect to matters related to genetic testing and private genetic information, an

2196 employer shall comply with Section [~~26-45-103~~] [13-60-204](#) and the other applicable provisions  
2197 of [~~Title 26, Chapter 45~~] Title 13, Chapter 60, Part 2, Genetic Testing and Procedure Privacy  
2198 Act.

2199 Section 29. Section **35A-1-102** is amended to read:

2200 **35A-1-102. Definitions.**

2201 Unless otherwise specified, as used in this title:

2202 (1) "Client" means an individual who the department has determined to be eligible for  
2203 services or benefits under:

2204 (a) Chapter 3, Employment Support Act; and

2205 (b) Chapter 5, Training and Workforce Improvement Act.

2206 (2) "Department" means the Department of Workforce Services created in Section  
2207 [35A-1-103](#).

2208 (3) "Economic service area" means an economic service area established in accordance  
2209 with Chapter 2, Economic Service Areas.

2210 (4) "Employment assistance" means services or benefits provided by the department  
2211 under:

2212 (a) Chapter 3, Employment Support Act; and

2213 (b) Chapter 5, Training and Workforce Improvement Act.

2214 (5) "Employment center" is a location in an economic service area where the services  
2215 provided by an economic service area under Section [35A-2-201](#) may be accessed by a client.

2216 (6) "Employment counselor" means an individual responsible for developing an  
2217 employment plan and coordinating the services and benefits under this title in accordance with  
2218 Chapter 2, Economic Service Areas.

2219 (7) "Employment plan" means a written agreement between the department and a client  
2220 that describes:

2221 (a) the relationship between the department and the client;

2222 (b) the obligations of the department and the client; and

2223 (c) the result if an obligation is not fulfilled by the department or the client.

2224 (8) "Executive director" means the executive director of the department appointed  
2225 under Section [35A-1-201](#).

2226 (9) "Government entity" means the state or any county, municipality, local district,



2227 special service district, or other political subdivision or administrative unit of the state, a state  
2228 institution of higher education as defined in Section 53B-2-101, or a local education agency as  
2229 defined in Section 53G-7-401.

2230 (10) "Public assistance" means:

2231 (a) services or benefits provided under Chapter 3, Employment Support Act;

2232 (b) medical assistance provided under [~~Title 26, Chapter 18, Medical Assistance Act~~]

2233 Title 26B, Chapter 3, Health Care - Administration and Assistance;

2234 (c) foster care maintenance payments provided from the General Fund or under Title

2235 IV-E of the Social Security Act;

2236 (d) SNAP benefits; and

2237 (e) any other public funds expended for the benefit of a person in need of financial,

2238 medical, food, housing, or related assistance.

2239 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under

2240 Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the

2241 federal Food Stamp Program.

2242 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or

2243 privilege available under SNAP.

2244 (13) "Stabilization" means addressing the basic living, family care, and social or

2245 psychological needs of the client so that the client may take advantage of training or

2246 employment opportunities provided under this title or through other agencies or institutions.

2247 (14) "Vulnerable populations" means children or adults with a life situation that

2248 substantially affects that individual's ability to:

2249 (a) provide personal protection;

2250 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

2251 (c) obtain services necessary for health, safety, or welfare;

2252 (d) carry out the activities of daily living;

2253 (e) manage the adult's own financial resources; or

2254 (f) comprehend the nature and consequences of remaining in a situation of abuse,

2255 neglect, or exploitation.

2256 Section 30. Section 35A-3-103 is amended to read:

2257 **35A-3-103. Department responsibilities.**

- 2258 The department shall:
- 2259 (1) administer public assistance programs assigned by the Legislature and the  
2260 governor;
- 2261 (2) determine eligibility for public assistance programs in accordance with the  
2262 requirements of this chapter;
- 2263 (3) cooperate with the federal government in the administration of public assistance  
2264 programs;
- 2265 (4) administer state employment services;
- 2266 (5) provide for the compilation of necessary or desirable information, statistics, and  
2267 reports;
- 2268 (6) perform other duties and functions required by law;
- 2269 (7) monitor the application of eligibility policy;
- 2270 (8) develop personnel training programs for effective and efficient operation of the  
2271 programs administered by the department;
- 2272 (9) provide refugee resettlement services in accordance with Section [35A-3-701](#);
- 2273 (10) provide child care assistance for children in accordance with Part 2, Office of  
2274 Child Care;
- 2275 (11) provide services that enable an applicant or recipient to qualify for affordable  
2276 housing in cooperation with:
- 2277 (a) the Utah Housing Corporation;
- 2278 (b) the Housing and Community Development Division; and
- 2279 (c) local housing authorities;
- 2280 (12) administer the Medicaid Eligibility Quality Control function in accordance with  
2281 42 C.F.R. Sec. 431.812; and
- 2282 (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative  
2283 proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical  
2284 assistance eligibility under:
- 2285 (a) ~~[Title 26, Chapter 18, Medical Assistance Act]~~ Title 26B, Chapter 3, Health Care -  
2286 Administration and Assistance; or
- 2287 (b) ~~[Title 26, Chapter 40, Utah Children's Health Insurance Act]~~ Title 26B, Chapter 3,  
2288 Part 9, Utah Children's Health Insurance Program.

2289 Section 31. Section **35A-3-207** is amended to read:

2290 **35A-3-207. Community-based prevention programs.**

2291 (1) As used in this section:

2292 (a) "political subdivision" means a town, city, county, or school district;

2293 (b) "qualified sponsor" means a:

2294 (i) political subdivision;

2295 (ii) community nonprofit, religious, or charitable organization;

2296 (iii) regional or statewide nonprofit organization; or

2297 (iv) private for profit or nonprofit child care organization with experience and expertise

2298 in operating community-based prevention programs described in Subsection (2) and that are

2299 licensed under [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~] Title 26B, Chapter

2300 2, Part 1, Human Services Programs and Facilities.

2301 (2) Within appropriations from the Legislature, the department may provide grants to  
2302 qualified sponsors for community-based prevention programs that:

2303 (a) support parents in their primary care giving role to children;

2304 (b) provide positive alternatives to idleness for school-aged children when school is not  
2305 in session; and

2306 (c) support other community-based prevention programs.

2307 (3) In awarding a grant under this section, the department shall:

2308 (a) request proposals for funding from potential qualified sponsors; and

2309 (b) ensure that each dollar of funds from political subdivisions or private funds is  
2310 matched for each dollar received from the department.

2311 (4) In meeting the matching requirements under Subsection (3), the department may  
2312 consider the value of in-kind contributions, including materials, supplies, paid labor, volunteer  
2313 labor, and the incremental increase in building maintenance and operation expenses incurred  
2314 attributable to the prevention program.

2315 (5) In awarding a grant under this section, the department shall consider:

2316 (a) the cash portion of the proposed match in relation to the financial resources of the  
2317 qualified sponsor; and

2318 (b) the extent to which the qualified sponsor has:

2319 (i) consulted and collaborated with parents of children who are likely to participate,

2320 local parent-teacher organizations, and other parent organizations;

2321 (ii) identified at-risk factors that will be addressed through the proposed prevention  
2322 program;

2323 (iii) identified protective factors and developmental assets that will be supported and  
2324 strengthened through the proposed prevention program; and

2325 (iv) encouraged the financial support of parents and the organizations described in  
2326 Subsection (5)(b)(i).

2327 (6) The department shall award at least 50% of the grants under this section to  
2328 organizations described in Subsection (1)(b)(iv).

2329 (7) The department may not allow the use of federal funds as matching funds under  
2330 this act.

2331 Section 32. Section **35A-3-212** is amended to read:

2332 **35A-3-212. Use of COVID-19 relief funds -- Grants to child care providers --**  
2333 **Reporting requirements.**

2334 (1) As used in this section:

2335 (a) "COVID-19 relief funds" means federal funds provided to the office under:

2336 (i) the American Rescue Plan Act, Pub. L. No. 117-2;

2337 (ii) the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136; or

2338 (iii) the Coronavirus Response and Relief Supplemental Appropriations Act, Pub. L.  
2339 No. 116-260.

2340 (b) "Eligible child care provider" means:

2341 (i) a child care provider that enters into a contract with an employer to provide child  
2342 care for the employer's employees, either on-site or off-site of the employer's place of business;  
2343 or

2344 (ii) a regulated residential child care provider.

2345 (c) (i) "Employer" means:

2346 (A) a public employer;

2347 (B) a private employer; or

2348 (C) a cooperative organized for the purpose of providing child care for members'  
2349 employees.

2350 (ii) "Employer" includes a local education agency, as defined in Section [53E-1-102](#).

2351 (d) "Regulated residential child care provider" means a person who holds a license or  
2352 certificate from the Department of Health and Human Services to provide residential child care  
2353 in accordance with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title 26B, Chapter 2,  
2354 Part 4, Child Care Licensing.

2355 (2) (a) Subject to availability of funds and requirements under applicable federal law,  
2356 the office shall use COVID-19 relief funds to provide grants to eligible child care providers to  
2357 assist in paying start-up costs associated with the provision of child care.

2358 (b) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2359 Administrative Rulemaking Act, to establish criteria and procedures for applying for and  
2360 awarding grants under this Subsection (2).

2361 (3) In fiscal years 2022 through 2024, the office shall submit to the department, for  
2362 inclusion in the department's annual written report described in Section [35A-1-109](#), an annual  
2363 report that provides:

2364 (a) a complete accounting of the COVID-19 relief funds expended by the office during  
2365 the previous fiscal year;

2366 (b) a description of the services, projects, and programs funded by the office with  
2367 COVID-19 relief funds during the previous fiscal year, including the amount of COVID-19  
2368 relief funds allocated to each service, project, or program; and

2369 (c) information regarding the outcomes and effectiveness of the services, projects, and  
2370 programs funded by the office with COVID-19 relief funds during the previous fiscal year.

2371 Section 33. Section [35A-3-308](#) is amended to read:

2372 **[35A-3-308. Adoption services -- Printed information -- Supports provided.](#)**

2373 (1) The department may provide assistance under this section to an applicant who is  
2374 pregnant and is not receiving cash assistance at the beginning of the third trimester of  
2375 pregnancy.

2376 (2) For a pregnant applicant, the department shall:

2377 (a) refer the applicant for appropriate prenatal medical care, including maternal health  
2378 services provided under [~~Title 26, Chapter 10, Family Health Services~~] Title 26B, Chapter 7,  
2379 Part 1, Health Promotion and Risk Reduction;

2380 (b) inform the applicant of free counseling about adoption from licensed child  
2381 placement agencies and licensed attorneys; and

2382 (c) offer the applicant the adoption information packet described in Subsection (3).  
2383 (3) The department shall publish an adoption information packet that:  
2384 (a) is easy to understand;  
2385 (b) contains geographically indexed materials on the public and private organizations  
2386 that provide adoption assistance;  
2387 (c) lists the names, addresses, and telephone numbers of licensed child placement  
2388 agencies and licensed attorneys who place children for adoption;  
2389 (d) explains that private adoption is legal and that the law permits adoptive parents to  
2390 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to  
2391 pregnancy; and  
2392 (e) describes the services available to the applicant under this section.  
2393 (4) (a) A recipient remains eligible for assistance under this section, even though the  
2394 recipient relinquishes a child for adoption, if the adoption is in accordance with Sections  
2395 [78B-6-120](#) through [78B-6-122](#).  
2396 (b) The assistance provided under this section may include:  
2397 (i) reimbursement for expenses associated with care and confinement during pregnancy  
2398 as provided in Subsection (5); and  
2399 (ii) for a maximum of 12 months from the date of relinquishment, coordination of  
2400 services to assist the recipient in:  
2401 (A) receiving appropriate educational and occupational assessment and planning;  
2402 (B) enrolling in appropriate education or training programs, including high school  
2403 completion and adult education programs;  
2404 (C) enrolling in programs that provide assistance with job readiness, employment  
2405 counseling, finding employment, and work skills;  
2406 (D) finding suitable housing;  
2407 (E) receiving medical assistance, under [~~Title 26, Chapter 18, Medical Assistance Act~~]  
2408 Title 26B, Chapter 3, Health Care - Administration and Assistance, if the recipient is otherwise  
2409 eligible; and  
2410 (F) receiving counseling and other mental health services.  
2411 (5) (a) Except as provided in Subsection (5)(b), a recipient under this section is eligible  
2412 to receive an amount equal to the maximum monthly amount of cash assistance paid under this

2413 part to one person for up to 12 consecutive months from the date of relinquishment.

2414 (b) If a recipient is otherwise eligible to receive cash assistance under this part, the  
2415 recipient is eligible to receive an amount equal to the increase in cash assistance the recipient  
2416 would have received but for the relinquishment for up to 12 consecutive months from the date  
2417 of relinquishment.

2418 (6) (a) To remain eligible for assistance under this section, a recipient shall:

2419 (i) with the cooperation of the department, develop and implement an employment plan  
2420 that includes goals for achieving self-sufficiency and that describes the action the recipient will  
2421 take concerning education and training to achieve full-time employment;

2422 (ii) if the recipient does not have a high school diploma, enroll in high school or an  
2423 alternative to high school and demonstrate progress toward graduation; and

2424 (iii) make a good faith effort to meet the goals of the employment plan as described in  
2425 Section [35A-3-304](#).

2426 (b) Cash assistance provided to a recipient before the recipient relinquishes a child for  
2427 adoption is part of the state plan.

2428 (c) Assistance provided under Subsection (5):

2429 (i) shall be provided for with state funds; and

2430 (ii) may not be counted when determining subsequent eligibility for cash assistance  
2431 under this chapter.

2432 (d) The time limit provisions of Section [35A-3-306](#) apply to cash assistance provided  
2433 under the state plan.

2434 (e) The department shall monitor a recipient's compliance with this section.

2435 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the  
2436 state plan.

2437 Section 34. Section **35A-3-401** is amended to read:

2438 **35A-3-401. General Assistance.**

2439 (1) (a) The department may provide General Assistance to individuals who are:

2440 (i) not receiving cash assistance under Part 3, Family Employment Program, or  
2441 Supplemental Security Income; and

2442 (ii) unemployable according to standards established by the department.

2443 (b) (i) General Assistance described in Subsection (1)(a) may include payment in cash

2444 or in kind.

2445 (ii) The department may provide General Assistance up to an amount that is no more  
2446 than the existing payment level for an otherwise similarly situated recipient receiving cash  
2447 assistance under Part 3, Family Employment Program.

2448 (iii) Funding for General Assistance is nonlapsing.

2449 (c) The department shall establish asset limitations for a General Assistance applicant.

2450 (d) (i) General Assistance may be granted to meet special nonrecurrent needs of an  
2451 applicant for the federal Supplemental Security Income for the Aged, Blind, and Disabled  
2452 program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the  
2453 department for assistance advanced to the applicant while awaiting the determination of  
2454 eligibility by the Social Security Administration.

2455 (ii) (A) Reimbursements to the department described in Subsection (1)(d)(i) up to and  
2456 including \$250,000 collected in a fiscal year shall be used by the department to administer the  
2457 General Assistance program and provide General Assistance to eligible applicants.

2458 (B) Reimbursements to the department described in Subsection (1)(d)(i) over \$250,000  
2459 collected in a fiscal year shall be deposited into the General Fund.

2460 (iii) General Assistance payments may not be made to a recipient currently receiving:

2461 (A) cash assistance; or

2462 (B) Supplemental Security Income for the Aged, Blind, and Disabled.

2463 (e) (i) General Assistance may be used for the reasonable cost of burial for a recipient  
2464 if heirs or relatives are not financially able to assume this expense.

2465 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section  
2466 ~~[26-4-25]~~ [26B-8-225](#) applies.

2467 (iii) The department shall fix the cost of a reasonable burial and conditions under  
2468 which burial expenditures may be made.

2469 (2) The department may cooperate with any governmental unit or agency, or any  
2470 private nonprofit agency, in establishing work projects to provide employment for employable  
2471 persons.

2472 Section 35. Section **35A-3-603** is amended to read:

2473 **35A-3-603. Civil liability for overpayment.**

2474 (1) A provider, recipient, or other person who receives an overpayment shall,



2475 regardless of fault, return the overpayment or repay its value to the department immediately:

2476 (a) upon receiving written notice of the overpayment from the department; or

2477 (b) upon discovering the overpayment, if that occurs before receiving notice.

2478 (2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance  
2479 of the overpayment shall accrue at the rate of 1% a month.

2480 (b) If the overpayment was not the fault of the person receiving it, that person is not  
2481 liable for interest on the unreturned balance.

2482 (c) In accordance with federal law and rules made by the department in accordance  
2483 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be  
2484 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other  
2485 cash-related assistance provided to a recipient under this chapter, or other means provided by  
2486 federal law.

2487 (3) A person who knowingly assists a recipient, provider, or other person in obtaining  
2488 an overpayment is jointly and severally liable for the overpayment.

2489 (4) (a) In proving civil liability for overpayment under this section, or Section  
2490 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence  
2491 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,  
2492 knowingly, and recklessly" are defined in Section 76-2-103, by false statement,  
2493 misrepresentation, impersonation, or other fraudulent means, including committing any of the  
2494 acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.

2495 (b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76,  
2496 Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an  
2497 overpayment is subject to:

2498 (i) a civil penalty of 10% of the amount of the overpayment, except for overpayments  
2499 related to assistance for child care services;

2500 (ii) a civil penalty of 50% of the amount of the overpayment for overpayments related  
2501 to assistance for child care services;

2502 (iii) disqualification from receiving cash assistance from the Family Employment  
2503 Program created in Section 35A-3-302 and the General Assistance program under Section  
2504 35A-3-401, if the overpayment was obtained from either of those programs, for the period  
2505 described in Subsection (4)(c); and

2506 (iv) disqualification from SNAP, if the overpayment was received from SNAP, for the  
2507 period described in Subsection (4)(c).

2508 (c) Unless otherwise provided by federal law, the period of a disqualification under  
2509 ~~[Subsection]~~ Subsections (4)(b)(iii) and (iv) is for:

2510 (i) 12 months for a first offense;

2511 (ii) 24 months for a second offense; and

2512 (iii) permanently for a third offense.

2513 (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department  
2514 may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

2515 (b) If the repayment obligation arose from an administrative error by the department,  
2516 the department may not recover attorney fees and costs.

2517 (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the  
2518 person from whom repayment is sought, the court shall assess an additional sum as considered  
2519 appropriate as punitive damages up to the amount of repayment being sought.

2520 (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8,  
2521 Part 12, Public Assistance Fraud.

2522 (8) Jurisdiction over benefits is continuous.

2523 (9) This chapter does not preclude the Department of Health and Human Services from  
2524 carrying out its responsibilities under ~~[Title 26, Chapter 19, Medical Benefits Recovery Act,~~  
2525 ~~and Chapter 20, Utah False Claims Act]~~ Title 26B, Chapter 3, Part 10, Medical Benefits  
2526 Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

2527 Section 36. Section **35A-9-202** is amended to read:

2528 **35A-9-202. Intergenerational poverty report.**

2529 (1) The department shall annually prepare an intergenerational poverty report for  
2530 inclusion in the department's annual written report described in Section **35A-1-109**.

2531 (2) The intergenerational poverty report shall:

2532 (a) report on the data, findings, and potential uses of the intergenerational poverty  
2533 tracking system described in Section **35A-9-201**;

2534 (b) describe policies, procedures, and programs that the department has implemented  
2535 or modified to help break the cycle of poverty and end welfare dependency for children in the  
2536 state affected by intergenerational poverty;

2537 (c) contain recommendations to the Legislature on how to address issues relating to  
 2538 breaking the cycle of poverty and ending welfare dependency for children in the state affected  
 2539 by intergenerational poverty; and

2540 (d) include the following reports:

2541 (i) the report described in Section [9-1-210](#) by the Department of Cultural and  
 2542 Community Engagement;

2543 (ii) the report described in Section ~~[[26-1-44](#)]~~ [26B-1-218](#) by the Department of Health  
 2544 and Human Services; and

2545 (iii) the report described in Section [53E-1-206](#) by the State Board of Education[;],  
 2546 [~~and~~]

2547 [~~(iv) the report described in Section [62A-1-123](#) by the Department of Health and~~  
 2548 ~~Human Services.~~]

2549 Section 37. Section **35A-15-102** is amended to read:

2550 **35A-15-102. Definitions.**

2551 As used in this chapter:

2552 (1) "Board" means the School Readiness Board, created in Section [35A-15-201](#).

2553 (2) "Economically disadvantaged" means to be eligible to receive free or reduced price  
 2554 lunch.

2555 (3) "Eligible home-based educational technology provider" means a provider that  
 2556 offers a home-based educational technology program to develop the school readiness skills of  
 2557 an eligible student.

2558 (4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect  
 2559 longitudinal academic outcome data, including special education use by student, by identifying  
 2560 each student with a statewide unique student identifier.

2561 (b) "Eligible LEA" includes a program exempt from licensure under Subsection  
 2562 ~~[[26-39-403\(2\)\(c\)](#)]~~ [26B-2-405\(2\)\(e\)](#).

2563 (5) (a) "Eligible private provider" means a child care program that:

2564 (i) is licensed under ~~[Title 26, Chapter 39, Utah Child Care Licensing Act]~~ Title 26B,  
 2565 Chapter 2, Part 4, Child Care Licensing; or

2566 (ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section  
 2567 ~~[[26-39-403](#)]~~ [26B-2-405](#).

- 2568 (b) "Eligible private provider" does not include:
- 2569 (i) residential child care, as defined in Section [~~26-39-102~~] [26B-2-401](#); or
- 2570 (ii) a program exempt from licensure under Subsection [~~26-39-403(2)(c)~~]
- 2571 [26B-2-405\(2\)\(e\)](#).
- 2572 (6) "Eligible student" means a student:
- 2573 (a) (i) who is age three, four, or five; and
- 2574 (ii) is not eligible for enrollment under Subsection [53G-4-402\(6\)](#); and
- 2575 (b) (i) (A) who is economically disadvantaged; and
- 2576 (B) whose parent or legal guardian reports that the student has experienced at least one
- 2577 risk factor;
- 2578 (ii) is an English learner; or
- 2579 (iii) is in foster care.
- 2580 (7) "Evaluation" means an evaluation conducted in accordance with Section
- 2581 [35A-15-303](#).
- 2582 (8) "High quality school readiness program" means a preschool program that:
- 2583 (a) is provided by an eligible LEA, eligible private provider, or eligible home-based
- 2584 educational technology provider; and
- 2585 (b) meets the elements of a high quality school readiness program described in Section
- 2586 [35A-15-202](#).
- 2587 (9) "Investor" means a person that enters into a results-based contract to provide
- 2588 funding to a high quality school readiness program on the condition that the person will receive
- 2589 payment in accordance with Section [35A-15-402](#) if the high quality school readiness program
- 2590 meets the performance outcome measures included in the results-based contract.
- 2591 (10) "Kindergarten assessment" means the kindergarten entry assessment described in
- 2592 Section [53G-7-203](#).
- 2593 (11) "Kindergarten transition plan" means a plan that supports the smooth transition of
- 2594 a preschool student to kindergarten and includes communication and alignment among the
- 2595 preschool, program, parents, and K-12 personnel.
- 2596 (12) "Local Education Agency" or "LEA" means a school district or charter school.
- 2597 (13) "Performance outcome measure" means:
- 2598 (a) indicators, as determined by the board, on the school readiness assessment and the

2599 kindergarten assessment; or

2600 (b) for a results-based contract, the indicators included in the contract.

2601 (14) "Results-based contract" means a contract that:

2602 (a) is entered into in accordance with Section [35A-15-402](#);

2603 (b) includes a performance outcome measure; and

2604 (c) is between the board, a provider of a high quality school readiness program, and an

2605 investor.

2606 (15) "Risk factor" means:

2607 (a) having a mother who was 18 years old or younger when the child was born;

2608 (b) a member of a child's household is incarcerated;

2609 (c) living in a neighborhood with high violence or crime;

2610 (d) having one or both parents with a low reading ability;

2611 (e) moving at least once in the past year;

2612 (f) having ever been in foster care;

2613 (g) living with multiple families in the same household;

2614 (h) having exposure in a child's home to:

2615 (i) physical abuse or domestic violence;

2616 (ii) substance abuse;

2617 (iii) the death or chronic illness of a parent or sibling; or

2618 (iv) mental illness;

2619 (i) the primary language spoken in a child's home is a language other than English; or

2620 (j) having at least one parent who has not completed high school.

2621 (16) "School readiness assessment" means the same as that term is defined in Section

2622 [53E-4-314](#).

2623 (17) "Tool" means the tool developed in accordance with Section [35A-15-303](#).

2624 Section 38. Section **39-1-64** is amended to read:

2625 **39-1-64. Extension of licenses for members of National Guard and reservists.**

2626 (1) As used in this section, "license" means any license issued under:

2627 (a) Title 58, Occupations and Professions; and

2628 (b) Section [~~26-8a-302~~] [26B-4-116](#).

2629 (2) Any license held by a member of the National Guard or reserve component of the

2630 armed forces that expires while the member is on active duty shall be extended until 90 days  
2631 after the member is discharged from active duty status.

2632 (3) The licensing agency shall renew a license extended under Subsection (2) until the  
2633 next date that the license expires or for the period that the license is normally issued, at no cost  
2634 to the member of the National Guard or reserve component of the armed forces if all of the  
2635 following conditions are met:

2636 (a) the National Guard member or reservist requests renewal of the license within 90  
2637 days after being discharged;

2638 (b) the National Guard member or reservist provides the licensing agency with a copy  
2639 of the member's or reservist's official orders calling the member or reservist to active duty, and  
2640 official orders discharging the member or reservist from active duty; and

2641 (c) the National Guard member or reservist meets all the requirements necessary for the  
2642 renewal of the license, except the member or reservist need not meet the requirements, if any,  
2643 that relate to continuing education or training.

2644 (4) The provisions of this section do not apply to regularly scheduled annual training.

2645 Section 39. Section **41-1a-230.5** is amended to read:

2646 **41-1a-230.5. Registration checkoff for promoting and supporting organ donation.**

2647 (1) A person who applies for a motor vehicle registration or registration renewal may  
2648 designate a voluntary contribution of \$2 for the purpose of promoting and supporting organ  
2649 donation.

2650 (2) This contribution shall be:

2651 (a) collected by the division;

2652 (b) treated as a voluntary contribution to the Allyson Gamble Organ Donation  
2653 Contribution Fund created in Section [~~26-18b-101~~] [26B-1-312](#) and not as a motor vehicle  
2654 registration fee; and

2655 (c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in  
2656 Section [~~26-18b-101~~] [26B-1-312](#) at least monthly, less actual administrative costs associated  
2657 with collecting and transferring the contributions.

2658 Section 40. Section **41-1a-230.7** is amended to read:

2659 **41-1a-230.7. Registration checkoff for supporting emergency medical services  
2660 and search and rescue operations.**

2661 (1) A person who applies for a motor vehicle registration or registration renewal may  
2662 designate a voluntary contribution of \$3 for the purpose of supporting:

2663 (a) the Emergency Medical Services Grant Program; and  
2664 (b) the Search and Rescue Financial Assistance Program.

2665 (2) This contribution shall be:

2666 (a) collected by the division;

2667 (b) treated as a voluntary contribution and not as a motor vehicle or off-highway  
2668 vehicle registration fee; and

2669 (c) distributed equally to the Emergency Medical Services System Account created in  
2670 Section ~~[26-8a-108]~~ [26B-1-306](#) and the Search and Rescue Financial Assistance Program  
2671 created in Section [53-2a-1102](#) at least monthly, less actual administrative costs associated with  
2672 collecting and transferring the contributions.

2673 (3) In addition to the administrative costs deducted under Subsection (2)(c), the  
2674 division may deduct the first \$1,000 collected to cover costs incurred to change the registration  
2675 form.

2676 Section 41. Section **41-1a-422** is amended to read:

2677 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
2678 **contribution collection procedures.**

2679 (1) As used in this section:

2680 (a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
2681 has donated or in whose name at least \$25 has been donated to:

2682 (A) a scholastic scholarship fund of a single named institution;

2683 (B) the Department of Veterans and Military Affairs for veterans programs;

2684 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
2685 Section [23-14-13](#), for conservation of wildlife and the enhancement, preservation, protection,  
2686 access, and management of wildlife habitat;

2687 (D) the Department of Agriculture and Food for the benefit of conservation districts;

2688 (E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

2689 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with  
2690 the donation evenly divided between the two;

2691 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America



2692 council as specified by the contributor;

2693 (H) No More Homeless Pets in Utah for distribution to organizations or individuals  
2694 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

2695 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth  
2696 development programs;

2697 (J) the Utah Association of Public School Foundations to support public education;

2698 (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to  
2699 assist people who have severe housing needs;

2700 (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)  
2701 to support the families of fallen Utah Highway Patrol troopers and other Department of Public  
2702 Safety employees;

2703 (M) the Division of Outdoor Recreation for distribution to organizations that provide  
2704 support for Zion National Park;

2705 (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support  
2706 firefighter organizations;

2707 (O) the Share the Road Bicycle Support Restricted Account created in Section  
2708 [72-2-127](#) to support bicycle operation and safety awareness programs;

2709 (P) the Cancer Research Restricted Account created in Section [~~26-21a-302~~]  
2710 [26B-1-313](#) to support cancer research programs;

2711 (Q) Autism Awareness Restricted Account created in Section [53F-9-401](#) to support  
2712 autism awareness programs;

2713 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account  
2714 created in Section [9-17-102](#) to support humanitarian service and educational and cultural  
2715 programs;

2716 (S) [~~Upon~~ upon] renewal of a prostate cancer support special group license plate, to the  
2717 Cancer Research Restricted Account created in Section [~~26-21a-302~~] [26B-1-313](#) to support  
2718 cancer research programs;

2719 (T) the Choose Life Adoption Support Restricted Account created in Section [80-2-502](#)  
2720 to support programs that promote adoption;

2721 (U) the National Professional Men's Basketball Team Support of Women and Children  
2722 Issues Restricted Account created in Section [26B-1-302](#);



2723 (V) the Utah Law Enforcement Memorial Support Restricted Account created in  
2724 Section [53-1-120](#);

2725 (W) the Children with Cancer Support Restricted Account created in Section  
2726 [~~26-21a-304~~] [26B-1-314](#) for programs that provide assistance to children with cancer;

2727 (X) the National Professional Men's Soccer Team Support of Building Communities  
2728 Restricted Account created in Section [9-19-102](#);

2729 (Y) the Children with Heart Disease Support Restricted Account created in Section  
2730 [~~26-58-102~~] [26B-1-321](#);

2731 (Z) the Utah Intracurricular Student Organization Support for Agricultural Education  
2732 and Leadership Restricted Account created in Section [4-42-102](#);

2733 (AA) the Division of Wildlife Resources for the Support for State-Owned Shooting  
2734 Ranges Restricted Account created in Section [23-14-13.5](#), for the creation of new, and  
2735 operation and maintenance of existing, state-owned firearm shooting ranges;

2736 (BB) the Utah State Historical Society to further the mission and purpose of the Utah  
2737 State Historical Society;

2738 (CC) the Motorcycle Safety Awareness Support Restricted Account created in Section  
2739 [72-2-130](#);

2740 (DD) clean air support causes, with half of the donation deposited into the Clean Air  
2741 Support Restricted Account created in Section [19-1-109](#), and half of the donation deposited  
2742 into the Clean Air Fund created in Section [59-10-1319](#);

2743 (EE) the Latino Community Support Restricted Account created in Section [13-1-16](#);

2744 (FF) the Allyson Gamble Organ Donation Contribution Fund created in Section  
2745 [~~26-18b-101~~] [26B-1-312](#);

2746 (GG) public education on behalf of the Kiwanis International clubs, with the amount of  
2747 the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support  
2748 special group plates, as determined by the State Tax Commission, deposited into the Kiwanis  
2749 Education Support Fund created in Section [53F-9-403](#), and all remaining donation amounts  
2750 deposited into the Uniform School Fund;

2751 (HH) the Governor's Suicide Prevention Fund created in Section [~~62A-15-1103~~]  
2752 [26B-1-325](#) to support the Live On suicide prevention campaign administered by the Division of  
2753 Integrated Healthcare; or

2754 (II) the State Park Fees Restricted Account created in Section 79-4-402 to support the  
2755 Division of State Parks' dark sky initiative.

2756 (ii) (A) For a veterans special group license plate described in Subsection (4) or  
2757 41-1a-421(1)(a)(v), "contributor" means a person who has donated or in whose name at least a  
2758 \$25 donation at the time of application and \$10 annual donation thereafter has been made.

2759 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a  
2760 person who:

2761 (I) has donated or in whose name at least \$30 has been donated at the time of  
2762 application and annually after the time of application; and

2763 (II) is a member of a trade organization for real estate licensees that has more than  
2764 15,000 Utah members.

2765 (C) For an Honoring Heroes special group license plate, "contributor" means a person  
2766 who has donated or in whose name at least \$35 has been donated at the time of application and  
2767 annually thereafter.

2768 (D) For a firefighter support special group license plate, "contributor" means a person  
2769 who:

2770 (I) has donated or in whose name at least \$15 has been donated at the time of  
2771 application and annually after the time of application; and

2772 (II) is a currently employed, volunteer, or retired firefighter.

2773 (E) For a cancer research special group license plate, "contributor" means a person who  
2774 has donated or in whose name at least \$35 has been donated at the time of application and  
2775 annually after the time of application.

2776 (F) For a Utah Law Enforcement Memorial Support special group license plate,  
2777 "contributor" means a person who has donated or in whose name at least \$35 has been donated  
2778 at the time of application and annually thereafter.

2779 (b) "Institution" means a state institution of higher education as defined under Section  
2780 53B-3-102 or a private institution of higher education in the state accredited by a regional or  
2781 national accrediting agency recognized by the United States Department of Education.

2782 (2) (a) An applicant for original or renewal collegiate special group license plates under  
2783 Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
2784 present the original contribution verification form under Subsection (2)(b) or make a

2785 contribution to the division at the time of application under Subsection (3).

2786 (b) An institution with a support special group license plate shall issue to a contributor  
2787 a verification form designed by the commission containing:

2788 (i) the name of the contributor;

2789 (ii) the institution to which a donation was made;

2790 (iii) the date of the donation; and

2791 (iv) an attestation that the donation was for a scholastic scholarship.

2792 (c) The state auditor may audit each institution to verify that the money collected by the  
2793 institutions from contributors is used for scholastic scholarships.

2794 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
2795 commission shall charge the institution whose plate was issued, a fee determined in accordance  
2796 with Section 63J-1-504 for management and administrative expenses incurred in issuing and  
2797 renewing the collegiate license plates.

2798 (e) If the contribution is made at the time of application, the contribution shall be  
2799 collected, treated, and deposited as provided under Subsection (3).

2800 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or  
2801 renewal support special group license plates under this section must be a contributor to the  
2802 sponsoring organization associated with the license plate.

2803 (ii) An applicant for a historical special group license plate is not required to make a  
2804 donation to the Utah State Historical Society if the historical special group license plate is for a  
2805 vintage vehicle that has a model year of 1980 or older.

2806 (b) This contribution shall be:

2807 (i) unless collected by the named institution under Subsection (2), collected by the  
2808 division;

2809 (ii) considered a voluntary contribution for the funding of the activities specified under  
2810 this section and not a motor vehicle registration fee;

2811 (iii) deposited into the appropriate account less actual administrative costs associated  
2812 with issuing the license plates; and

2813 (iv) for a firefighter special group license plate, deposited into the appropriate account  
2814 less:

2815 (A) the costs of reordering firefighter special group license plate decals; and

2816 (B) the costs of replacing recognition special group license plates with new license  
2817 plates under Subsection [41-1a-1211](#)(13).

2818 (c) The donation described in Subsection (1)(a) must be made in the 12 months before  
2819 registration or renewal of registration.

2820 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
2821 the division when issuing original:

2822 (i) snowmobile license plates; or

2823 (ii) conservation license plates.

2824 (4) Veterans license plates shall display one of the symbols representing the Army,  
2825 Navy, Air Force, Marines, Coast Guard, or American Legion.

2826 Section 42. Section **41-6a-404** is amended to read:

2827 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**

2828 **-- Use as evidence -- Penalty for false information.**

2829 (1) As used in this section:

2830 (a) "Accompanying data" means all materials gathered by the investigating peace  
2831 officer in an accident investigation including:

2832 (i) the identity of witnesses and, if known, contact information;

2833 (ii) witness statements;

2834 (iii) photographs and videotapes;

2835 (iv) diagrams; and

2836 (v) field notes.

2837 (b) "Agent" means:

2838 (i) a person's attorney;

2839 (ii) a person's insurer;

2840 (iii) a general acute hospital, as defined in Section [~~26-21-2~~] [26B-2-201](#), that:

2841 (A) has an emergency room; and

2842 (B) is providing or has provided emergency services to the person in relation to the  
2843 accident; or

2844 (iv) any other individual or entity with signed permission from the person to receive  
2845 the person's accident report.

2846 (2) (a) Except as provided in Subsections (3) and (7), all accident reports required in

2847 this part to be filed with the department:

2848 (i) are without prejudice to the reporting individual;

2849 (ii) are protected and for the confidential use of the department or other state, local, or  
2850 federal agencies having use for the records for official governmental statistical, investigative,  
2851 and accident prevention purposes; and

2852 (iii) may be disclosed only in a statistical form that protects the privacy of any person  
2853 involved in the accident.

2854 (b) An investigating peace officer shall include in an accident report an indication as to  
2855 whether the accident occurred on a highway designated as a livestock highway in accordance  
2856 with Section 72-3-112 if the accident resulted in the injury or death of livestock.

2857 (3) (a) Subject to the provisions of this section, the department or the responsible law  
2858 enforcement agency employing the peace officer that investigated the accident shall disclose an  
2859 accident report to:

2860 (i) a person involved in the accident, excluding a witness to the accident;

2861 (ii) a person suffering loss or injury in the accident;

2862 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)  
2863 and (ii);

2864 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

2865 (v) a state, local, or federal agency that uses the records for official governmental,  
2866 investigative, or accident prevention purposes;

2867 (vi) law enforcement personnel when acting in their official governmental capacity;

2868 and

2869 (vii) a licensed private investigator who:

2870 (A) represents an individual described in Subsections (3)(a)(i) through (iii); and

2871 (B) demonstrates that the representation of the individual described in Subsections  
2872 (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

2873 (b) The responsible law enforcement agency employing the peace officer that  
2874 investigated the accident:

2875 (i) shall in compliance with Subsection (3)(a):

2876 (A) disclose an accident report; or

2877 (B) upon written request disclose an accident report and its accompanying data within

2878 10 business days from receipt of a written request for disclosure; or

2879 (ii) may withhold an accident report, and any of its accompanying data if disclosure  
2880 would jeopardize an ongoing criminal investigation or criminal prosecution.

2881 (c) In accordance with Subsection (3)(a), the department or the responsible law  
2882 enforcement agency employing the investigating peace officer shall disclose whether any  
2883 person or vehicle involved in an accident reported under this section was covered by a vehicle  
2884 insurance policy, and the name of the insurer.

2885 (d) Information provided to a member of the press or broadcast news media under  
2886 Subsection (3)(a)(iv) may only include:

2887 (i) the name, age, sex, and city of residence of each person involved in the accident;

2888 (ii) the make and model year of each vehicle involved in the accident;

2889 (iii) whether or not each person involved in the accident was covered by a vehicle  
2890 insurance policy;

2891 (iv) the location of the accident; and

2892 (v) a description of the accident that excludes personal identifying information not  
2893 listed in Subsection (3)(d)(i).

2894 (e) The department shall disclose to any requesting person the following vehicle  
2895 accident history information, excluding personal identifying information, in bulk electronic  
2896 form:

2897 (i) any vehicle identifying information that is electronically available, including the  
2898 make, model year, and vehicle identification number of each vehicle involved in an accident;

2899 (ii) the date of the accident; and

2900 (iii) any electronically available data which describes the accident, including a  
2901 description of any physical damage to the vehicle.

2902 (f) The department may establish a fee under Section [63J-1-504](#) based on the fair  
2903 market value of the information for providing bulk vehicle accident history information under  
2904 Subsection (3)(e).

2905 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section  
2906 may not be used as evidence in any civil or criminal trial arising out of an accident.

2907 (b) (i) Upon demand of any party to the trial or upon demand of any court, the  
2908 department shall furnish a certificate showing that a specified accident report has or has not

2909 been made to the department in compliance with law.

2910 (ii) If the report has been made, the certificate furnished by the department shall show:

2911 (A) the date, time, and location of the accident;

2912 (B) the names and addresses of the drivers;

2913 (C) the owners of the vehicles involved; and

2914 (D) the investigating peace officers.

2915 (iii) The reports may be used as evidence when necessary to prosecute charges filed in  
2916 connection with a violation of Subsection (5).

2917 (5) A person who gives information in reports as required in this part knowing or  
2918 having reason to believe that the information is false is guilty of a class A misdemeanor.

2919 (6) The department and the responsible law enforcement agency employing the  
2920 investigating peace officer may charge a reasonable fee determined by the department under  
2921 Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report  
2922 and any of its accompanying data under Subsections (3)(a) and (b).

2923 (7) (a) The Office of State Debt Collection, the Division of Risk Management, and the  
2924 Department of Transportation may, in the performance of the regular duties of each respective  
2925 division or department, disclose an accident report to:

2926 (i) a person involved in the accident, excluding a witness to the accident;

2927 (ii) an owner of a vehicle involved in the accident;

2928 (iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or  
2929 (ii); or

2930 (iv) an insurer that provides motor vehicle insurance to a person described in  
2931 Subsection (7)(a)(i) or (iii).

2932 (b) A disclosure under Subsection (7)(a) does not change the classification of the  
2933 record as a protected record under Section 63G-2-305.

2934 Section 43. Section 41-6a-501 is amended to read:

2935 **41-6a-501. Definitions.**

2936 (1) As used in this part:

2937 (a) "Actual physical control" is determined by a consideration of the totality of the  
2938 circumstances, but does not include a circumstance in which:

2939 (i) the person is asleep inside the vehicle;

2940 (ii) the person is not in the driver's seat of the vehicle;  
2941 (iii) the engine of the vehicle is not running;  
2942 (iv) the vehicle is lawfully parked; and  
2943 (v) under the facts presented, it is evident that the person did not drive the vehicle to  
2944 the location while under the influence of alcohol, a drug, or the combined influence of alcohol  
2945 and any drug.

2946 (b) "Assessment" means an in-depth clinical interview with a licensed mental health  
2947 therapist:

2948 (i) used to determine if a person is in need of:

2949 (A) substance abuse treatment that is obtained at a substance abuse program;

2950 (B) an educational series; or

2951 (C) a combination of Subsections (1)(b)(i)(A) and (B); and

2952 (ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~]  
2953 Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

2954 (c) "Driving under the influence court" means a court that is approved as a driving  
2955 under the influence court by the [~~Utah~~] Judicial Council according to standards established by  
2956 the Judicial Council.

2957 (d) "Drug" or "drugs" means:

2958 (i) a controlled substance as defined in Section 58-37-2;

2959 (ii) a drug as defined in Section 58-17b-102; or

2960 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human  
2961 body, can impair the ability of a person to safely operate a motor vehicle.

2962 (e) "Educational series" means an educational series obtained at a substance abuse  
2963 program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated  
2964 Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.

2965 (f) "Negligence" means simple negligence, the failure to exercise that degree of care  
2966 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

2967 (g) "Novice learner driver" means an individual who:

2968 (i) has applied for a Utah driver license;

2969 (ii) has not previously held a driver license in this state or another state; and

2970 (iii) has not completed the requirements for issuance of a Utah driver license.



- 2971 (h) "Screening" means a preliminary appraisal of a person:  
2972 (i) used to determine if the person is in need of:  
2973 (A) an assessment; or  
2974 (B) an educational series; and  
2975 (ii) that is approved by the Division of [~~Substance Abuse and Mental Health~~]  
2976 Integrated Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.
- 2977 (i) "Serious bodily injury" means bodily injury that creates or causes:  
2978 (i) serious permanent disfigurement;  
2979 (ii) protracted loss or impairment of the function of any bodily member or organ; or  
2980 (iii) a substantial risk of death.
- 2981 (j) "Substance abuse treatment" means treatment obtained at a substance abuse  
2982 program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated  
2983 Healthcare in accordance with Section [~~62A-15-105~~] 26B-5-104.
- 2984 (k) "Substance abuse treatment program" means a state licensed substance abuse  
2985 program.
- 2986 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in  
2987 Section 41-6a-102; and  
2988 (ii) "Vehicle" or "motor vehicle" includes:  
2989 (A) an off-highway vehicle as defined under Section 41-22-2; and  
2990 (B) a motorboat as defined in Section 73-18-2.
- 2991 (2) As used in Section 41-6a-503:  
2992 (a) "Conviction" means any conviction arising from a separate episode of driving for a  
2993 violation of:  
2994 (i) driving under the influence under Section 41-6a-502;  
2995 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a  
2996 combination of both-related reckless driving under:  
2997 (I) Section 41-6a-512; and  
2998 (II) Section 41-6a-528; or  
2999 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
3000 41-6a-502.5;  
3001 (iii) driving with any measurable controlled substance that is taken illegally in the body

3002 under Section 41-6a-517;

3003 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination

3004 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in

3005 compliance with Section 41-6a-510;

3006 (v) Section 76-5-207;

3007 (vi) operating a motor vehicle with any amount of a controlled substance in an

3008 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

3009 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

3010 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

3011 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of

3012 conviction is reduced under Section 76-3-402;

3013 (ix) refusal of a chemical test under Subsection 41-6a-520(7); or

3014 (x) statutes or ordinances previously in effect in this state or in effect in any other state,

3015 the United States, or any district, possession, or territory of the United States which would

3016 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of

3017 both-related reckless driving if committed in this state, including punishments administered

3018 under 10 U.S.C. Sec. 815.

3019 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)

3020 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,

3021 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently

3022 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

3023 (i) enhancement of penalties under this Chapter 6a, Part 5, Driving Under the Influence

3024 and Reckless Driving; and

3025 (ii) expungement under Title 77, Chapter ~~40~~ 40a, Expungement.

3026 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent

3027 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah

3028 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

3029 (i) this part;

3030 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

3031 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.

3032 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive

3033 metabolite of a controlled substance.

3034 Section 44. Section **41-6a-502.5** is amended to read:

3035 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**  
3036 **requirements.**

3037 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of  
3038 Section **41-6a-502** committed on or after July 1, 2008, may be entered as a conviction of  
3039 impaired driving under this section if:

3040 (a) the defendant completes court ordered probation requirements; or

3041 (b) (i) the prosecutor agrees as part of a negotiated plea; and

3042 (ii) the court finds the plea to be in the interest of justice.

3043 (2) A conviction entered under this section is a class B misdemeanor.

3044 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of  
3045 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

3046 (ii) If the defendant fails to appear before the court and establish successful completion  
3047 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an  
3048 amended conviction of Section **41-6a-502**.

3049 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of  
3050 conviction.

3051 (b) The court may enter a conviction of impaired driving immediately under  
3052 Subsection (1)(b).

3053 (4) For purposes of Section **76-3-402**, the entry of a plea to a class B misdemeanor  
3054 violation of Section **41-6a-502** as impaired driving under this section is a reduction of one  
3055 degree.

3056 (5) (a) The court shall notify the Driver License Division of each conviction entered  
3057 under this section.

3058 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of  
3059 Professional Licensing, created in Section **58-1-103**, a report containing the name, case  
3060 number, and, if known, the date of birth of each person convicted during the preceding month  
3061 of a violation of this section for whom there is evidence that the person was driving while  
3062 impaired, in whole or in part, by a prescribed controlled substance.

3063 (6) (a) The provisions in Subsections **41-6a-505**(1), (3), (5), and (7) that require a

3064 sentencing court to order a convicted person to participate in a screening, an assessment, or an  
3065 educational series, or obtain substance abuse treatment or do a combination of those things,  
3066 apply to a conviction entered under this section.

3067 (b) The court shall render the same order regarding screening, assessment, an  
3068 educational series, or substance abuse treatment in connection with a first, second, or  
3069 subsequent conviction under this section as the court would render in connection with applying  
3070 respectively, the first, second, or subsequent conviction requirements of Subsections  
3071 [41-6a-505\(1\), \(3\), \(5\), and \(7\)](#).

3072 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section  
3073 [53-3-104](#) may not contain any evidence of a conviction for impaired driving in this state if the  
3074 reporting court notifies the Driver License Division that the defendant is participating in or has  
3075 successfully completed the program of a driving under the influence court.

3076 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- 3077 (i) a CDL license holder; or
- 3078 (ii) a violation that occurred in a commercial motor vehicle.

3079 (8) The provisions of this section are not available:

3080 (a) to a person who has a prior conviction as that term is defined in Subsection  
3081 [41-6a-501\(2\)](#); or

3082 (b) where there is admissible evidence that the individual:

- 3083 (i) had a blood or breath alcohol level of .16 or higher;
- 3084 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable  
3085 controlled substance; or

3086 (iii) had a combination of two or more controlled substances in the person's body that  
3087 were not:

3088 (A) prescribed by a licensed physician; or

3089 (B) recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis~~  
3090 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

3091 Section 45. Section **41-6a-505** is amended to read:

3092 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
3093 **drugs, or a combination of both violations.**

3094 (1) As part of any sentence for a first conviction of Section [41-6a-502](#) where there is

3095 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had  
3096 a blood or breath alcohol level of .05 or higher in addition to any measurable controlled  
3097 substance, or had a combination of two or more controlled substances in the individual's body  
3098 that were not recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis~~  
3099 ~~Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis or prescribed:

3100 (a) the court shall:

3101 (i) (A) impose a jail sentence of not less than five days; or

3102 (B) impose a jail sentence of not less than two days in addition to home confinement of  
3103 not fewer than 30 consecutive days through the use of electronic monitoring that includes a  
3104 substance abuse testing instrument in accordance with Section [41-6a-506](#);

3105 (ii) order the individual to participate in a screening;

3106 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
3107 screening under Subsection (1)(a)(ii);

3108 (iv) order the individual to participate in an educational series if the court does not  
3109 order substance abuse treatment as described under Subsection (1)(b);

3110 (v) impose a fine of not less than \$700;

3111 (vi) order probation for the individual in accordance with Section [41-6a-507](#);

3112 (vii) (A) order the individual to pay the administrative impound fee described in  
3113 Section [41-6a-1406](#); or

3114 (B) if the administrative impound fee was paid by a party described in Subsection  
3115 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
3116 reimburse the party;

3117 (viii) (A) order the individual to pay the towing and storage fees described in Section  
3118 [72-9-603](#); or

3119 (B) if the towing and storage fees were paid by a party described in Subsection  
3120 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
3121 reimburse the party; or

3122 (ix) unless the court determines and states on the record that an ignition interlock  
3123 system is not necessary for the safety of the community and in the best interest of justice, order  
3124 the installation of an ignition interlock system as described in Section [41-6a-518](#); and

3125 (b) the court may:

- 3126 (i) order the individual to obtain substance abuse treatment if the substance abuse  
3127 treatment program determines that substance abuse treatment is appropriate;
- 3128 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section  
3129 41-6a-515.5 if the individual is 21 years old or older; or
- 3130 (iii) order a combination of Subsections (1)(b)(i) and (ii).
- 3131 (2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety  
3132 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
3133 under Subsection (1)(a).
- 3134 (b) If an individual described in Subsection (1) fails to successfully complete all of the  
3135 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence  
3136 described in Subsection (2)(a).
- 3137 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described  
3138 in Subsection (1):
- 3139 (a) the court shall:
- 3140 (i) (A) impose a jail sentence of not less than two days; or
- 3141 (B) require the individual to work in a compensatory-service work program for not less  
3142 than 48 hours;
- 3143 (ii) order the individual to participate in a screening;
- 3144 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
3145 screening under Subsection (3)(a)(ii);
- 3146 (iv) order the individual to participate in an educational series if the court does not  
3147 order substance abuse treatment as described under Subsection (3)(b);
- 3148 (v) impose a fine of not less than \$700;
- 3149 (vi) (A) order the individual to pay the administrative impound fee described in Section  
3150 41-6a-1406; or
- 3151 (B) if the administrative impound fee was paid by a party described in Subsection  
3152 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
3153 reimburse the party; or
- 3154 (vii) (A) order the individual to pay the towing and storage fees described in Section  
3155 72-9-603; or
- 3156 (B) if the towing and storage fees were paid by a party described in Subsection

3157 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
3158 reimburse the party; and

3159 (b) the court may:

3160 (i) order the individual to obtain substance abuse treatment if the substance abuse  
3161 treatment program determines that substance abuse treatment is appropriate;

3162 (ii) order probation for the individual in accordance with Section 41-6a-507;

3163 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section  
3164 41-6a-515.5 if the individual is 21 years old or older; or

3165 (iv) order a combination of Subsections (3)(b)(i) through (iii).

3166 (4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety  
3167 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
3168 under Subsection (3)(a).

3169 (b) If an individual described in Subsection (4)(a) fails to successfully complete all of  
3170 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail  
3171 sentence described in Subsection (4)(a).

3172 (5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is  
3173 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
3174 offense upon which the current conviction is based and where there is admissible evidence that  
3175 the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath  
3176 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a  
3177 combination of two or more controlled substances in the individual's body that were not  
3178 recommended in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title  
3179 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis or prescribed:

3180 (a) the court shall:

3181 (i) (A) impose a jail sentence of not less than 20 days;

3182 (B) impose a jail sentence of not less than 10 days in addition to home confinement of  
3183 not fewer than 60 consecutive days through the use of electronic monitoring that includes a  
3184 substance abuse testing instrument in accordance with Section 41-6a-506; or

3185 (C) impose a jail sentence of not less than 10 days in addition to ordering the  
3186 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment  
3187 is more likely to reduce recidivism and is in the interests of public safety;



- 3188 (ii) order the individual to participate in a screening;
- 3189 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 3190 screening under Subsection (5)(a)(ii);
- 3191 (iv) order the individual to participate in an educational series if the court does not
- 3192 order substance abuse treatment as described under Subsection (5)(b);
- 3193 (v) impose a fine of not less than \$800;
- 3194 (vi) order probation for the individual in accordance with Section 41-6a-507;
- 3195 (vii) order the installation of an ignition interlock system as described in Section
- 3196 41-6a-518;
- 3197 (viii) (A) order the individual to pay the administrative impound fee described in
- 3198 Section 41-6a-1406; or
- 3199 (B) if the administrative impound fee was paid by a party described in Subsection
- 3200 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 3201 reimburse the party; or
- 3202 (ix) (A) order the individual to pay the towing and storage fees described in Section
- 3203 72-9-603; or
- 3204 (B) if the towing and storage fees were paid by a party described in Subsection
- 3205 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 3206 reimburse the party; and
- 3207 (b) the court may:
- 3208 (i) order the individual to obtain substance abuse treatment if the substance abuse
- 3209 treatment program determines that substance abuse treatment is appropriate;
- 3210 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
- 3211 41-6a-515.5 if the individual is 21 years old or older; or
- 3212 (iii) order a combination of Subsections (5)(b)(i) and (ii).
- 3213 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety
- 3214 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
- 3215 under Subsection (5)(a) after the individual has served a minimum of:
- 3216 (i) five days of the jail sentence for a second offense; or
- 3217 (ii) 10 days of the jail sentence for a third or subsequent offense.
- 3218 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of



3219 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail  
3220 sentence described in Subsection (6)(a).

3221 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is  
3222 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
3223 offense upon which the current conviction is based and that does not qualify under Subsection  
3224 (5):

3225 (a) the court shall:

3226 (i) (A) impose a jail sentence of not less than 10 days; or

3227 (B) impose a jail sentence of not less than 5 days in addition to home confinement of  
3228 not fewer than 30 consecutive days through the use of electronic monitoring that includes a  
3229 substance abuse testing instrument in accordance with Section 41-6a-506;

3230 (ii) order the individual to participate in a screening;

3231 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
3232 screening under Subsection (7)(a)(ii);

3233 (iv) order the individual to participate in an educational series if the court does not  
3234 order substance abuse treatment as described under Subsection (7)(b);

3235 (v) impose a fine of not less than \$800;

3236 (vi) order probation for the individual in accordance with Section 41-6a-507;

3237 (vii) (A) order the individual to pay the administrative impound fee described in  
3238 Section 41-6a-1406; or

3239 (B) if the administrative impound fee was paid by a party described in Subsection  
3240 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
3241 reimburse the party; or

3242 (viii) (A) order the individual to pay the towing and storage fees described in Section  
3243 72-9-603; or

3244 (B) if the towing and storage fees were paid by a party described in Subsection  
3245 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
3246 reimburse the party; and

3247 (b) the court may:

3248 (i) order the individual to obtain substance abuse treatment if the substance abuse  
3249 treatment program determines that substance abuse treatment is appropriate;

3250 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section  
3251 41-6a-515.5 if the individual is 21 years old or older; or

3252 (iii) order a combination of Subsections (7)(b)(i) and (ii).

3253 (8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety  
3254 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
3255 under Subsection (7)(a) after the individual has served a minimum of:

3256 (i) five days of the jail sentence for a second offense; or

3257 (ii) 10 days of the jail sentence for a third or subsequent offense.

3258 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of  
3259 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail  
3260 sentence described in Subsection (8)(a).

3261 (9) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison  
3262 sentence and places the defendant on probation where there is admissible evidence that the  
3263 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol  
3264 level of .05 in addition to any measurable controlled substance, or had a combination of two or  
3265 more controlled substances in the person's body that were not recommended in accordance with  
3266 [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid  
3267 Research and Medical Cannabis or prescribed, the court shall impose:

3268 (a) a fine of not less than \$1,500;

3269 (b) a jail sentence of not less than 120 days;

3270 (c) home confinement of not fewer than 120 consecutive days through the use of  
3271 electronic monitoring that includes a substance abuse testing instrument in accordance with  
3272 Section 41-6a-506; and

3273 (d) supervised probation.

3274 (10) (a) For Subsection (9) or Subsection 41-6a-503(3)(a), the court:

3275 (i) shall impose an order requiring the individual to obtain a screening and assessment  
3276 for alcohol and substance abuse, and treatment as appropriate; and

3277 (ii) may impose an order requiring the individual to participate in a 24/7 sobriety  
3278 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

3279 (b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all  
3280 of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison

3281 sentence described in Subsection (9).

3282 (11) Under Subsection 41-6a-503(3), if the court suspends the execution of a prison  
3283 sentence and places the defendant on probation with a sentence not described in Subsection (9),  
3284 the court shall impose:

3285 (a) a fine of not less than \$1,500;

3286 (b) a jail sentence of not less than 60 days;

3287 (c) home confinement of not fewer than 60 consecutive days through the use of  
3288 electronic monitoring that includes a substance abuse testing instrument in accordance with  
3289 Section 41-6a-506; and

3290 (d) supervised probation.

3291 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the  
3292 requirements of this section.

3293 (ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

3294 (b) A court, with stipulation of both parties and approval from the judge, may convert a  
3295 jail sentence required in this section to electronic home confinement.

3296 (c) A court may order a jail sentence imposed as a condition of misdemeanor probation  
3297 under this section to be served in multiple two-day increments at weekly intervals if the court  
3298 determines that separate jail increments are necessary to ensure the defendant can serve the  
3299 statutorily required jail term and maintain employment.

3300 (13) If an individual is convicted of a violation of Section 41-6a-502 and there is  
3301 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the  
3302 court shall order the following, or describe on record why the order or orders are not  
3303 appropriate:

3304 (a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

3305 (b) one or more of the following:

3306 (i) the installation of an ignition interlock system as a condition of probation for the  
3307 individual in accordance with Section 41-6a-518;

3308 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
3309 device or remote alcohol monitor as a condition of probation for the individual; or

3310 (iii) the imposition of home confinement through the use of electronic monitoring in  
3311 accordance with Section 41-6a-506.

3312 Section 46. Section **41-6a-517** is amended to read:

3313 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
3314 **body -- Penalties -- Arrest without warrant.**

3315 (1) As used in this section:

3316 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

3317 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).

3318 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).

3319 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

3320 (2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of  
3321 Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#), a person may not operate or be in actual physical  
3322 control of a motor vehicle within this state if the person has any measurable controlled  
3323 substance or metabolite of a controlled substance in the person's body.

3324 (b) Subsection (2)(a) does not apply to a person that has  
3325 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's  
3326 body.

3327 (3) It is an affirmative defense to prosecution under this section that the controlled  
3328 substance was:

3329 (a) involuntarily ingested by the accused;

3330 (b) prescribed by a practitioner for use by the accused;

3331 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage  
3332 form that the accused ingested in accordance with [~~Title 26, Chapter 61a, Utah Medical~~  
3333 ~~Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

3334 (d) otherwise legally ingested.

3335 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
3336 misdemeanor.

3337 (b) A person who violates this section is subject to conviction and sentencing under  
3338 both this section and any applicable offense under Section [58-37-8](#).

3339 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
3340 section when the officer has probable cause to believe the violation has occurred, although not  
3341 in the officer's presence, and if the officer has probable cause to believe that the violation was  
3342 committed by the person.

3343 (6) The Driver License Division shall, if the person is 21 years old or older on the date  
3344 of arrest:

3345 (a) suspend, for a period of 120 days, the driver license of a person convicted under  
3346 Subsection (2) of an offense committed on or after July 1, 2009; or

3347 (b) revoke, for a period of two years, the driver license of a person if:

3348 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3349 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
3350 and within a period of 10 years after the date of the prior violation.

3351 (7) The Driver License Division shall, if the person is 19 years old or older but under  
3352 21 years old on the date of arrest:

3353 (a) suspend, until the person is 21 years old or for a period of one year, whichever is  
3354 longer, the driver license of a person convicted under Subsection (2) of an offense committed  
3355 on or after July 1, 2011; or

3356 (b) revoke, until the person is 21 years old or for a period of two years, whichever is  
3357 longer, the driver license of a person if:

3358 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3359 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
3360 and within a period of 10 years after the date of the prior violation.

3361 (8) The Driver License Division shall, if the person is under 19 years old on the date of  
3362 arrest:

3363 (a) suspend, until the person is 21 years old, the driver license of a person convicted  
3364 under Subsection (2) of an offense committed on or after July 1, 2009; or

3365 (b) revoke, until the person is 21 years old, the driver license of a person if:

3366 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

3367 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
3368 and within a period of 10 years after the date of the prior violation.

3369 (9) The Driver License Division shall subtract from any suspension or revocation  
3370 period the number of days for which a license was previously suspended under Section  
3371 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
3372 which the record of conviction is based.

3373 (10) The Driver License Division shall:

3374 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
3375 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
3376 committed prior to July 1, 2009; or

3377 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
3378 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

3379 (i) the person was 20 years old or older but under 21 years old at the time of arrest; and

3380 (ii) the conviction under Subsection (2) is for an offense that was committed on or after  
3381 July 1, 2009, and prior to July 1, 2011.

3382 (11) A court that reported a conviction of a violation of this section for a violation that  
3383 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension  
3384 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period  
3385 if the person:

3386 (a) completes at least six months of the license suspension;

3387 (b) completes a screening;

3388 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
3389 (11)(b);

3390 (d) completes substance abuse treatment if it is found appropriate by the assessment  
3391 under Subsection (11)(c);

3392 (e) completes an educational series if substance abuse treatment is not required by the  
3393 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

3394 (f) has not been convicted of a violation of any motor vehicle law in which the person  
3395 was involved as the operator of the vehicle during the suspension period imposed under  
3396 Subsection (7)(a) or (8)(a);

3397 (g) has complied with all the terms of the person's probation or all orders of the court if  
3398 not ordered to probation; and

3399 (h) (i) is 18 years old or older and provides a sworn statement to the court that the  
3400 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
3401 person or unlawfully consumed alcohol during the suspension period imposed under  
3402 Subsection (7)(a) or (8)(a); or

3403 (ii) is under 18 years old and has the person's parent or legal guardian provide an  
3404 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's

3405 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
3406 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
3407 under Subsection (7)(a) or (8)(a).

3408 (12) If the court shortens a person's license suspension period in accordance with the  
3409 requirements of Subsection (11), the court shall forward the order shortening the person's  
3410 license suspension period to the Driver License Division in a manner specified by the division  
3411 prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).

3412 (13) (a) The court shall notify the Driver License Division if a person fails to complete  
3413 all court ordered screening and assessment, educational series, and substance abuse treatment.

3414 (b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division  
3415 shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

3416 (14) The court:

3417 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person  
3418 convicted under Subsection (2); and

3419 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety  
3420 program as defined in Section 41-6a-515.5 if the person is 21 years old or older.

3421 (15) (a) A court that reported a conviction of a violation of this section to the Driver  
3422 License Division may shorten the suspension period imposed under Subsection (6) before  
3423 completion of the suspension period if the person is participating in or has successfully  
3424 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

3425 (b) If the court shortens a person's license suspension period in accordance with the  
3426 requirements of this Subsection (15), the court shall forward to the Driver License Division, in  
3427 a manner specified by the division, the order shortening the person's suspension period.

3428 (c) The court shall notify the Driver License Division, in a manner specified by the  
3429 division, if a person fails to complete all requirements of a 24-7 sobriety program.

3430 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first  
3431 offense, the division shall suspend the person's driving privilege for a period of 120 days from  
3432 the date of notice.

3433 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted  
3434 from the 120-day suspension period for which a driving privilege was suspended under this  
3435 section or under Section 53-3-223, if the previous suspension was based on the same

3436 occurrence upon which the conviction under this section is based.

3437 (ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or  
3438 subsequent offense, the division shall revoke the person's driving privilege for a period of two  
3439 years from the date of notice.

3440 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted  
3441 from the two-year revocation period for which a driving privilege was previously revoked  
3442 under this section or under Section [53-3-223](#), if the previous revocation was based on the same  
3443 occurrence upon which the conviction under this section is based.

3444 Section 47. Section **41-6a-523** is amended to read:

3445 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

3446 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to  
3447 determine its alcohol or drug content:

3448 (i) a physician;

3449 (ii) a physician assistant;

3450 (iii) a registered nurse;

3451 (iv) a licensed practical nurse;

3452 (v) a paramedic;

3453 (vi) as provided in Subsection (1)(b), emergency medical service personnel other than  
3454 paramedics; or

3455 (vii) a person with a valid permit issued by the Department of Health and Human  
3456 Services under Section [\[26-1-30\]](#) [26B-1-202](#).

3457 (b) The Department of Health and Human Services may designate by rule, in  
3458 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency  
3459 medical service personnel, as defined in Section [\[26-8a-102\]](#) [26B-4-101](#), are authorized to  
3460 draw blood under Subsection (1)(a)(vi), based on the type of license under Section [\[26-8a-302\]](#)  
3461 [26B-4-116](#).

3462 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

3463 (2) The following are immune from civil or criminal liability arising from drawing a  
3464 blood sample from a person whom a peace officer has reason to believe is driving in violation  
3465 of this chapter, if the sample is drawn in accordance with standard medical practice:

3466 (a) a person authorized to draw blood under Subsection (1)(a); and



3467 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

3468 Section 48. Section **41-6a-1717** is amended to read:

3469 **41-6a-1717. Smoking in a vehicle prohibited when child is present -- Penalty --**

3470 **Enforcement.**

3471 (1) As used in this section, "smoking" has the same meaning as defined in Section  
3472 ~~[26-38-2]~~ [26B-7-501](#).

3473 (2) (a) Except as provided in Subsection (2)(b), smoking is prohibited in a motor  
3474 vehicle if a child who is 15 years ~~[of age]~~ old or younger is a passenger in the vehicle.

3475 (b) A person may smoke in a motor vehicle while a child who is 15 years ~~[of age]~~ old  
3476 or younger is a passenger in the vehicle if the person:

3477 (i) is operating a convertible or open-body type motor vehicle; and

3478 (ii) the roof on the convertible or open-body type motor vehicle is in the open-air  
3479 mode.

3480 (3) A person who violates this section is guilty of an infraction and is subject to a  
3481 maximum fine of \$45.

3482 (4) Until July 1, 2014, a peace officer may not issue a citation to an individual for a  
3483 violation of this section but shall issue the individual a warning informing the individual that  
3484 smoking is prohibited in a motor vehicle if a child who is 15 years ~~[of age]~~ old or younger is a  
3485 passenger in the vehicle.

3486 (5) The court may suspend the fine for a violation of this section if:

3487 (a) the person has not previously been convicted of a violation of this section; and

3488 (b) the person proves to the court that the person has enrolled in a smoking cessation  
3489 program.

3490 (6) Enforcement of this section by a state or local law enforcement officer shall be only  
3491 as a secondary action when the vehicle has been detained for a suspected violation by any  
3492 person in the vehicle of Title 41, Motor Vehicles, other than this section, or for another offense.

3493 (7) A violation of this section may not be used as a basis for or evidence of child abuse  
3494 or neglect.

3495 Section 49. Section **41-22-8** is amended to read:

3496 **41-22-8. Registration fees.**

3497 (1) The division, after notifying the commission, shall establish the fees that shall be

3498 paid in accordance with this chapter, subject to the following:

3499 (a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway  
3500 vehicle registration may not exceed \$35.

3501 (ii) The fee for each snowmobile registration may not exceed \$26.

3502 (iii) The fee for each street-legal all-terrain vehicle may not exceed \$72.

3503 (b) The fee for each duplicate registration card may not exceed \$3.

3504 (c) The fee for each duplicate registration sticker may not exceed \$5.

3505 (2) A fee may not be charged for an off-highway vehicle that is owned and operated by  
3506 the United States Government, this state, or its political subdivisions.

3507 (3) (a) In addition to the fees under this section, Section [41-22-33](#), and Section  
3508 [41-22-34](#), the Motor Vehicle Division shall require a person to pay one dollar to register an  
3509 off-highway vehicle under Section [41-22-3](#).

3510 (b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division  
3511 collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund  
3512 described in Section [~~26-54-102~~] [26B-1-319](#).

3513 Section 50. Section **49-11-1401** is amended to read:

3514 **49-11-1401. Forfeiture of retirement benefits for employees for employment**  
3515 **related offense convictions -- Notifications -- Investigations -- Appeals.**

3516 (1) As used in this section:

3517 (a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a  
3518 plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
3519 regardless of whether the charge was, or is, subsequently reduced in accordance with the plea  
3520 agreement or reduced or dismissed in accordance with the plea agreement or the plea in  
3521 abeyance agreement.

3522 (b) "Employee" means a member of a system or plan administered by the board.

3523 (c) (i) "Employment related offense" means a felony committed during employment or  
3524 the term of an elected or appointed office with a participating employer that is:

3525 (A) during the performance of the employee's duties;

3526 (B) within the scope of the employee's employment; or

3527 (C) under color of the employee's authority.

3528 (ii) "Employment related offense" does not include any federal offense for conduct that

3529 is lawful under [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part  
3530 2, Cannabinoid Research and Medical Cannabis.

3531 (2) (a) Notwithstanding any other provision of this title, an employee shall forfeit  
3532 accrual of service credit, employer retirement related contributions, including employer  
3533 contributions to the employer sponsored defined contribution plans, or other retirement related  
3534 benefits from a system or plan under this title in accordance with this section.

3535 (b) The forfeiture of retirement related benefits under Subsection (2)(a) does not  
3536 include the employee's contribution to a defined contribution plan.

3537 (3) An employee shall forfeit the benefits described under Subsection (2)(a):

3538 (a) if the employee is convicted of an employment related offense;

3539 (b) beginning on the day on which the employment related offense occurred; and

3540 (c) until the employee is either:

3541 (i) re-elected or reappointed to office; or

3542 (ii) (A) terminated from the position for which the employee was found to have  
3543 committed an employment related offense; and

3544 (B) rehired or hired as an employee who is eligible to be a member of a Utah state  
3545 retirement system or plan.

3546 (4) The employee's participating employer shall:

3547 (a) immediately notify the office:

3548 (i) if an employee is charged with an offense that is or may be an employment related  
3549 offense under this section; and

3550 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is  
3551 or may be an employment related offense under this section; and

3552 (b) if the employee is convicted of an offense that may be an employment related  
3553 offense:

3554 (i) conduct an investigation, which may rely on the conviction, to determine:

3555 (A) whether the conviction is for an employment related offense; and

3556 (B) the date on which the employment related offense was initially committed; and

3557 (ii) after the period of time for an appeal by an employee under Subsection (5),

3558 immediately notify the office of the employer's determination under this Subsection (4)(b).

3559 (5) An employee may appeal the employee's participating employer's determination

3560 under Subsection (4)(b) in accordance with the participating employer's procedures for  
3561 appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if  
3562 applicable.

3563 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the  
3564 attorney general's office, or the state auditor may notify the office and the employee's  
3565 participating employer if an employee is charged with an offense that is or may be an  
3566 employment related offense under this section.

3567 (b) If the employee's participating employer receives a notification under Subsection  
3568 (6)(a), the participating employer shall immediately report to the entity that provided the  
3569 notification under Subsection (6)(a):

3570 (i) if the employee is acquitted of the offense;

3571 (ii) if the employee is convicted of an offense that may be an employment related  
3572 offense; and

3573 (iii) when the participating employer has concluded the participating employer's duties  
3574 under this section if the employee is convicted, including conducting an investigation, making  
3575 a determination under Subsection (4)(b) that the conviction was for an employment related  
3576 offense, and notifying the office under Subsection (7).

3577 (c) The notifying entity under Subsection (6)(a) may assist the employee's participating  
3578 employer with the investigation and determination described under Subsection (4)(b).

3579 (7) Upon receiving a notification from a participating employer that the participating  
3580 employer has made a determination under Subsection (4)(b) that the conviction was for an  
3581 employment related offense, the office shall immediately forfeit any service credit, employer  
3582 retirement related contributions, including employer contributions to the employer sponsored  
3583 contribution plans, or other retirement related benefits accrued by or made for the benefit of the  
3584 employee, beginning on the date of the initial employment related offense determined under  
3585 Subsection (4)(b).

3586 (8) This section applies to an employee who is convicted on or after the effective date  
3587 of this act for an employment related offense.

3588 (9) The board may make rules to implement this section.

3589 (10) If any provision of this section, or the application of any provision to any person  
3590 or circumstance, is held invalid, the remainder of this section shall be given effect without the

3591 invalid provision or application.

3592 Section 51. Section **49-12-202** is amended to read:

3593 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
3594 **requirements -- Exceptions -- Nondiscrimination requirements.**

3595 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer  
3596 and may not withdraw from participation in this system.

3597 (b) In addition to participation in this system, a participating employer may provide or  
3598 participate in public or private retirement, supplemental or defined contribution plan, either  
3599 directly or indirectly, for the participating employer's employees.

3600 (2) The following employers may be excluded from participation in this system:

3601 (a) an employer not initially admitted or included as a participating employer in this  
3602 system prior to January 1, 1982, if:

3603 (i) the employer elects not to provide or participate in any type of private or public  
3604 retirement, supplemental or defined contribution plan, either directly or indirectly, for the  
3605 employer's employees, except for Social Security; or

3606 (ii) the employer offers another collectively bargained retirement benefit and has  
3607 continued to do so on an uninterrupted basis since that date;

3608 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,  
3609 Charter School Authorization, and does not elect to participate in accordance with Section  
3610 [53G-5-407](#);

3611 (c) an employer that is a hospital created as a special service district under Title 17D,  
3612 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
3613 accordance with Subsection (4); or

3614 (d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21,~~  
3615 ~~Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care  
3616 Facility Licensing and Inspection, and created as a special service district under Title 17D,  
3617 Chapter 1, Special Service District Act, in a rural area of the state that makes an election of  
3618 nonparticipation in accordance with Subsection (4).

3619 (3) An employer who did not become a participating employer in this system prior to  
3620 July 1, 1986, may not participate in this system.

3621 (4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service

3622 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
3623 nonparticipation as an employer for retirement programs under this chapter.

3624 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under  
3625 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,  
3626 Part 2, Health Care Facility Licensing and Inspection, and created as a special service district  
3627 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make  
3628 an election of nonparticipation as an employer for retirement programs under this chapter.

3629 (b) An election provided under Subsection (4)(a):

3630 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

3631 (ii) shall be documented by a resolution adopted by the governing body of the special  
3632 service district;

3633 (iii) is irrevocable; and

3634 (iv) applies to the special service district as the employer and to all employees of the  
3635 special service district.

3636 (c) The governing body of the special service district may offer employee benefit plans  
3637 for special service district's employees:

3638 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3639 or

3640 (ii) under any other program.

3641 (5) (a) If a participating employer purchases service credit on behalf of a regular  
3642 full-time employee for service rendered prior to the participating employer's admission to this  
3643 system, the participating employer shall:

3644 (i) purchase service credit in a nondiscriminatory manner on behalf of all current and  
3645 former regular full-time employees who were eligible for service credit at the time service was  
3646 rendered; and

3647 (ii) comply with the provisions of Section [49-11-403](#), except for the requirement  
3648 described in Subsection [49-11-403\(2\)\(a\)](#).

3649 (b) For a purchase made under this Subsection (5), an employee is not required to:

3650 (i) have at least four years of service credit before the purchase can be made; or

3651 (ii) forfeit service credit or any defined contribution balance based on the employer

3652 contributions under any other retirement system or plan based on the period of employment for

3653 which service credit is being purchased.

3654 Section 52. Section **49-13-202** is amended to read:

3655 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
3656 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

3657 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer  
3658 and may not withdraw from participation in this system.

3659 (b) In addition to participation in this system, a participating employer may provide or  
3660 participate in any additional public or private retirement, supplemental or defined contribution  
3661 plan, either directly or indirectly, for the participating employer's employees.

3662 (2) The following employers may be excluded from participation in this system:

3663 (a) an employer not initially admitted or included as a participating employer in this  
3664 system before January 1, 1982, if:

3665 (i) the employer elects not to provide or participate in any type of private or public  
3666 retirement, supplemental or defined contribution plan, either directly or indirectly, for the  
3667 employer's employees, except for Social Security; or

3668 (ii) the employer offers another collectively bargained retirement benefit and has  
3669 continued to do so on an uninterrupted basis since that date;

3670 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,  
3671 Charter School Authorization, and does not elect to participate in accordance with Section  
3672 [53G-5-407](#);

3673 (c) an employer that is a hospital created as a special service district under Title 17D,  
3674 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
3675 accordance with Subsection (5);

3676 (d) an employer that is licensed as a nursing care facility under [~~Title 26, Chapter 21,~~  
3677 ~~Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care  
3678 Facility Licensing and Inspection, and created as a special service district under Title 17D,  
3679 Chapter 1, Special Service District Act, in a rural area of the state that makes an election of  
3680 nonparticipation in accordance with Subsection (5); or

3681 (e) an employer that is a risk management association initially created by interlocal  
3682 agreement before 1986 for the purpose of implementing a self-insurance joint protection  
3683 program for the benefit of member municipalities of the association.

3684 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to  
3685 provide or participate in any type of public or private retirement, supplemental or defined  
3686 contribution plan, either directly or indirectly, except for Social Security, the employer shall be  
3687 a participating employer in this system regardless of whether the employer has applied for  
3688 admission under Subsection (4).

3689 (4) (a) An employer may, by resolution of the employer's governing body, apply for  
3690 admission to this system.

3691 (b) Upon approval of the resolution by the board, the employer is a participating  
3692 employer in this system and is subject to this title.

3693 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service  
3694 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
3695 nonparticipation as an employer for retirement programs under this chapter.

3696 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under  
3697 [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title 26B, Chapter 2,  
3698 Part 2, Health Care Facility Licensing and Inspection, and created as a special service district  
3699 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make  
3700 an election of nonparticipation as an employer for retirement programs under this chapter.

3701 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make  
3702 an election of nonparticipation as an employer for retirement programs under this chapter.

3703 (b) An election provided under Subsection (5)(a):

3704 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

3705 (ii) shall be documented by a resolution adopted by the governing body of the  
3706 employer;

3707 (iii) is irrevocable; and

3708 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all  
3709 employees of that employer.

3710 (c) The employer making an election under Subsection (5)(a) may offer employee  
3711 benefit plans for the employer's employees:

3712 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3713 or

3714 (ii) under any other program.



3715 (6) (a) If a participating employer purchases service credit on behalf of a regular  
3716 full-time employee for service rendered prior to the participating employer's admission to this  
3717 system, the participating employer shall:

3718 (i) purchase service credit in a nondiscriminatory manner on behalf of all current and  
3719 former regular full-time employees who were eligible for service credit at the time service was  
3720 rendered; and

3721 (ii) comply with the provisions of Section [49-11-403](#), except for the requirement  
3722 described in Subsection [49-11-403\(2\)\(a\)](#).

3723 (b) For a purchase made under this Subsection (6), an employee is not required to:

3724 (i) have at least four years of service credit before the purchase can be made; or

3725 (ii) forfeit service credit or any defined contribution balance based on the employer  
3726 contributions under any other retirement system or plan based on the period of employment for  
3727 which service credit is being purchased.

3728 Section 53. Section **49-20-201** is amended to read:

3729 **49-20-201. Program participation -- Eligibility -- Optional for certain groups.**

3730 (1) (a) The state shall participate in the program on behalf of the state's employees.

3731 (b) Other employers, including political subdivisions and educational institutions, are  
3732 eligible, but are not required, to participate in the program on behalf of their employees.

3733 (2) (a) As provided in Subsection [~~26-40-110(5)~~] [26B-3-908\(5\)](#), the Department of  
3734 Health and Human Services may participate in the program for the purpose of providing health  
3735 and dental benefits to children enrolled in the Utah Children's Health Insurance Program  
3736 created in [~~Title 26, Chapter 40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3,  
3737 Part 9, Utah Children's Health Insurance Program.

3738 (b) If the Department of Health and Human Services participates in the program under  
3739 the provisions of this Subsection (2), all insurance risk associated with the Utah Children's  
3740 Health Insurance Program shall be the responsibility of the Department of Health and Human  
3741 Services and not the program or the office.

3742 (3) Volunteer emergency medical service personnel are eligible to participate in the  
3743 program in accordance with Section [~~26-8a-603~~] [26B-4-136](#).

3744 (4) A covered individual shall be eligible for coverage after termination of employment  
3745 under rules adopted by the board.

3746 (5) Only the following are eligible for Medicare supplement coverage under this  
3747 chapter upon becoming eligible for Medicare Part A and Part B coverage:

3748 (a) retirees;

3749 (b) members;

3750 (c) participants;

3751 (d) employees who have medical employee benefit plan coverage at the time of their  
3752 retirement; and

3753 (e) current spouses of those who are eligible under Subsections (5)(a) through (d).

3754 Section 54. Section **49-20-401** is amended to read:

3755 **49-20-401. Program -- Powers and duties.**

3756 (1) The program shall:

3757 (a) act as a self-insurer of employee benefit plans and administer those plans;

3758 (b) enter into contracts with private insurers or carriers to underwrite employee benefit  
3759 plans as considered appropriate by the program;

3760 (c) indemnify employee benefit plans or purchase commercial reinsurance as  
3761 considered appropriate by the program;

3762 (d) provide descriptions of all employee benefit plans under this chapter in cooperation  
3763 with covered employers;

3764 (e) process claims for all employee benefit plans under this chapter or enter into  
3765 contracts, after competitive bids are taken, with other benefit administrators to provide for the  
3766 administration of the claims process;

3767 (f) obtain an annual actuarial review of all health and dental benefit plans and a  
3768 periodic review of all other employee benefit plans;

3769 (g) consult with the covered employers to evaluate employee benefit plans and develop  
3770 recommendations for benefit changes;

3771 (h) annually submit a budget and audited financial statements to the governor and  
3772 Legislature that includes total projected benefit costs and administrative costs;

3773 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other  
3774 liabilities of the employee benefit plans as certified by the program's consulting actuary;

3775 (j) submit, in advance, the program's recommended benefit adjustments for state  
3776 employees to:

- 3777 (i) the Legislature; and
- 3778 (ii) the director of the state Division of Human Resource Management;
- 3779 (k) determine benefits and rates, upon approval of the board, for multi-employer risk
- 3780 pools, retiree coverage, and conversion coverage;
- 3781 (l) determine benefits and rates based on the total estimated costs and the employee
- 3782 premium share established by the Legislature, upon approval of the board, for state employees;
- 3783 (m) administer benefits and rates, upon ratification of the board, for single-employer
- 3784 risk pools;
- 3785 (n) request proposals for one or more out-of-state provider networks and a dental
- 3786 health plan administered by a third-party carrier at least once every three years for the purposes
- 3787 of:
- 3788 (i) stimulating competition for the benefit of covered individuals;
- 3789 (ii) establishing better geographical coverage of medical care services; and
- 3790 (iii) providing coverage for both active and retired covered individuals;
- 3791 (o) for a proposal that meets the criteria specified in a request for proposals and is
- 3792 accepted by the program:
- 3793 (i) offer the proposal to active and retired state-covered individuals; and
- 3794 (ii) at the option of the covered employer, offer the proposal to active and retired
- 3795 covered individuals of other covered employers;
- 3796 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
- 3797 the Department of Health and Human Services if the program provides program benefits to
- 3798 children enrolled in the Utah Children's Health Insurance Program created in [~~Title 26, Chapter~~
- 3799 ~~40, Utah Children's Health Insurance Act~~] Title 26B, Chapter 3, Part 9, Utah Children's Health
- 3800 Insurance Program;
- 3801 (q) establish rules and procedures governing the admission of political subdivisions or
- 3802 educational institutions and their employees to the program;
- 3803 (r) (i) contract directly with medical providers to provide services for covered
- 3804 individuals at commercially competitive rates; and
- 3805 (ii) (A) discontinue the preferred network, which offers in-network access to all
- 3806 in-state hospitals, for the state risk pool created in Subsection [49-20-202\(1\)\(a\)](#) for plan years
- 3807 starting on or after July 1, 2022; and

3808 (B) for an employee in the state risk pool who fails to elect one of the remaining  
3809 networks before July 1, 2022, enroll the employee and the employee's dependents into the  
3810 network that best reflects the utilization pattern of that employee and the employee's  
3811 dependents;

3812 (s) (i) require state employees and the state employees' dependents to participate in the  
3813 electronic exchange of clinical health records in accordance with Section ~~[26-1-37]~~ 26B-8-411  
3814 unless the enrollee opts out of participation; and

3815 (ii) prior to enrolling the state employee, each time the state employee logs onto the  
3816 program's website, and each time the enrollee receives written enrollment information from the  
3817 program, provide notice to the enrollee of the enrollee's participation in the electronic exchange  
3818 of clinical health records and the option to opt out of participation at any time;

3819 (t) at the request of a procurement unit, as that term is defined in Section 63G-6a-103,  
3820 that administers benefits to program recipients who are not covered by ~~[Title 26, Utah Health~~  
3821 ~~Code]~~ Title 26B, Utah Health and Human Services Code, provide services for:

3822 (i) drugs;

3823 (ii) medical devices; or

3824 (iii) other types of medical care; and

3825 (u) take additional actions necessary or appropriate to carry out the purposes of this  
3826 chapter.

3827 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered  
3828 employers and covered individuals.

3829 (b) The board shall approve administrative costs and report the administrative costs to  
3830 the governor and the Legislature.

3831 (3) The Division of Human Resource Management shall include the benefit  
3832 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the  
3833 governor required under Subsection 63A-17-307(5)(a).

3834 (4) The program may establish a partnership with a public entity in a different state to  
3835 purchase or share services related to the administration of medical benefits if:

3836 (a) the program receives approval for the partnership from the board; and

3837 (b) the partnership:

3838 (i) creates cost savings for Utah;

3839 (ii) does not commingle state funds with funds of the public entity in the other state;  
3840 and

3841 (iii) does not pose a greater actuarial risk to Utah than the program has already  
3842 assumed.

3843 Section 55. Section **49-20-414** is amended to read:

3844 **49-20-414. Telemedicine services -- Reimbursement -- Reporting.**

3845 (1) As used in this section:

3846 (a) "Network provider" means a health care provider who has an agreement with the  
3847 program to provide health care services to a patient with an expectation of receiving payment,  
3848 other than coinsurance, copayments, or deductibles, directly from the managed care  
3849 organization.

3850 (b) "Telemedicine services" means the same as that term is defined in Section  
3851 ~~[26-60-102]~~ [26B-4-704](#).

3852 (2) This section applies to the risk pool established for the state under Subsection  
3853 ~~49-20-201~~(1)(a).

3854 (3) The program shall, at the provider's request, reimburse a network provider for  
3855 medically appropriate telemedicine services at a commercially reasonable rate.

3856 (4) Before November 1, 2019, the program shall report to the Legislature's Public  
3857 Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

- 3858 (a) the result of the reimbursement requirement described in Subsection (3);
- 3859 (b) existing and potential uses of telehealth and telemedicine services;
- 3860 (c) issues of reimbursement to a provider offering telehealth and telemedicine services;
- 3861 (d) potential rules or legislation related to:
  - 3862 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;

3863 and

3864 (ii) increasing access to health care, increasing the efficiency of health care, and  
3865 decreasing the costs of health care; and

3866 (e) telemedicine services that the program declined to cover because the telemedicine  
3867 services that were requested were not medically appropriate.

3868 Section 56. Section **49-20-421** is amended to read:

3869 **49-20-421. Prescription discount program.**

- 3870 (1) As used in this section:
- 3871 (a) "Diabetes" means:
- 3872 (i) complete insulin deficiency or type 1 diabetes;
- 3873 (ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or
- 3874 (iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.
- 3875 (b) "Discount program" means a process developed by the program that allows
- 3876 participants to purchase a qualified prescription at a discounted, post-rebate rate.
- 3877 (c) "Epinephrine auto-injector" means the same as that term is defined in Section
- 3878 ~~[26-41-102]~~ [26B-4-401](#).
- 3879 (d) "Individual with diabetes" means an individual who has been diagnosed with
- 3880 diabetes and who uses insulin to treat diabetes.
- 3881 (e) "Insulin" means a prescription drug that contains insulin.
- 3882 (f) "Participant" means a resident of Utah who:
- 3883 (i) has a qualified condition;
- 3884 (ii) does not receive health coverage under the program; and
- 3885 (iii) enrolls in the discount program.
- 3886 (g) "Prescription drug" means the same as that term is defined in Section [58-17b-102](#).
- 3887 (h) "Qualified condition" means the individual:
- 3888 (i) uses insulin to treat diabetes; or
- 3889 (ii) has a prescription or a standing prescription drug order for an epinephrine
- 3890 auto-injector issued under Section [58-17b-1005](#).
- 3891 (i) "Qualified prescription" means:
- 3892 (i) insulin; or
- 3893 (ii) epinephrine auto-injector.
- 3894 (j) "Rebate" means the same as that term is defined in Section [31A-46-102](#).
- 3895 (2) Notwithstanding Subsection [49-20-201](#)(1), and for the purpose of the discount
- 3896 program only, the program shall offer a discount program that allows participants to purchase a
- 3897 qualified prescription at a discounted, post-rebate price when a rebate is available.
- 3898 (3) The discount program described in Subsection (2) shall:
- 3899 (a) provide a participant with a card or electronic document that identifies the
- 3900 participant as eligible for the discount on a qualified prescription related to the participant's

3901 qualified condition;

3902 (b) provide a participant with information about pharmacies that will honor the  
3903 discount;

3904 (c) allow a participant to purchase a qualified prescription at a discounted, post-rebate  
3905 price; and

3906 (d) provide a participant with instructions to pursue a reimbursement of the purchase  
3907 price from the participant's health insurer.

3908 (4) The discount program shall charge a price for a qualified prescription that allows  
3909 the program to retain only enough of any rebate for the qualified prescription to make the state  
3910 risk pool whole for providing a discounted qualified prescription to participants.

3911 Section 57. Section **51-2a-102** is amended to read:

3912 **51-2a-102. Definitions.**

3913 As used in this chapter:

3914 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

3915 (2) "Audit" means an examination that:

3916 (a) is performed in accordance with generally accepted government auditing standards,  
3917 or for a nonprofit corporation or a governmental nonprofit corporation, in accordance with  
3918 generally accepted auditing standards; and

3919 (b) conforms to the uniform classification of accounts established or approved by the  
3920 state auditor or any other classification of accounts established by any federal government  
3921 agency.

3922 (3) "Audit report" means:

3923 (a) the financial statements presented in conformity with generally accepted accounting  
3924 principles;

3925 (b) the auditor's opinion on the financial statements;

3926 (c) a statement by the auditor expressing positive assurance of compliance with state  
3927 fiscal laws identified by the state auditor;

3928 (d) a copy of the auditor's letter to management that identifies any material weakness in  
3929 internal controls discovered by the auditor and other financial issues related to the expenditure  
3930 of funds received from federal, state, or local governments to be considered by management;  
3931 and

- 3932 (e) management's response to the specific recommendations.
- 3933 (4) "Compilation" means information presented in the form of financial statements  
3934 presented in conformity with generally accepted accounting principles that are the  
3935 representation of management without the accountant undertaking to express any assurances on  
3936 the statements.
- 3937 (5) "Fiscal report" means providing information detailing revenues and expenditures of  
3938 all funds in a format prescribed by the state auditor.
- 3939 (6) "Governing board" means:
- 3940 (a) the governing board of each political subdivision;
- 3941 (b) the governing board of each interlocal organization having the power to tax or to  
3942 expend public funds;
- 3943 (c) the governing board of any local mental health authority established under the  
3944 authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B,  
3945 Chapter 5, Health Care - Substance Use and Mental Health;
- 3946 (d) the governing board of any substance abuse authority established under the  
3947 authority of [~~Title 62A, Chapter 15, Substance Abuse and Mental Health Act~~] Title 26B,  
3948 Chapter 5, Health Care - Substance Use and Mental Health;
- 3949 (e) the governing board of any area agency established under the authority of [~~Title~~  
3950 ~~62A, Chapter 3, Aging and Adult Services~~] Title 26B, Chapter 6, Part 1, Aging and Adult  
3951 Services;
- 3952 (f) the board of directors of any nonprofit corporation that receives an amount of  
3953 money requiring an accounting report under Section [51-2a-201.5](#);
- 3954 (g) the governing board, as that term is defined in Section [11-13a-102](#), of a  
3955 governmental nonprofit corporation;
- 3956 (h) the governing board of any other entity established by a local governmental unit  
3957 that receives tax exempt status for bonding or taxing purposes; and
- 3958 (i) in municipalities organized under an optional form of municipal government, the  
3959 municipal legislative body.
- 3960 (7) "Governmental nonprofit corporation" means the same as that term is defined in  
3961 Section [11-13a-102](#).
- 3962 (8) "Nonprofit corporation" does not include a governmental nonprofit corporation.



3963 (9) "Review" means performing inquiry and analytical procedures that provide the  
3964 accountant with a reasonable basis for expressing limited assurance that there are no material  
3965 modifications that should be made to the financial statements for them to be in conformity with  
3966 generally accepted accounting principles.

3967 Section 58. Section **51-7-2** is amended to read:

3968 **51-7-2. Exemptions from chapter.**

3969 The following funds are exempt from this chapter:

3970 (1) funds invested in accordance with the participating employees' designation or  
3971 direction pursuant to a public employees' deferred compensation plan established and operated  
3972 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

3973 (2) funds of the Utah State Retirement Board;

3974 (3) funds of the Utah Housing Corporation;

3975 (4) endowment funds of higher education institutions, including funds of the Higher  
3976 Education Student Success Endowment, created in Section [53B-7-801](#);

3977 (5) permanent and other land grant trust funds established pursuant to the Utah  
3978 Enabling Act and the Utah Constitution;

3979 (6) the State Post-Retirement Benefits Trust Fund;

3980 (7) the funds of the Utah Educational Savings Plan;

3981 (8) funds of the permanent state trust fund created by and operated under Utah  
3982 Constitution, Article XXII, Section 4;

3983 (9) the funds in the Navajo Trust Fund;

3984 (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

3985 (11) the funds in the Employers' Reinsurance Fund;

3986 (12) the funds in the Uninsured Employers' Fund;

3987 (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in  
3988 Section [~~62A-5-206.7~~] [26B-1-331](#);

3989 (14) the funds in the Risk Management Fund created in Section [63A-4-201](#); and

3990 (15) the Utah fund of funds created in Section [63N-6-401](#).

3991 Section 59. Section **51-9-201** is amended to read:

3992 **51-9-201. Creation of Tobacco Settlement Restricted Account.**

3993 (1) There is created within the General Fund a restricted account known as the

3994 "Tobacco Settlement Restricted Account."  
3995           (2) The account shall earn interest.  
3996           (3) The account shall consist of:  
3997           (a) on and after July 1, 2007, 60% of all funds of every kind that are received by the  
3998 state that are related to the settlement agreement that the state entered into with leading tobacco  
3999 manufacturers on November 23, 1998; and  
4000           (b) interest earned on the account.  
4001           (4) To the extent that funds will be available for appropriation in a given fiscal year,  
4002 those funds shall be appropriated from the account in the following order:  
4003           (a) \$66,600 to the Office of the Attorney General for ongoing enforcement and defense  
4004 of the Tobacco Settlement Agreement;  
4005           (b) \$18,500 to the State Tax Commission for ongoing enforcement of business  
4006 compliance with the Tobacco Tax Settlement Agreement;  
4007           (c) \$11,022,900 to the Department of Health and Human Services for:  
4008           (i) children in the Medicaid program created in [~~Title 26, Chapter 18, Medical~~  
4009 ~~Assistance Act~~] Title 26B, Chapter 3, Health Care - Administration and Assistance, and the  
4010 Children's Health Insurance Program created in Section [~~26-40-103~~] 26B-3-902; and  
4011           (ii) for restoration of dental benefits in the Children's Health Insurance Program;  
4012           (d) \$3,277,100 to the Department of Health and Human Services for alcohol, tobacco,  
4013 and other drug prevention, reduction, cessation, and control programs that promote unified  
4014 messages and make use of media outlets, including radio, newspaper, billboards, and  
4015 television, and with a preference in funding given to tobacco-related programs;  
4016           (e) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the  
4017 Department of Health and Human Services for the statewide expansion of the drug court  
4018 program;  
4019           (f) \$4,000,000 to the Utah Board of Higher Education for the University of Utah  
4020 Health Sciences Center to benefit the health and well-being of Utah citizens through in-state  
4021 research, treatment, and educational activities; and  
4022           (g) any remaining funds as directed by the Legislature through appropriation.  
4023 Section 60. Section **51-9-203** is amended to read:  
4024 **51-9-203. Requirements for tobacco and electronic cigarette programs.**

4025 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,  
4026 cessation, or control program, an organization, whether private, governmental, or  
4027 quasi-governmental, shall:

4028 (a) submit a request to the Department of Health and Human Services containing the  
4029 following information:

4030 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate  
4031 sound management and periodic evaluation of the campaign's relevance to the intended  
4032 audience, particularly in campaigns directed toward youth, including audience awareness of the  
4033 campaign and recollection of the main message;

4034 (ii) for school-based education programs to prevent and reduce youth smoking, the  
4035 request shall describe how the program will be effective in preventing and reducing youth  
4036 smoking;

4037 (iii) for community-based programs to prevent and reduce smoking, the request shall  
4038 demonstrate that the proposed program:

4039 (A) has a comprehensive strategy with a clear mission and goals;

4040 (B) provides for committed, caring, and professional leadership; and

4041 (C) if directed toward youth:

4042 (I) offers youth-centered activities in youth accessible facilities;

4043 (II) is culturally sensitive, inclusive, and diverse;

4044 (III) involves youth in the planning, delivery, and evaluation of services that affect  
4045 them; and

4046 (IV) offers a positive focus that is inclusive of all youth; and

4047 (iv) for enforcement, control, and compliance program, the request shall demonstrate  
4048 that the proposed program can reasonably be expected to reduce the extent to which tobacco  
4049 products and electronic cigarette products, as those terms are defined in Section 76-10-101, are  
4050 available to individuals under 21 years old;

4051 (b) agree, by contract, to file an annual written report with the Department of Health  
4052 and Human Services that contains the following:

4053 (i) the amount funded;

4054 (ii) the amount expended;

4055 (iii) a description of the program or campaign and the number of adults and youth who

4056 participated;

4057 (iv) specific elements of the program or campaign meeting the applicable criteria set  
4058 forth in Subsection (1)(a); and

4059 (v) a statement concerning the success and effectiveness of the program or campaign;

4060 (c) agree, by contract, to not use any funds received under this part directly or  
4061 indirectly, to:

4062 (i) engage in any lobbying or political activity, including the support of, or opposition  
4063 to, candidates, ballot questions, referenda, or similar activities; or

4064 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to  
4065 enforce:

4066 (A) the provisions of the Master Settlement Agreement;

4067 (B) [~~Title 26, Chapter 38, Utah Indoor Clean Air Act~~] Title 26B, Chapter 7, Part 5,  
4068 Regulation of Smoking, Tobacco Products, and Nicotine Products;

4069 (C) [~~Title 26, Chapter 62, Part 3, Enforcement~~] Sections 26B-7-514 through  
4070 26B-7-520; and

4071 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

4072 (d) agree, by contract, to repay the funds provided under this part if the organization:

4073 (i) fails to file a timely report as required by Subsection (1)(b); or

4074 (ii) uses any portion of the funds in violation of Subsection (1)(c).

4075 (2) The Department of Health and Human Services shall review and evaluate the  
4076 success and effectiveness of any program or campaign that receives funding pursuant to a  
4077 request submitted under Subsection (1). The review and evaluation:

4078 (a) shall include a comparison of annual smoking trends;

4079 (b) may be conducted by an independent evaluator; and

4080 (c) may be paid for by funds appropriated from the account for that purpose.

4081 (3) An organization that fails to comply with the contract requirements set forth in  
4082 Subsection (1) shall:

4083 (a) repay the state as provided in Subsection (1)(d); and

4084 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.

4085 (4) The attorney general shall be responsible for recovering funds that are required to  
4086 be repaid to the state under this section.

4087 (5) Nothing in this section may be construed as applying to funds that are not  
4088 appropriated under this part.

4089 Section 61. Section **52-4-205** is amended to read:

4090 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**  
4091 **meetings.**

4092 (1) A closed meeting described under Section [52-4-204](#) may only be held for:

4093 (a) except as provided in Subsection (3), discussion of the character, professional  
4094 competence, or physical or mental health of an individual;

4095 (b) strategy sessions to discuss collective bargaining;

4096 (c) strategy sessions to discuss pending or reasonably imminent litigation;

4097 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,  
4098 including any form of a water right or water shares, or to discuss a proposed development  
4099 agreement, project proposal, or financing proposal related to the development of land owned by  
4100 the state, if public discussion would:

4101 (i) disclose the appraisal or estimated value of the property under consideration; or

4102 (ii) prevent the public body from completing the transaction on the best possible terms;

4103 (e) strategy sessions to discuss the sale of real property, including any form of a water  
4104 right or water shares, if:

4105 (i) public discussion of the transaction would:

4106 (A) disclose the appraisal or estimated value of the property under consideration; or

4107 (B) prevent the public body from completing the transaction on the best possible terms;

4108 (ii) the public body previously gave public notice that the property would be offered for  
4109 sale; and

4110 (iii) the terms of the sale are publicly disclosed before the public body approves the  
4111 sale;

4112 (f) discussion regarding deployment of security personnel, devices, or systems;

4113 (g) investigative proceedings regarding allegations of criminal misconduct;

4114 (h) as relates to the Independent Legislative Ethics Commission, conducting business  
4115 relating to the receipt or review of ethics complaints;

4116 (i) as relates to an ethics committee of the Legislature, a purpose permitted under

4117 Subsection [52-4-204](#)(1)(a)(iii)(C);

4118 (j) as relates to the Independent Executive Branch Ethics Commission created in  
4119 Section 63A-14-202, conducting business relating to an ethics complaint;

4120 (k) as relates to a county legislative body, discussing commercial information as  
4121 defined in Section 59-1-404;

4122 (l) as relates to the Utah Higher Education Assistance Authority and its appointed  
4123 board of directors, discussing fiduciary or commercial information as defined in Section  
4124 53B-12-102;

4125 (m) deliberations, not including any information gathering activities, of a public body  
4126 acting in the capacity of:

4127 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,  
4128 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

4129 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a  
4130 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

4131 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement  
4132 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,  
4133 Procurement Appeals Board;

4134 (n) the purpose of considering information that is designated as a trade secret, as  
4135 defined in Section 13-24-2, if the public body's consideration of the information is necessary to  
4136 properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

4137 (o) the purpose of discussing information provided to the public body during the  
4138 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of  
4139 the meeting:

4140 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be  
4141 disclosed to a member of the public or to a participant in the procurement process; and

4142 (ii) the public body needs to review or discuss the information to properly fulfill its  
4143 role and responsibilities in the procurement process;

4144 (p) as relates to the governing board of a governmental nonprofit corporation, as that  
4145 term is defined in Section 11-13a-102, the purpose of discussing information that is designated  
4146 as a trade secret, as that term is defined in Section 13-24-2, if:

4147 (i) public knowledge of the discussion would reasonably be expected to result in injury  
4148 to the owner of the trade secret; and

4149 (ii) discussion of the information is necessary for the governing board to properly  
4150 discharge the board's duties and conduct the board's business;

4151 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,  
4152 to review confidential information regarding violations and security requirements in relation to  
4153 the operation of cannabis production establishments; or

4154 (r) a purpose for which a meeting is required to be closed under Subsection (2).

4155 (2) The following meetings shall be closed:

4156 (a) a meeting of the Health and Human Services Interim Committee to review a report  
4157 described in Subsection [~~62A-16-301(1)(a)~~] [26B-1-506\(1\)\(a\)](#), and the responses to the report  
4158 described in Subsections [~~62A-16-301(2) and (4)~~] [26B-1-506\(2\) and \(4\)](#);

4159 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

4160 (i) review a report described in Subsection [~~62A-16-301(1)(a)~~] [26B-1-506\(1\)\(a\)](#), and  
4161 the responses to the report described in Subsections [~~62A-16-301(2) and (4)~~] [26B-1-506\(2\) and](#)  
4162 [\(4\)](#); or

4163 (ii) review and discuss an individual case, as described in Subsection [36-33-103\(2\)](#);

4164 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in  
4165 Section [~~26-7-13~~] [26B-1-403](#), to review and discuss an individual case, as described in  
4166 Subsection [~~26-7-13(10)~~] [26B-1-403\(10\)](#);

4167 (d) a meeting of a conservation district as defined in Section [17D-3-102](#) for the  
4168 purpose of advising the Natural Resource Conservation Service of the United States  
4169 Department of Agriculture on a farm improvement project if the discussed information is  
4170 protected information under federal law;

4171 (e) a meeting of the Compassionate Use Board established in Section [~~26-61a-105~~]  
4172 [26B-1-421](#) for the purpose of reviewing petitions for a medical cannabis card in accordance  
4173 with Section [~~26-61a-105~~] [26B-1-421](#);

4174 (f) a meeting of the Colorado River Authority of Utah if:

4175 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in  
4176 the Colorado River system; and

4177 (ii) failing to close the meeting would:

4178 (A) reveal the contents of a record classified as protected under Subsection  
4179 [63G-2-305\(82\)](#);



4180 (B) reveal a legal strategy relating to the state's claim to the use of the water in the  
4181 Colorado River system;

4182 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to  
4183 negotiate the best terms and conditions regarding the use of water in the Colorado River  
4184 system; or

4185 (D) give an advantage to another state or to the federal government in negotiations  
4186 regarding the use of water in the Colorado River system;

4187 (g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

4188 (i) the purpose of the meeting is to discuss an application for participation in the  
4189 regulatory sandbox as defined in Section 63N-16-102; and

4190 (ii) failing to close the meeting would reveal the contents of a record classified as  
4191 protected under Subsection 63G-2-305(83);

4192 (h) a meeting of a project entity if:

4193 (i) the purpose of the meeting is to conduct a strategy session to discuss market  
4194 conditions relevant to a business decision regarding the value of a project entity asset if the  
4195 terms of the business decision are publicly disclosed before the decision is finalized and a  
4196 public discussion would:

4197 (A) disclose the appraisal or estimated value of the project entity asset under  
4198 consideration; or

4199 (B) prevent the project entity from completing on the best possible terms a  
4200 contemplated transaction concerning the project entity asset;

4201 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could  
4202 cause commercial injury to, or confer a competitive advantage upon a potential or actual  
4203 competitor of, the project entity;

4204 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of  
4205 which could cause commercial injury to, or confer a competitive advantage upon a potential or  
4206 actual competitor of, the project entity; or

4207 (iv) failing to close the meeting would prevent the project entity from getting the best  
4208 price on the market; and

4209 (i) a meeting of the School Activity Eligibility Commission, described in Section  
4210 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to



4211 consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's  
4212 eligibility to participate in an interscholastic activity, as that term is defined in Section  
4213 53G-6-1001, including the commission's determinative vote on the student's eligibility.

4214 (3) In a closed meeting, a public body may not:

4215 (a) interview a person applying to fill an elected position;

4216 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,  
4217 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;  
4218 or

4219 (c) discuss the character, professional competence, or physical or mental health of the  
4220 person whose name was submitted for consideration to fill a midterm vacancy or temporary  
4221 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and  
4222 Temporary Absence in Elected Office.

4223 Section 62. Section 53-1-106 is amended to read:

4224 **53-1-106. Department duties -- Powers.**

4225 (1) In addition to the responsibilities contained in this title, the department shall:

4226 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic  
4227 Code, including:

4228 (i) setting performance standards for towing companies to be used by the department,  
4229 as required by Section 41-6a-1406; and

4230 (ii) advising the Department of Transportation regarding the safe design and operation  
4231 of school buses, as required by Section 41-6a-1304;

4232 (b) make rules to establish and clarify standards pertaining to the curriculum and  
4233 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

4234 (c) aid in enforcement efforts to combat drug trafficking;

4235 (d) meet with the Division of Technology Services to formulate contracts, establish  
4236 priorities, and develop funding mechanisms for dispatch and telecommunications operations;

4237 (e) provide assistance to the Crime Victim Reparations Board and the Utah Office for  
4238 Victims of Crime in conducting research or monitoring victims' programs, as required by  
4239 Section 63M-7-505;

4240 (f) develop sexual assault exam protocol standards in conjunction with the Utah  
4241 Hospital Association;

4242 (g) engage in emergency planning activities, including preparation of policy and  
4243 procedure and rulemaking necessary for implementation of the federal Emergency Planning  
4244 and Community Right to Know Act of 1986, as required by Section [53-2a-702](#);

4245 (h) implement the provisions of Section [53-2a-402](#), the Emergency Management  
4246 Assistance Compact;

4247 (i) ensure that any training or certification required of a public official or public  
4248 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter  
4249 22, State Training and Certification Requirements, if the training or certification is required:

4250 (i) under this title;

4251 (ii) by the department; or

4252 (iii) by an agency or division within the department;

4253 (j) employ a law enforcement officer as a public safety liaison to be housed at the State  
4254 Board of Education who shall work with the State Board of Education to:

4255 (i) support training with relevant state agencies for school resource officers as  
4256 described in Section [53G-8-702](#);

4257 (ii) coordinate the creation of model policies and memorandums of understanding for a  
4258 local education agency and a local law enforcement agency; and

4259 (iii) ensure cooperation between relevant state agencies, a local education agency, and  
4260 a local law enforcement agency to foster compliance with disciplinary related statutory  
4261 provisions, including Sections [53E-3-516](#) and [53G-8-211](#); and

4262 (k) provide for the security and protection of public officials, public officials' staff, and  
4263 the capitol hill complex in accordance with the provisions of this part.

4264 (2) (a) The department shall establish a schedule of fees as required or allowed in this  
4265 title for services provided by the department.

4266 (b) All fees not established in statute shall be established in accordance with Section  
4267 [63J-1-504](#).

4268 (3) The department may establish or contract for the establishment of an Organ  
4269 Procurement Donor Registry in accordance with Section [~~26-28-120~~] [26B-8-319](#).

4270 Section 63. Section **53-2a-218** is amended to read:

4271 **53-2a-218. Legislative Emergency Response Committee.**

4272 (1) There is created an ad hoc committee known as the Legislative Emergency

4273 Response Committee.

4274 (2) (a) The committee membership includes:

4275 (i) the same membership as the Executive Appropriations Committee as constituted at  
4276 the time the committee is convened;

4277 (ii) between four and six additional members designated by the speaker of the House of  
4278 Representatives, chosen from the following:

4279 (A) one or more members of the House of Representatives that serve as chair or  
4280 vice-chair of a legislative committee with a subject matter focus relevant to the current  
4281 emergency;

4282 (B) one or more members of the House of Representatives with relevant expertise or  
4283 experience relevant to the current emergency; or

4284 (C) one or more members of the House of Representatives from a minority party that  
4285 serves on a relevant legislative committee or that has expertise and experience relevant to the  
4286 current emergency; and

4287 (iii) between four and six additional members designated by the president of the  
4288 Senate, chosen from the following:

4289 (A) one or more members of the Senate that serve as chair or vice-chair of a legislative  
4290 committee with a subject matter focus relevant to the current emergency;

4291 (B) one or more members of the Senate with relevant expertise or experience relevant  
4292 to the current emergency; or

4293 (C) one or more members of the Senate from a minority party that serves on a relevant  
4294 legislative committee or that has expertise and experience relevant to the current emergency.

4295 (b) The speaker of the House of Representatives and the president of the Senate shall  
4296 coordinate to ensure they each appoint the same number of legislators as described under  
4297 Subsections (2)(a)(ii) and (iii).

4298 (3) The speaker of the House of Representatives and the president of the Senate shall  
4299 serve as chairs of the committee.

4300 (4) The Office of Legislative Research and General Counsel shall provide staff support  
4301 to the committee.

4302 (5) (a) If the governor declares a state of emergency as described in this chapter, and  
4303 the governor finds that the emergency conditions warrant an extension of the state of

4304 emergency beyond the 30-day term or another date designated by the Legislature as described  
4305 in Section [53-2a-206](#), the governor shall provide written notice to the speaker of the House of  
4306 Representatives and the president of the Senate at least 10 days before the expiration of the  
4307 state of emergency.

4308 (b) If the speaker of the House of Representatives and the president of the Senate  
4309 receive notice as described in Subsection (5)(a) for a state of emergency within the first 30 days  
4310 from the initial declaration of the state of emergency, or from the Department of Health and  
4311 Human Services as described in Section [~~26-23b-104~~] [26B-7-317](#), or from a local health  
4312 department as described in Section [26A-1-121](#), the speaker of the House of Representatives  
4313 and the president of the Senate:

4314 (i) shall poll the members of their respective bodies to determine whether the  
4315 Legislature will extend the state of emergency; and

4316 (ii) may jointly convene the committee.

4317 (c) If the speaker of the House of Representatives and the president of the Senate  
4318 receive notice as described in Subsection (5)(a) for a state of emergency that has been extended  
4319 beyond 30 days from the initial declaration of a state of emergency, the speaker of the House of  
4320 Representatives and the president of the Senate shall jointly convene the committee.

4321 (6) If the committee is convened as described in Subsection (5), the committee shall  
4322 conduct a public meeting to:

4323 (a) discuss the nature of the emergency and conditions of the emergency;

4324 (b) evaluate options for emergency response;

4325 (c) receive testimony from individuals with expertise relevant to the current  
4326 emergency;

4327 (d) receive testimony from members of the public; and

4328 (e) provide a recommendation to the Legislature whether to extend the state of  
4329 emergency by joint resolution.

4330 Section 64. Section **53-2c-102** is amended to read:

4331 **53-2c-102. Definitions.**

4332 (1) "Commission" means the Public Health and Economic Emergency Commission  
4333 created in Section [53-2c-201](#).

4334 (2) "COVID-19" means:

- 4335 (a) severe acute respiratory syndrome coronavirus 2; or  
4336 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.  
4337 (3) "COVID-19 emergency" means the spread of COVID-19 that the World Health  
4338 Organization declared a pandemic on March 11, 2020.  
4339 (4) "Elective surgery or procedure" means a surgery or procedure that is not medically  
4340 necessary to correct a serious medical condition or preserve the life of a patient.  
4341 (5) "Epidemic or pandemic disease" means the same as that term is defined in Section  
4342 [\[26-23b-102\]](#) [26B-7-301](#).  
4343 (6) "Local ordinance or order" means an ordinance, order, or other regulation enacted  
4344 or issued by a local government entity.  
4345 (7) "Public health emergency" means an occurrence or imminent credible threat of an  
4346 illness or health condition:  
4347 (a) that is caused by epidemic or pandemic disease;  
4348 (b) that poses a substantial risk of a significant number of human fatalities or incidents  
4349 of permanent or long-term disability; and  
4350 (c) for which the governor has declared a state of emergency under Title 53, Chapter  
4351 2a, Part 2, Disaster Response and Recovery Act.  
4352 Section 65. Section **53-3-102** is amended to read:  
4353 **53-3-102. Definitions.**  
4354 As used in this chapter:  
4355 (1) "Autocycle" means a motor vehicle that:  
4356 (a) is designed to travel with three or fewer wheels in contact with the ground; and  
4357 (b) is equipped with:  
4358 (i) a steering mechanism;  
4359 (ii) seat belts; and  
4360 (iii) seating that does not require the operator to straddle or sit astride the motor  
4361 vehicle.  
4362 (2) "Cancellation" means the termination by the division of a license issued through  
4363 error or fraud or for which consent under Section [53-3-211](#) has been withdrawn.  
4364 (3) "Class D license" means the class of license issued to drive motor vehicles not  
4365 defined as commercial motor vehicles or motorcycles under this chapter.

4366 (4) "Commercial driver instruction permit" or "CDIP" means a commercial learner  
4367 permit:

4368 (a) issued under Section 53-3-408; or

4369 (b) issued by a state or other jurisdiction of domicile in compliance with the standards  
4370 contained in 49 C.F.R. Part 383.

4371 (5) "Commercial driver license" or "CDL" means a license:

4372 (a) issued substantially in accordance with the requirements of Title XII, Pub. L.  
4373 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,  
4374 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of  
4375 commercial motor vehicle; and

4376 (b) that was obtained by providing evidence of lawful presence in the United States  
4377 with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

4378 (6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a  
4379 driving record that:

4380 (i) applies to a person who holds or is required to hold a commercial driver instruction  
4381 permit or a CDL license; and

4382 (ii) contains the following:

4383 (A) information contained in the driver history, including convictions, pleas held in  
4384 abeyance, disqualifications, and other licensing actions for violations of any state or local law  
4385 relating to motor vehicle traffic control, committed in any type of vehicle;

4386 (B) driver self-certification status information under Section 53-3-410.1; and

4387 (C) information from medical certification record keeping in accordance with 49  
4388 C.F.R. Sec. 383.73(o).

4389 (b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a  
4390 motor vehicle record described in Subsection (30).

4391 (7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor  
4392 vehicles designed or used to transport passengers or property if the motor vehicle:

4393 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as  
4394 determined by federal regulation;

4395 (ii) is designed to transport 16 or more passengers, including the driver; or

4396 (iii) is transporting hazardous materials and is required to be placarded in accordance

4397 with 49 C.F.R. Part 172, Subpart F.

4398 (b) The following vehicles are not considered a commercial motor vehicle for purposes  
4399 of Part 4, Uniform Commercial Driver License Act:

4400 (i) equipment owned and operated by the United States Department of Defense when  
4401 driven by any active duty military personnel and members of the reserves and national guard on  
4402 active duty including personnel on full-time national guard duty, personnel on part-time  
4403 training, and national guard military technicians and civilians who are required to wear military  
4404 uniforms and are subject to the code of military justice;

4405 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm  
4406 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation  
4407 as a motor carrier for hire;

4408 (iii) firefighting and emergency vehicles;

4409 (iv) recreational vehicles that are not used in commerce and are driven solely as family  
4410 or personal conveyances for recreational purposes; and

4411 (v) vehicles used to provide transportation network services, as defined in Section  
4412 [13-51-102](#).

4413 (8) "Conviction" means any of the following:

4414 (a) an unvacated adjudication of guilt or a determination that a person has violated or  
4415 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

4416 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's  
4417 appearance in court;

4418 (c) a plea of guilty or nolo contendere accepted by the court;

4419 (d) the payment of a fine or court costs; or

4420 (e) violation of a condition of release without bail, regardless of whether the penalty is  
4421 rebated, suspended, or probated.

4422 (9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to  
4423 which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security,  
4424 do not apply.

4425 (10) "Director" means the division director appointed under Section [53-3-103](#).

4426 (11) "Disqualification" means either:

4427 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state

4428 of a person's privileges to drive a commercial motor vehicle;

4429 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,  
4430 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part  
4431 391; or

4432 (c) the loss of qualification that automatically follows conviction of an offense listed in  
4433 49 C.F.R. Part 383.51.

4434 (12) "Division" means the Driver License Division of the department created in  
4435 Section 53-3-103.

4436 (13) "Downgrade" means to obtain a lower license class than what was originally  
4437 issued during an existing license cycle.

4438 (14) "Drive" means:

4439 (a) to operate or be in physical control of a motor vehicle upon a highway; and

4440 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections  
4441 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within  
4442 the state.

4443 (15) (a) "Driver" means an individual who drives, or is in actual physical control of a  
4444 motor vehicle in any location open to the general public for purposes of vehicular traffic.

4445 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person  
4446 who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or  
4447 federal law.

4448 (16) "Driving privilege card" means the evidence of the privilege granted and issued  
4449 under this chapter to drive a motor vehicle to a person whose privilege was obtained without  
4450 providing evidence of lawful presence in the United States.

4451 (17) "Electronic license certificate" means the evidence, in an electronic format as  
4452 described in Section 53-3-235, of a privilege granted under this chapter to drive a motor  
4453 vehicle.

4454 (18) "Extension" means a renewal completed in a manner specified by the division.

4455 (19) "Farm tractor" means every motor vehicle designed and used primarily as a farm  
4456 implement for drawing plows, mowing machines, and other implements of husbandry.

4457 (20) "Highway" means the entire width between property lines of every way or place of  
4458 any nature when any part of it is open to the use of the public, as a matter of right, for traffic.



4459 (21) "Human driver" means the same as that term is defined in Section [41-26-102.1](#).

4460 (22) "Identification card" means a card issued under Part 8, Identification Card Act, to  
4461 a person for identification purposes.

4462 (23) "Indigent" means that a person's income falls below the federal poverty guideline  
4463 issued annually by the [U.S.] United States Department of Health and Human Services in the  
4464 Federal Register.

4465 (24) "License" means the privilege to drive a motor vehicle.

4466 (25) (a) "License certificate" means the evidence of the privilege issued under this  
4467 chapter to drive a motor vehicle.

4468 (b) "License certificate" evidence includes:

4469 (i) a regular license certificate;

4470 (ii) a limited-term license certificate;

4471 (iii) a driving privilege card;

4472 (iv) a CDL license certificate;

4473 (v) a limited-term CDL license certificate;

4474 (vi) a temporary regular license certificate;

4475 (vii) a temporary limited-term license certificate; and

4476 (viii) an electronic license certificate created in Section [53-3-235](#).

4477 (26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

4478 (a) issued substantially in accordance with the requirements of Title XII, Pub. L. No.

4479 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4,

4480 Uniform Commercial Driver License Act, which authorizes the holder to drive a class of

4481 commercial motor vehicle; and

4482 (b) that was obtained by providing evidence of lawful presence in the United States

4483 with one of the document requirements described in Subsection [53-3-410\(1\)\(i\)\(ii\)](#).

4484 (27) "Limited-term identification card" means an identification card issued under this

4485 chapter to a person whose card was obtained by providing evidence of lawful presence in the

4486 United States with one of the document requirements described in Subsection

4487 [53-3-804\(2\)\(i\)\(ii\)](#).

4488 (28) "Limited-term license certificate" means the evidence of the privilege granted and

4489 issued under this chapter to drive a motor vehicle to a person whose privilege was obtained

4490 providing evidence of lawful presence in the United States with one of the document  
4491 requirements described in Subsection [53-3-205\(8\)\(a\)\(ii\)\(B\)](#).

4492 (29) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

4493 (30) "Motor vehicle record" or "MVR" means a driving record under Subsection  
4494 [53-3-109\(6\)\(a\)](#).

4495 (31) "Motorboat" means the same as that term is defined in Section [73-18-2](#).

4496 (32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or  
4497 saddle for the use of the rider and designed to travel with not more than three wheels in contact  
4498 with the ground.

4499 (33) "Office of Recovery Services" means the Office of Recovery Services, created in  
4500 Section [~~62A-11-102~~] [26B-9-103](#).

4501 (34) "Operate" means the same as that term is defined in Section [41-1a-102](#).

4502 (35) (a) "Owner" means a person other than a lien holder having an interest in the  
4503 property or title to a vehicle.

4504 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to  
4505 a security interest in another person but excludes a lessee under a lease not intended as security.

4506 (36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge,  
4507 or other financial penalty imposed on an individual by a court or other government entity.

4508 (37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

4509 (i) designed to transport 15 or fewer passengers, including the driver; and

4510 (ii) operated to transport an employee of the person that hires the motor vehicle.

4511 (b) "Private passenger carrier" does not include:

4512 (i) a taxicab;

4513 (ii) a motor vehicle driven by a transportation network driver as defined in Section  
4514 [13-51-102](#);

4515 (iii) a motor vehicle driven for transportation network services as defined in Section  
4516 [13-51-102](#); and

4517 (iv) a motor vehicle driven for a transportation network company as defined in Section  
4518 [13-51-102](#) and registered with the Division of Consumer Protection as described in Section  
4519 [13-51-104](#).

4520 (38) "Regular identification card" means an identification card issued under this

4521 chapter to a person whose card was obtained by providing evidence of lawful presence in the  
4522 United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

4523 (39) "Regular license certificate" means the evidence of the privilege issued under this  
4524 chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful  
4525 presence in the United States with one of the document requirements described in Subsection  
4526 53-3-205(8)(a)(ii)(A).

4527 (40) "Renewal" means to validate a license certificate so that it expires at a later date.

4528 (41) "Reportable violation" means an offense required to be reported to the division as  
4529 determined by the division and includes those offenses against which points are assessed under  
4530 Section 53-3-221.

4531 (42) (a) "Resident" means an individual who:

4532 (i) has established a domicile in this state, as defined in Section 41-1a-202, or  
4533 regardless of domicile, remains in this state for an aggregate period of six months or more  
4534 during any calendar year;

4535 (ii) engages in a trade, profession, or occupation in this state, or who accepts  
4536 employment in other than seasonal work in this state, and who does not commute into the state;

4537 (iii) declares himself to be a resident of this state by obtaining a valid Utah driver  
4538 license certificate or motor vehicle registration; or

4539 (iv) declares himself a resident of this state to obtain privileges not ordinarily extended  
4540 to nonresidents, including going to school, or placing children in school without paying  
4541 nonresident tuition or fees.

4542 (b) "Resident" does not include any of the following:

4543 (i) a member of the military, temporarily stationed in this state;

4544 (ii) an out-of-state student, as classified by an institution of higher education,  
4545 regardless of whether the student engages in any type of employment in this state;

4546 (iii) a person domiciled in another state or country, who is temporarily assigned in this  
4547 state, assigned by or representing an employer, religious or private organization, or a  
4548 governmental entity; or

4549 (iv) an immediate family member who resides with or a household member of a person  
4550 listed in Subsections (42)(b)(i) through (iii).

4551 (43) "Revocation" means the termination by action of the division of a licensee's

4552 privilege to drive a motor vehicle.

4553 (44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary,  
4554 primary, or secondary school students to and from home and school, or to and from school  
4555 sponsored events.

4556 (b) "School bus" does not include a bus used as a common carrier as defined in Section  
4557 [59-12-102](#).

4558 (45) "Suspension" means the temporary withdrawal by action of the division of a  
4559 licensee's privilege to drive a motor vehicle.

4560 (46) "Taxicab" means any class D motor vehicle transporting any number of  
4561 passengers for hire and that is subject to state or federal regulation as a taxi.

4562 Section 66. Section **53-3-105** is amended to read:

4563 **53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling,**  
4564 **and identification cards.**

4565 The following fees apply under this chapter:

4566 (1) An original class D license application under Section [53-3-205](#) is \$52.

4567 (2) An original provisional license application for a class D license under Section  
4568 [53-3-205](#) is \$39.

4569 (3) An original limited term license application under Section [53-3-205](#) is \$32.

4570 (4) An original application for a motorcycle endorsement under Section [53-3-205](#) is  
4571 \$18.

4572 (5) An original application for a taxicab endorsement under Section [53-3-205](#) is \$14.

4573 (6) A learner permit application under Section [53-3-210.5](#) is \$19.

4574 (7) A renewal of a class D license under Section [53-3-214](#) is \$52 unless Subsection  
4575 (12) applies.

4576 (8) A renewal of a provisional license application for a class D license under Section  
4577 [53-3-214](#) is \$52.

4578 (9) A renewal of a limited term license application under Section [53-3-214](#) is \$32.

4579 (10) A renewal of a motorcycle endorsement under Section [53-3-214](#) is \$18.

4580 (11) A renewal of a taxicab endorsement under Section [53-3-214](#) is \$14.

4581 (12) A renewal of a class D license for an individual 65 and older under Section  
4582 [53-3-214](#) is \$27.

4583 (13) An extension of a class D license under Section 53-3-214 is \$42 unless Subsection  
4584 (17) applies.

4585 (14) An extension of a provisional license application for a class D license under  
4586 Section 53-3-214 is \$42.

4587 (15) An extension of a motorcycle endorsement under Section 53-3-214 is \$18.

4588 (16) An extension of a taxicab endorsement under Section 53-3-214 is \$14.

4589 (17) An extension of a class D license for an individual 65 and older under Section  
4590 53-3-214 is \$22.

4591 (18) An original or renewal application for a commercial class A, B, or C license or an  
4592 original or renewal of a provisional commercial class A or B license under Part 4, Uniform  
4593 Commercial Driver License Act, is \$52.

4594 (19) A commercial class A, B, or C license skills test is \$78.

4595 (20) Each original CDL endorsement for passengers, hazardous material, double or  
4596 triple trailers, or tankers is \$9.

4597 (21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial  
4598 Driver License Act, is \$9.

4599 (22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver  
4600 License Act, is \$9.

4601 (23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

4602 (b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

4603 (24) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

4604 (25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

4605 (26) (a) A license reinstatement application under Section 53-3-205 is \$40.

4606 (b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or  
4607 combination of alcohol and any drug-related offense is \$45 in addition to the fee under  
4608 Subsection (26)(a).

4609 (27) (a) An administrative fee for license reinstatement after an alcohol, drug, or  
4610 combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or  
4611 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under  
4612 Part 4, Uniform Commercial Driver License Act, is \$255.

4613 (b) This administrative fee is in addition to the fees under Subsection (26).

4614 (28) (a) An administrative fee for providing the driving record of a driver under  
4615 Section 53-3-104 or 53-3-420 is \$8.

4616 (b) The division may not charge for a report furnished under Section 53-3-104 to a  
4617 municipal, county, state, or federal agency.

4618 (29) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

4619 (30) (a) Except as provided under Subsections (30)(b) and (c), an identification card  
4620 application under Section 53-3-808 is \$23.

4621 (b) An identification card application under Section 53-3-808 for a person with a  
4622 disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

4623 (c) A fee may not be charged for an identification card application if the individual  
4624 applying:

4625 (i) (A) has not been issued a Utah driver license;

4626 (B) is indigent; and

4627 (C) is at least 18 years old; or

4628 (ii) submits written verification that the individual is homeless, as defined in Section  
4629 ~~[26-18-411]~~ 26B-3-207, a person who is homeless, as defined in Section 35A-5-302, or a child  
4630 or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

4631 (A) a homeless shelter, as defined in Section 35A-16-305;

4632 (B) a permanent housing, permanent, supportive, or transitional facility, as defined in  
4633 Section 35A-5-302;

4634 (C) the Department of Workforce Services; or

4635 (D) a local educational agency liaison for homeless children and youth designated  
4636 under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

4637 (31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for  
4638 a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

4639 (b) The fee described in Subsection (31)(a) is waived if the applicant submits written  
4640 verification that the individual is homeless, as defined in Section ~~[26-18-411]~~ 26B-3-207, or a  
4641 person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless,  
4642 as defined in 42 U.S.C. Sec. 11434a(2), from:

4643 (i) a homeless shelter, as defined in Section 35A-16-305;

4644 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in

4645 Section [35A-5-302](#);

4646 (iii) the Department of Workforce Services;

4647 (iv) a homeless service provider as verified by the Department of Workforce Services

4648 as described in Section [~~26-2-12.6~~] [26B-8-113](#); or

4649 (v) a local educational agency liaison for homeless children and youth designated under

4650 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

4651 (32) (a) An extension of a regular identification card under Subsection [53-3-807](#)(5) is

4652 \$23.

4653 (b) The fee described in Subsection (32)(a) is waived if the applicant submits written

4654 verification that the individual is homeless, as defined in Section [~~26-18-411~~] [26B-3-207](#), or a

4655 person who is homeless, as defined in Section [35A-5-302](#), from:

4656 (i) a homeless shelter, as defined in Section [35A-16-305](#);

4657 (ii) a permanent housing, permanent, supportive, or transitional facility, as defined in

4658 Section [35A-5-302](#);

4659 (iii) the Department of Workforce Services; or

4660 (iv) a homeless service provider as verified by the Department of Workforce Services

4661 as described in Section [~~26-2-12.6~~] [26B-8-113](#).

4662 (33) In addition to any license application fees collected under this chapter, the division

4663 shall impose on individuals submitting fingerprints in accordance with Section [53-3-205.5](#) the

4664 fees that the Bureau of Criminal Identification is authorized to collect for the services the

4665 Bureau of Criminal Identification provides under Section [53-3-205.5](#).

4666 (34) An original mobility vehicle permit application under Section [41-6a-1118](#) is \$30.

4667 (35) A renewal of a mobility vehicle permit under Section [41-6a-1118](#) is \$30.

4668 (36) A duplicate mobility vehicle permit under Section [41-6a-1118](#) is \$12.

4669 (37) An original driving privilege card application under Section [53-3-207](#) is \$32.

4670 (38) A renewal of a driving privilege card application under Section [53-3-207](#) is \$23.

4671 Section 67. Section [53-3-106](#) is amended to read:

4672 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**

4673 **-- Uses as provided by appropriation -- Nonlapsing.**

4674 (1) There is created within the Transportation Fund a restricted account known as the

4675 "Department of Public Safety Restricted Account."



- 4676 (2) The account consists of money generated from the following revenue sources:  
4677 (a) all money received under this chapter;  
4678 (b) administrative fees received according to the fee schedule authorized under this  
4679 chapter and Section [63J-1-504](#);  
4680 (c) beginning on January 1, 2013, money received in accordance with Section  
4681 [41-1a-1201](#); and  
4682 (d) any appropriations made to the account by the Legislature.  
4683 (3) (a) The account shall earn interest.  
4684 (b) All interest earned on account money shall be deposited ~~[in]~~ into the account.  
4685 (4) The expenses of the department in carrying out this chapter shall be provided for by  
4686 legislative appropriation from this account.  
4687 (5) The amount in excess of \$45 of the fees collected under Subsection [53-3-105](#)(25)  
4688 shall be appropriated by the Legislature from this account to the department to implement the  
4689 provisions of Section [53-1-117](#), except that of the amount in excess of \$45, \$100 shall be  
4690 deposited into the State Laboratory Drug Testing Account created in Section [26B-1-304](#).  
4691 (6) All money received under Subsection [41-6a-1406](#)(6)(c)(ii) shall be appropriated by  
4692 the Legislature from this account to the department to implement the provisions of Section  
4693 [53-1-117](#).  
4694 (7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000  
4695 annually from the account to the state medical examiner appointed under Section ~~[[26-4-4](#)]~~  
4696 [26B-8-202](#) for use in carrying out duties related to highway crash deaths under Subsection  
4697 ~~[[26-4-7](#)(1)]~~ [26B-8-205](#)(1).  
4698 (8) The division shall remit the fees collected under Subsection [53-3-105](#)(31) to the  
4699 Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal  
4700 Identification provides under Section [53-3-205.5](#).  
4701 (9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money  
4702 received in the account under Section [41-1a-1201](#) to the Utah Highway Patrol Division for  
4703 field operations.  
4704 (b) The Legislature may appropriate additional money from the account to the Utah  
4705 Highway Patrol Division for law enforcement purposes.  
4706 (10) Appropriations to the department from the account are nonlapsing.



4707 (11) The department shall report to the Department of Health and Human Services, on  
4708 or before December 31, the amount the department expects to collect under Subsection  
4709 [53-3-105](#)(25) in the next fiscal year.

4710 Section 68. Section **53-3-205** is amended to read:

4711 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**  
4712 **Expiration dates of licenses and endorsements -- Information required -- Previous**  
4713 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**  
4714 **Fee required -- License agreement.**

4715 (1) An application for an original license, provisional license, or endorsement shall be:

4716 (a) made upon a form furnished by the division; and

4717 (b) accompanied by a nonrefundable fee set under Section [53-3-105](#).

4718 (2) An application and fee for an original provisional class D license or an original  
4719 class D license entitle the applicant to:

4720 (a) not more than three attempts to pass both the knowledge and the skills tests for a  
4721 class D license within six months after the date of the application;

4722 (b) a learner permit if needed pending completion of the application and testing  
4723 process; and

4724 (c) an original class D license and license certificate after all tests are passed and  
4725 requirements are completed.

4726 (3) An application and fee for a motorcycle or taxicab endorsement entitle the  
4727 applicant to:

4728 (a) not more than three attempts to pass both the knowledge and skills tests within six  
4729 months after the date of the application;

4730 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

4731 (c) a motorcycle or taxicab endorsement when all tests are passed.

4732 (4) An application for a commercial class A, B, or C license entitles the applicant to:

4733 (a) not more than two attempts to pass a knowledge test when accompanied by the fee  
4734 provided in Subsection [53-3-105](#)(18);

4735 (b) not more than two attempts to pass a skills test when accompanied by a fee in  
4736 Subsection [53-3-105](#)(19) within six months after the date of application;

4737 (c) both a commercial driver instruction permit and a temporary license permit for the

4738 license class held before the applicant submits the application if needed after the knowledge  
4739 test is passed; and

4740 (d) an original commercial class A, B, or C license and license certificate when all  
4741 applicable tests are passed.

4742 (5) An application and fee for a CDL endorsement entitle the applicant to:

4743 (a) not more than two attempts to pass a knowledge test and not more than two  
4744 attempts to pass a skills test within six months after the date of the application; and

4745 (b) a CDL endorsement when all tests are passed.

4746 (6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement  
4747 test within the number of attempts provided in Subsection (4) or (5), each test may be taken  
4748 two additional times within the six months for the fee provided in Section 53-3-105.

4749 (b) (i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction  
4750 that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if  
4751 the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

4752 (ii) The division shall:

4753 (A) electronically transmit skills test results for an out-of-state resident to the licensing  
4754 agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP;  
4755 and

4756 (B) provide the out-of-state resident with documentary evidence upon successful  
4757 completion of the skills test.

4758 (7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class  
4759 D license expires on the birth date of the applicant in the eighth year after the year the license  
4760 certificate was issued.

4761 (ii) An original provisional class D license expires on the birth date of the applicant in  
4762 the fifth year following the year the license certificate was issued.

4763 (iii) Except as provided in Subsection (7)(f), a limited term class D license expires on  
4764 the birth date of the applicant in the fifth year the license certificate was issued.

4765 (b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a  
4766 license expires on the birth date of the licensee in the eighth year after the expiration date of the  
4767 license certificate renewed or extended.

4768 (c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on

4769 the same date as the last license certificate issued.

4770 (d) An endorsement to a license expires on the same date as the license certificate  
4771 regardless of the date the endorsement was granted.

4772 (e) (i) A regular license certificate and an endorsement to the regular license certificate  
4773 held by an individual described in Subsection (7)(e)(ii), that expires during the time period the  
4774 individual is stationed outside of the state, is valid until 90 days after the individual's orders are  
4775 terminated, the individual is discharged, or the individual's assignment is changed or  
4776 terminated, unless:

4777 (A) the license is suspended, disqualified, denied, or has been cancelled or revoked by  
4778 the division; or

4779 (B) the licensee updates the information or photograph on the license certificate.

4780 (ii) The provisions in Subsection (7)(e)(i) apply to an individual:

4781 (A) ordered to active duty and stationed outside of Utah in any of the armed forces of  
4782 the United States;

4783 (B) who is an immediate family member or dependent of an individual described in  
4784 Subsection (7)(e)(ii)(A) and is residing outside of Utah;

4785 (C) who is a civilian employee of the United States State Department or United States  
4786 Department of Defense and is stationed outside of the United States; or

4787 (D) who is an immediate family member or dependent of an individual described in  
4788 Subsection (7)(e)(ii)(C) and is residing outside of the United States.

4789 (f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a  
4790 renewal to a limited-term license certificate expires:

4791 (A) on the expiration date of the period of time of the individual's authorized stay in  
4792 the United States or on the date provided under this Subsection (7), whichever is sooner; or

4793 (B) on the date of issuance in the first year following the year that the limited-term  
4794 license certificate was issued if there is no definite end to the individual's period of authorized  
4795 stay.

4796 (ii) A limited-term license certificate or a renewal to a limited-term license certificate  
4797 issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth  
4798 year following the year that the limited-term license certificate was issued.

4799 (g) A driving privilege card issued or renewed under Section [53-3-207](#) expires on the

4800 birth date of the applicant in the first year following the year that the driving privilege card was  
4801 issued or renewed.

4802 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative  
4803 Procedures Act, for requests for agency action, an applicant shall:

4804 (i) provide:

4805 (A) the applicant's full legal name;

4806 (B) the applicant's birth date;

4807 (C) the applicant's sex;

4808 (D) (I) documentary evidence of the applicant's valid social security number;

4809 (II) written proof that the applicant is ineligible to receive a social security number;

4810 (III) the applicant's temporary identification number (ITIN) issued by the Internal

4811 Revenue Service for an individual who:

4812 (Aa) does not qualify for a social security number; and

4813 (Bb) is applying for a driving privilege card; or

4814 (IV) other documentary evidence approved by the division;

4815 (E) the applicant's Utah residence address as documented by a form or forms

4816 acceptable under rules made by the division under Section 53-3-104, unless the application is

4817 for a temporary CDL issued under Subsection 53-3-407(2)(b); and

4818 (F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the

4819 applicant is applying for a driving privilege card;

4820 (ii) provide evidence of the applicant's lawful presence in the United States by  
4821 providing documentary evidence:

4822 (A) that the applicant is:

4823 (I) a United States citizen;

4824 (II) a United States national; or

4825 (III) a legal permanent resident alien; or

4826 (B) of the applicant's:

4827 (I) unexpired immigrant or nonimmigrant visa status for admission into the United

4828 States;

4829 (II) pending or approved application for asylum in the United States;

4830 (III) admission into the United States as a refugee;

- 4831 (IV) pending or approved application for temporary protected status in the United  
4832 States;
- 4833 (V) approved deferred action status;
- 4834 (VI) pending application for adjustment of status to legal permanent resident or  
4835 conditional resident; or
- 4836 (VII) conditional permanent resident alien status;
- 4837 (iii) provide a description of the applicant;
- 4838 (iv) state whether the applicant has previously been licensed to drive a motor vehicle  
4839 and, if so, when and by what state or country;
- 4840 (v) state whether the applicant has ever had a license suspended, cancelled, revoked,  
4841 disqualified, or denied in the last 10 years, or whether the applicant has ever had a license  
4842 application refused, and if so, the date of and reason for the suspension, cancellation,  
4843 revocation, disqualification, denial, or refusal;
- 4844 (vi) state whether the applicant intends to make an anatomical gift under [~~Title 26,~~  
4845 ~~Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3, Revised  
4846 Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 4847 (vii) state whether the applicant is required to register as a sex offender in accordance  
4848 with Title 77, Chapter 41, Sex and Kidnap Offender Registry;
- 4849 (viii) state whether the applicant is a veteran of the United States military, provide  
4850 verification that the applicant was granted an honorable or general discharge from the United  
4851 States Armed Forces, and state whether the applicant does or does not authorize sharing the  
4852 information with the Department of Veterans and Military Affairs;
- 4853 (ix) provide all other information the division requires; and
- 4854 (x) sign the application which signature may include an electronic signature as defined  
4855 in Section [46-4-102](#).
- 4856 (b) Unless the applicant provides acceptable verification of homelessness as described  
4857 in rules made by the division, an applicant shall have a Utah residence address, unless the  
4858 application is for a temporary CDL issued under Subsection [53-3-407\(2\)\(b\)](#).
- 4859 (c) An applicant shall provide evidence of lawful presence in the United States in  
4860 accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.
- 4861 (d) The division shall maintain on the division's computerized records an applicant's:

- 4862 (i) (A) social security number;
- 4863 (B) temporary identification number (ITIN); or
- 4864 (C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and
- 4865 (ii) indication whether the applicant is required to register as a sex offender in
- 4866 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.
- 4867 (9) The division shall require proof of an applicant's name, birth date, and birthplace by
- 4868 at least one of the following means:
- 4869 (a) current license certificate;
- 4870 (b) birth certificate;
- 4871 (c) Selective Service registration; or
- 4872 (d) other proof, including church records, family Bible notations, school records, or
- 4873 other evidence considered acceptable by the division.
- 4874 (10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a
- 4875 higher class than what the applicant originally was issued:
- 4876 (i) the license application is treated as an original application; and
- 4877 (ii) license and endorsement fees is assessed under Section [53-3-105](#).
- 4878 (b) An applicant that receives a downgraded license in a lower license class during an
- 4879 existing license cycle that has not expired:
- 4880 (i) may be issued a duplicate license with a lower license classification for the
- 4881 remainder of the existing license cycle; and
- 4882 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105\(25\)](#) if a
- 4883 duplicate license is issued under Subsection (10)(b)(i).
- 4884 (c) An applicant who has received a downgraded license in a lower license class under
- 4885 Subsection (10)(b):
- 4886 (i) may, when eligible, receive a duplicate license in the highest class previously issued
- 4887 during a license cycle that has not expired for the remainder of the existing license cycle; and
- 4888 (ii) shall be assessed a duplicate license fee under Subsection [53-3-105\(25\)](#) if a
- 4889 duplicate license is issued under Subsection (10)(c)(i).
- 4890 (11) (a) When an application is received from an applicant previously licensed in
- 4891 another state to drive a motor vehicle, the division shall request a copy of the driver's record
- 4892 from the other state.

4893 (b) When received, the driver's record becomes part of the driver's record in this state  
4894 with the same effect as though entered originally on the driver's record in this state.

4895 (12) An application for reinstatement of a license after the suspension, cancellation,  
4896 disqualification, denial, or revocation of a previous license is accompanied by the additional  
4897 fee or fees specified in Section [53-3-105](#).

4898 (13) An individual who has an appointment with the division for testing and fails to  
4899 keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the  
4900 fee under Section [53-3-105](#).

4901 (14) An applicant who applies for an original license or renewal of a license agrees that  
4902 the individual's license is subject to a suspension or revocation authorized under this title or  
4903 Title 41, Motor Vehicles.

4904 (15) (a) A licensee shall authenticate the indication of intent under Subsection  
4905 (8)(a)(vi) in accordance with division rule.

4906 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
4907 Management Act, the division may, upon request, release to an organ procurement  
4908 organization, as defined in Section [~~26-28-102~~] [26B-8-301](#), the names and addresses of all  
4909 applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical  
4910 gift.

4911 (ii) An organ procurement organization may use released information only to:

4912 (A) obtain additional information for an anatomical gift registry; and

4913 (B) inform licensees of anatomical gift options, procedures, and benefits.

4914 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
4915 Management Act, the division may release to the Department of Veterans and Military Affairs  
4916 the names and addresses of all applicants who indicate their status as a veteran under  
4917 Subsection (8)(a)(viii).

4918 (17) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
4919 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender  
4920 Registry office in the Department of Corrections, the names and addresses of all applicants  
4921 who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in  
4922 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

4923 (18) The division and its employees are not liable, as a result of false or inaccurate

4924 information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

4925 (a) loss;

4926 (b) detriment; or

4927 (c) injury.

4928 (19) An applicant who knowingly fails to provide the information required under  
4929 Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

4930 (20) A person may not hold both an unexpired Utah license certificate and an  
4931 unexpired identification card.

4932 (21) (a) An applicant who applies for an original motorcycle endorsement to a regular  
4933 license certificate is exempt from the requirement to pass the knowledge and skills test to be  
4934 eligible for the motorcycle endorsement if the applicant:

4935 (i) is a resident of the state of Utah;

4936 (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed  
4937 forces of the United States; or

4938 (B) is an immediate family member or dependent of an individual described in  
4939 Subsection (21)(a)(ii)(A) and is residing outside of Utah;

4940 (iii) has a digitized driver license photo on file with the division;

4941 (iv) provides proof to the division of the successful completion of a certified  
4942 Motorcycle Safety Foundation rider training course; and

4943 (v) provides the necessary information and documentary evidence required under  
4944 Subsection (8).

4945 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4946 division shall make rules:

4947 (i) establishing the procedures for an individual to obtain a motorcycle endorsement  
4948 under this Subsection (21); and

4949 (ii) identifying the applicable restrictions for a motorcycle endorsement issued under  
4950 this Subsection (21).

4951 Section 69. Section **53-3-207** is amended to read:

4952 **53-3-207. License certificates or driving privilege cards issued to drivers by class**  
4953 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**  
4954 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**



- 4955 (1) As used in this section:
- 4956 (a) "Driving privilege" means the privilege granted under this chapter to drive a motor  
4957 vehicle.
- 4958 (b) "Governmental entity" means the state or a political subdivision of the state.
- 4959 (c) "Health care professional" means:
- 4960 (i) a licensed physician, physician assistant, nurse practitioner, or mental health  
4961 therapist; or
- 4962 (ii) any other licensed health care professional the division designates by rule made in  
4963 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 4964 (d) "Political subdivision" means any county, city, town, school district, public transit  
4965 district, community reinvestment agency, special improvement or taxing district, local district,  
4966 special service district, an entity created by an interlocal agreement adopted under Title 11,  
4967 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public  
4968 corporation.
- 4969 (e) "Invisible condition" means a physical or mental condition that may interfere with  
4970 an individual's ability to communicate with a law enforcement officer, including:
- 4971 (i) a communication impediment;
- 4972 (ii) hearing loss;
- 4973 (iii) blindness or a visual impairment;
- 4974 (iv) autism spectrum disorder;
- 4975 (v) a drug allergy;
- 4976 (vi) Alzheimer's disease or dementia;
- 4977 (vii) post-traumatic stress disorder;
- 4978 (viii) traumatic brain injury;
- 4979 (ix) schizophrenia;
- 4980 (x) epilepsy;
- 4981 (xi) a developmental disability;
- 4982 (xii) Down syndrome;
- 4983 (xiii) diabetes;
- 4984 (xiv) a heart condition; or
- 4985 (xv) any other condition approved by the department.

4986 (f) "Invisible condition identification symbol" means a symbol or alphanumeric code  
4987 that indicates that an individual is an individual with an invisible condition.

4988 (g) "State" means this state, and includes any office, department, agency, authority,  
4989 commission, board, institution, hospital, college, university, children's justice center, or other  
4990 instrumentality of the state.

4991 (2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a  
4992 regular license certificate, a limited-term license certificate, or a driving privilege card  
4993 indicating the type or class of motor vehicle the individual may drive.

4994 (b) An individual may not drive a class of motor vehicle unless granted the privilege in  
4995 that class.

4996 (3) (a) Every regular license certificate, limited-term license certificate, or driving  
4997 privilege card shall bear:

4998 (i) the distinguishing number assigned to the individual by the division;

4999 (ii) the name, birth date, and Utah residence address of the individual;

5000 (iii) a brief description of the individual for the purpose of identification;

5001 (iv) any restrictions imposed on the license under Section 53-3-208;

5002 (v) a photograph of the individual;

5003 (vi) a photograph or other facsimile of the individual's signature;

5004 (vii) an indication whether the individual intends to make an anatomical gift under

5005 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,

5006 Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under

5007 Subsection 53-3-214(3); and

5008 (viii) except as provided in Subsection (3)(b), if the individual states that the individual  
5009 is a veteran of the United States military on the application for a driver license in accordance  
5010 with Section 53-3-205 and provides verification that the individual was granted an honorable  
5011 or general discharge from the United States Armed Forces, an indication that the individual is a  
5012 United States military veteran for a regular license certificate or limited-term license certificate  
5013 issued on or after July 1, 2011.

5014 (b) A regular license certificate or limited-term license certificate issued to an  
5015 individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b)  
5016 is not required to include an indication that the individual is a United States military veteran

5017 under Subsection (3)(a)(viii).

5018 (c) A new license certificate issued by the division may not bear the individual's social  
5019 security number.

5020 (d) (i) The regular license certificate, limited-term license certificate, or driving  
5021 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

5022 (ii) The size, form, and color of the regular license certificate, limited-term license  
5023 certificate, or driving privilege card shall be as prescribed by the commissioner.

5024 (iii) The commissioner may also prescribe the issuance of a special type of limited  
5025 regular license certificate, limited-term license certificate, or driving privilege card under  
5026 Subsection 53-3-220(4).

5027 (4) (a) The division shall include or affix an invisible condition identification symbol  
5028 on an individual's regular license certificate, limited-term license certificate, or driving  
5029 privilege card if the individual, on a form prescribed by the department:

5030 (i) requests the division to include the invisible condition identification symbol;

5031 (ii) provides written verification from a health care professional that the individual is  
5032 an individual with an invisible condition; and

5033 (iii) signs a waiver of liability for the release of any medical information to:

5034 (A) the department;

5035 (B) any person who has access to the individual's medical information as recorded on  
5036 the individual's driving record or the Utah Criminal Justice Information System under this  
5037 chapter; and

5038 (C) any other person who may view or receive notice of the individual's medical  
5039 information by seeing the individual's regular license certificate, limited-term license  
5040 certificate, or driving privilege card or the individual's information in the Utah Criminal Justice  
5041 Information System.

5042 (b) As part of the form described in Subsection (4)(a), the department shall advise the  
5043 individual that by submitting the signed waiver, the individual consents to the release of the  
5044 individual's medical information to any person described in Subsections (4)(a)(iii)(A) through  
5045 (C), even if the person is otherwise ineligible to access the individual's medical information  
5046 under state or federal law.

5047 (c) The division may not:

5048 (i) charge a fee to include the invisible condition identification symbol on the  
5049 individual's regular license certificate, limited-term license certificate, or driving privilege card;  
5050 or

5051 (ii) after including the invisible condition identification symbol on the individual's  
5052 previously issued regular license certificate, limited-term license certificate, or driving  
5053 privilege card, require the individual to provide subsequent written verification described in  
5054 Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's  
5055 renewed or extended regular license certificate, limited-term license certificate, or driving  
5056 privilege card.

5057 (d) The inclusion of an invisible condition identification symbol on an individual's  
5058 license certificate, limited-term license certificate, or driving privilege card in accordance with  
5059 Subsection (4)(a) does not confer any legal rights or privileges on the individual, including  
5060 parking privileges for individuals with disabilities under Section [41-1a-414](#).

5061 (e) For each individual issued a regular license certificate, limited-term license  
5062 certificate, or driving privilege card under this section that includes an invisible condition  
5063 identification symbol, the division shall include in the division's database a brief description of  
5064 the nature of the individual's invisible condition in the individual's record and provide the brief  
5065 description to the Utah Criminal Justice Information System.

5066 (f) Except as provided in this section, the division may not release the information  
5067 described in Subsection (4)(e).

5068 (g) Within 30 days after the day on which the division receives an individual's written  
5069 request, the division shall:

5070 (i) remove from the individual's record in the division's database the invisible condition  
5071 identification symbol and the brief description described in Subsection (4)(e); and

5072 (ii) provide the individual's updated record to the Utah Criminal Justice Information  
5073 System.

5074 (5) As provided in Section [63G-2-302](#), the information described in Subsection (4)(a)  
5075 is a private record for purposes of Title 63G, Chapter 2, Government Records Access and  
5076 Management Act.

5077 (6) (a) (i) The division, upon determining after an examination that an applicant is  
5078 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a

5079 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term  
5080 license certificate.

5081 (ii) (A) The division shall issue a temporary regular license certificate or temporary  
5082 limited-term license certificate allowing the individual to drive a motor vehicle while the  
5083 division is completing the division's investigation to determine whether the individual is  
5084 entitled to be granted a driving privilege.

5085 (B) A temporary regular license certificate or a temporary limited-term license  
5086 certificate issued under this Subsection (6) shall be recognized and have the same rights and  
5087 privileges as a regular license certificate or a limited-term license certificate.

5088 (b) The temporary regular license certificate or temporary limited-term license  
5089 certificate shall be in the individual's immediate possession while driving a motor vehicle, and  
5090 the temporary regular license certificate or temporary limited-term license certificate is invalid  
5091 when the individual's regular license certificate or limited-term license certificate has been  
5092 issued or when, for good cause, the privilege has been refused.

5093 (c) The division shall indicate on the temporary regular license certificate or temporary  
5094 limited-term license certificate a date after which the temporary regular license certificate or  
5095 temporary limited-term license certificate is not valid as a temporary license.

5096 (d) (i) Except as provided in Subsection (6)(d)(ii), the division may not issue a  
5097 temporary driving privilege card or other temporary permit to an applicant for a driving  
5098 privilege card.

5099 (ii) The division may issue a learner permit issued in accordance with Section  
5100 [53-3-210.5](#) to an applicant for a driving privilege card.

5101 (7) (a) The division shall distinguish learner permits, temporary permits, regular  
5102 license certificates, limited-term license certificates, and driving privilege cards issued to any  
5103 individual younger than 21 years old by use of plainly printed information or the use of a color  
5104 or other means not used for other regular license certificates, limited-term license certificates,  
5105 or driving privilege cards.

5106 (b) The division shall distinguish a regular license certificate, limited-term license  
5107 certificate, or driving privilege card issued to an individual younger than 21 years old by use of  
5108 a portrait-style format not used for other regular license certificates, limited-term license  
5109 certificates, or driving privilege cards and by plainly printing the date the regular license

5110 certificate, limited-term license certificate, or driving privilege card holder is 21 years old.

5111 (8) The division shall distinguish a limited-term license certificate by clearly indicating  
5112 on the document:

5113 (a) that the limited-term license certificate is temporary; and

5114 (b) the limited-term license certificate's expiration date.

5115 (9) (a) The division shall only issue a driving privilege card to an individual whose  
5116 privilege was obtained without providing evidence of lawful presence in the United States as  
5117 required under Subsection 53-3-205(8).

5118 (b) The division shall distinguish a driving privilege card from a license certificate by:

5119 (i) use of a format, color, font, or other means; and

5120 (ii) clearly displaying on the front of the driving privilege card a phrase substantially  
5121 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

5122 (10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary  
5123 permit, temporary regular license certificate, temporary limited-term license certificate, or any  
5124 other temporary permit.

5125 (11) The division shall issue temporary license certificates of the same nature, except  
5126 as to duration, as the license certificates that they temporarily replace, as are necessary to  
5127 implement applicable provisions of this section and Section 53-3-223.

5128 (12) (a) A governmental entity may not accept a driving privilege card as proof of  
5129 personal identification.

5130 (b) A driving privilege card may not be used as a document providing proof of an  
5131 individual's age for any government required purpose.

5132 (13) An individual who violates Subsection (2)(b) is guilty of an infraction.

5133 (14) Unless otherwise provided, the provisions, requirements, classes, endorsements,  
5134 fees, restrictions, and sanctions under this code apply to a:

5135 (a) driving privilege in the same way as a license or limited-term license issued under  
5136 this chapter; and

5137 (b) limited-term license certificate or driving privilege card in the same way as a  
5138 regular license certificate issued under this chapter.

5139 Section 70. Section 53-3-214.7 is amended to read:

5140 **53-3-214.7. License or identification card checkoff for promoting and supporting**

5141 **organ donation.**

5142 (1) A person who applies for a license or identification card or a renewal of a license or  
5143 identification card may designate a voluntary contribution of \$2 for the purpose of promoting  
5144 and supporting organ donation.

5145 (2) This contribution shall be:

5146 (a) collected by the division;

5147 (b) treated as a voluntary contribution to the Allyson Gamble Organ Donation  
5148 Contribution Fund created in Section [~~26-18b-101~~] [26B-1-312](#) and not as a license fee; and

5149 (c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in  
5150 Section [~~26-18b-101~~] [26B-1-312](#) at least monthly, less actual administrative costs associated  
5151 with collecting and transferring the contributions.

5152 Section 71. Section **53-3-214.8** is amended to read:

5153 **53-3-214.8. License or identification card checkoff for public transportation for**  
5154 **seniors or people with disabilities.**

5155 (1) A person who applies for a license or identification card or a renewal of a license or  
5156 identification card may designate a voluntary contribution of \$1 for public transportation  
5157 assistance for seniors or people with disabilities.

5158 (2) This contribution shall be:

5159 (a) collected by the division;

5160 (b) treated as a voluntary contribution to the "Out and About" Homebound  
5161 Transportation Assistance Fund created in Section [~~62A-3-110~~] [26B-1-323](#) to provide public  
5162 transportation assistance for seniors or people with disabilities and not as a license fee; and

5163 (c) transferred to the "Out and About" Homebound Transportation Assistance Fund  
5164 created in Section [~~62A-3-110~~] [26B-1-323](#) at least monthly, less actual administrative costs  
5165 associated with collecting and transferring the contributions.

5166 Section 72. Section **53-3-804** is amended to read:

5167 **53-3-804. Application for identification card -- Required information -- Release**  
5168 **of anatomical gift information -- Cancellation of identification card.**

5169 (1) To apply for a regular identification card or limited-term identification card, an  
5170 applicant shall:

5171 (a) be a Utah resident;

- 5172 (b) have a Utah residence address; and
- 5173 (c) appear in person at any license examining station.
- 5174 (2) An applicant shall provide the following information to the division:
- 5175 (a) true and full legal name and Utah residence address;
- 5176 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
- 5177 other satisfactory evidence of birth, which shall be attached to the application;
- 5178 (c) (i) social security number; or
- 5179 (ii) written proof that the applicant is ineligible to receive a social security number;
- 5180 (d) place of birth;
- 5181 (e) height and weight;
- 5182 (f) color of eyes and hair;
- 5183 (g) signature;
- 5184 (h) photograph;
- 5185 (i) evidence of the applicant's lawful presence in the United States by providing
- 5186 documentary evidence:
- 5187 (i) that the applicant is:
- 5188 (A) a United States citizen;
- 5189 (B) a United States national; or
- 5190 (C) a legal permanent resident alien; or
- 5191 (ii) of the applicant's:
- 5192 (A) unexpired immigrant or nonimmigrant visa status for admission into the United
- 5193 States;
- 5194 (B) pending or approved application for asylum in the United States;
- 5195 (C) admission into the United States as a refugee;
- 5196 (D) pending or approved application for temporary protected status in the United
- 5197 States;
- 5198 (E) approved deferred action status;
- 5199 (F) pending application for adjustment of status to legal permanent resident or
- 5200 conditional resident; or
- 5201 (G) conditional permanent resident alien status;
- 5202 (j) an indication whether the applicant intends to make an anatomical gift under [Title



5203 ~~26, Chapter 28, Revised Uniform Anatomical Gift Act]~~ Title 26B, Chapter 8, Part 3, Revised  
5204 Uniform Anatomical Gift Act;

5205 (k) an indication whether the applicant is required to register as a sex offender in  
5206 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

5207 (l) an indication whether the applicant is a veteran of the United States Armed Forces,  
5208 verification that the applicant has received an honorable or general discharge from the United  
5209 States Armed Forces, and an indication whether the applicant does or does not authorize  
5210 sharing the information with the state Department of Veterans and Military Affairs.

5211 (3) (a) The requirements of Section 53-3-234 apply to this section for each individual,  
5212 age 16 and older, applying for an identification card.

5213 (b) Refusal to consent to the release of information under Section 53-3-234 shall result  
5214 in the denial of the identification card.

5215 (4) An individual person who knowingly fails to provide the information required  
5216 under Subsection (2)(k) is guilty of a class A misdemeanor.

5217 (5) (a) A person may not hold both an unexpired Utah license certificate and an  
5218 unexpired identification card.

5219 (b) A person who holds a regular or limited term Utah driver license and chooses to  
5220 relinquish the person's driving privilege may apply for an identification card under this chapter,  
5221 provided:

5222 (i) the driver:

5223 (A) no longer qualifies for a driver license for failure to meet the requirement in  
5224 Section 53-3-304; or

5225 (B) makes a personal decision to permanently discontinue driving; and

5226 (ii) the driver:

5227 (A) submits an application to the division on a form approved by the division in  
5228 person, through electronic means, or by mail;

5229 (B) affirms their intention to permanently discontinue driving; and

5230 (C) surrenders to the division the driver license certificate; and

5231 (iii) the division possesses a digital photograph of the driver obtained within the  
5232 preceding 10 years.

5233 (c) (i) The division shall waive the fee under Section 53-3-105 for an identification

5234 card for an original identification card application under this Subsection (5).

5235 (ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose  
5236 driving privilege is suspended or revoked.

5237 (6) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
5238 Management Act, the division shall, upon request, release to the Sex and Kidnap Offender  
5239 Registry office in the Department of Corrections, the names and addresses of all applicants  
5240 who, under Subsection (2)(k), indicate they are required to register as a sex offender in  
5241 accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

5242 Section 73. Section **53-3-805** is amended to read:

5243 **53-3-805. Identification card -- Contents -- Specifications.**

5244 (1) As used in this section:

5245 (a) "Health care professional" means the same as that term is defined in Section  
5246 [53-3-207](#).

5247 (b) "Invisible condition" means the same as that term is defined in Section [53-3-207](#).

5248 (c) "Invisible condition identification symbol" means the same as that term is defined  
5249 in Section [53-3-207](#).

5250 (2) (a) The division shall issue an identification card that bears:

5251 (i) the distinguishing number assigned to the individual by the division;

5252 (ii) the name, birth date, and Utah residence address of the individual;

5253 (iii) a brief description of the individual for the purpose of identification;

5254 (iv) a photograph of the individual;

5255 (v) a photograph or other facsimile of the individual's signature;

5256 (vi) an indication whether the individual intends to make an anatomical gift under

5257 [~~Title 26, Chapter 28, Revised Uniform Anatomical Gift Act~~] Title 26B, Chapter 8, Part 3,

5258 Revised Uniform Anatomical Gift Act; and

5259 (vii) if the individual states that the individual is a veteran of the United States military  
5260 on the application for an identification card in accordance with Section [53-3-804](#) and provides  
5261 verification that the individual received an honorable or general discharge from the United  
5262 States Armed Forces, an indication that the individual is a United States military veteran for a  
5263 regular identification card or a limited-term identification card issued on or after July 1, 2011.

5264 (b) An identification card issued by the division may not bear the individual's [Social

5265 Security] social security number or place of birth.

5266 (3) (a) The card shall be of an impervious material, resistant to wear, damage, and  
5267 alteration.

5268 (b) Except as provided under Section 53-3-806, the size, form, and color of the card is  
5269 prescribed by the commissioner.

5270 (4) At the applicant's request, the card may include a statement that the applicant has a  
5271 special medical problem or allergies to certain drugs, for the purpose of medical treatment.

5272 (5) (a) The division shall include or affix an invisible condition identification symbol  
5273 on an individual's identification card if the individual, on a form prescribed by the department:

5274 (i) requests the division to include the invisible condition identification symbol;

5275 (ii) provides written verification from a health care professional that the individual is  
5276 an individual with an invisible condition; and

5277 (iii) submits a signed waiver of liability for the release of any medical information to:

5278 (A) the department;

5279 (B) any person who has access to the individual's medical information as recorded on  
5280 the individual's driving record or the Utah Criminal Justice Information System under this  
5281 chapter; and

5282 (C) any other person who may view or receive notice of the individual's medical  
5283 information by seeing the individual's regular license certificate, limited-term license  
5284 certificate, or driving privilege card or the individual's information in the Utah Criminal Justice  
5285 Information System.

5286 (b) As part of the form described in Subsection (5)(a), the department shall advise the  
5287 individual that by submitting the request and signed waiver, the individual consents to the  
5288 release of the individual's medical information to any person described in Subsections  
5289 (5)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's  
5290 medical information under state or federal law.

5291 (c) The division may not:

5292 (i) charge a fee to include the invisible condition identification symbol on the  
5293 individual's identification card; or

5294 (ii) after including the invisible condition identification symbol on the individual's  
5295 previously issued identification card, require the individual to provide subsequent written

5296 verification described in Subsection (5)(a)(ii) to include the invisible condition identification  
5297 symbol on the individual's extended identification card.

5298 (d) The inclusion of an invisible condition identification symbol on an individual's  
5299 identification card in accordance with Subsection (5)(a) does not confer any legal rights or  
5300 privileges on the individual, including parking privileges for individuals with disabilities under  
5301 Section [41-1a-414](#).

5302 (e) For each individual issued an identification card under this section that includes an  
5303 invisible condition identification symbol, the division shall include in the division's database a  
5304 brief description of the nature of the individual's invisible condition in the individual's record  
5305 and provide the brief description to the Utah Criminal Justice Information System.

5306 (f) Except as provided in this section, the division may not release the information  
5307 described in Subsection (5)(e).

5308 (g) Within 30 days after the day on which the division receives an individual's written  
5309 request, the division shall:

5310 (i) remove from the individual's record in the division's database the invisible condition  
5311 identification symbol and the brief description described in Subsection (5)(e); and

5312 (ii) provide the individual's updated record to the Utah Criminal Justice Information  
5313 System.

5314 (6) As provided in Section [63G-2-302](#), the information described in Subsection (5)(a)  
5315 is a private record for purposes of Title 63G, Chapter 2, Government Records Access and  
5316 Management Act.

5317 (7) (a) The indication of intent under Subsection [53-3-804\(2\)\(j\)](#) shall be authenticated  
5318 by the applicant in accordance with division rule.

5319 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
5320 Management Act, the division may, upon request, release to an organ procurement  
5321 organization, as defined in Section [~~26-28-102~~] [26B-8-301](#), the names and addresses of all  
5322 individuals who under Subsection [53-3-804\(2\)\(j\)](#) indicate that they intend to make an  
5323 anatomical gift.

5324 (ii) An organ procurement organization may use released information only to:

5325 (A) obtain additional information for an anatomical gift registry; and

5326 (B) inform applicants of anatomical gift options, procedures, and benefits.

5327 (8) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
5328 Management Act, the division may release to the Department of Veterans and Military Affairs  
5329 the names and addresses of all individuals who indicate their status as a veteran under  
5330 Subsection 53-3-804(2)(l).

5331 (9) The division and the division's employees are not liable, as a result of false or  
5332 inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

5333 (a) loss;

5334 (b) detriment; or

5335 (c) injury.

5336 (10) (a) The division may issue a temporary regular identification card to an individual  
5337 while the individual obtains the required documentation to establish verification of the  
5338 information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

5339 (b) A temporary regular identification card issued under this Subsection (10) shall be  
5340 recognized and grant the individual the same privileges as a regular identification card.

5341 (c) A temporary regular identification card issued under this Subsection (10) is invalid:

5342 (i) when the individual's regular identification card has been issued;

5343 (ii) when, for good cause, an applicant's application for a regular identification card has  
5344 been refused; or

5345 (iii) upon expiration of the temporary regular identification card.

5346 Section 74. Section 53-5-707 is amended to read:

5347 **53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

5348 (1) (a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of  
5349 filing an application.

5350 (b) A nonresident applicant shall pay an additional \$10 for the additional cost of  
5351 processing a nonresident application.

5352 (c) The bureau shall waive the initial fee for an applicant who is a law enforcement  
5353 officer under Section 53-13-103.

5354 (d) Concealed firearm permit renewal fees for active duty service members and the  
5355 spouse of an active duty service member shall be waived.

5356 (2) The renewal fee for the permit is \$20. A nonresident shall pay an additional \$5 for  
5357 the additional cost of processing a nonresidential renewal.

- 5358 (3) The replacement fee for the permit is \$10.
- 5359 (4) (a) The late fee for the renewal permit is \$7.50.
- 5360 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal  
5361 submitted on a permit that has been expired for more than 30 days but less than one year.
- 5362 (5) (a) There is created a restricted account within the General Fund known as the  
5363 "Concealed Weapons Account."
- 5364 (b) The account shall be funded from fees collected under this section and Section  
5365 [53-5-707.5](#).
- 5366 (c) Funds in the account may only be used to cover costs relating to:
- 5367 (i) the issuance of concealed firearm permits under this part; or
- 5368 (ii) the programs described in Subsection [~~62A-15-103(3)~~] [26B-5-102\(3\)](#) and Section  
5369 [~~62A-15-1101~~] [26B-5-611](#).
- 5370 (d) No later than 90 days after the end of the fiscal year 50% of the fund balance shall  
5371 be transferred to the Suicide Prevention and Education Fund, created in Section [~~62A-15-1104~~]  
5372 [26B-1-326](#).
- 5373 (6) (a) The bureau may collect any fees charged by an outside agency for additional  
5374 services required by statute as a prerequisite for issuance of a permit.
- 5375 (b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the  
5376 appropriate agency.
- 5377 (7) The bureau shall make an annual report in writing to the Legislature's Law  
5378 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees  
5379 collected under this section and Section [53-5-707.5](#).
- 5380 Section 75. Section **53-10-102** is amended to read:
- 5381 **53-10-102. Definitions.**
- 5382 As used in this chapter:
- 5383 (1) "Administration of criminal justice" means performance of any of the following:  
5384 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,  
5385 correctional supervision, or rehabilitation of accused persons or criminal offenders.
- 5386 (2) "Alcoholic beverage" means the same as that term is defined in Section [32B-1-102](#).
- 5387 (3) "Alcoholic product" means the same as that term is defined in Section [32B-1-102](#).
- 5388 (4) "Bureau" means the Bureau of Criminal Identification within the department,

5389 created in Section 53-10-201.

5390 (5) "Commission" means the Alcoholic Beverage Services Commission.

5391 (6) "Communications services" means the technology of reception, relay, and  
5392 transmission of information required by a public safety agency in the performance of the public  
5393 safety agency's duty.

5394 (7) "Conviction record" means criminal history information indicating a record of a  
5395 criminal charge that has led to a declaration of guilt of an offense.

5396 (8) "Criminal history record information" means information on an individual  
5397 consisting of identifiable descriptions and notations of:

5398 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and  
5399 any disposition arising from any of them; and

5400 (b) sentencing, correctional supervision, and release.

5401 (9) "Criminal justice agency" means a court or a government agency or subdivision of  
5402 a government agency that administers criminal justice under a statute, executive order, or local  
5403 ordinance and that allocates greater than 50% of its annual budget to the administration of  
5404 criminal justice.

5405 (10) "Criminalist" means the scientific discipline directed to the recognition,  
5406 identification, individualization, and evaluation of physical evidence by application of the  
5407 natural sciences in law-science matters.

5408 (11) "Department" means the Department of Public Safety.

5409 (12) "Director" means the division director appointed under Section 53-10-103.

5410 (13) "Division" means the Criminal Investigations and Technical Services Division  
5411 created in Section 53-10-103.

5412 (14) "Executive order" means an order of the president of the United States or the chief  
5413 executive of a state that has the force of law and that is published in a manner permitting  
5414 regular public access to the order.

5415 (15) "Forensic" means dealing with the application of scientific knowledge relating to  
5416 criminal evidence.

5417 (16) "Mental defective" means an individual who, by a district court, as a result of  
5418 marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is  
5419 found:

- 5420 (a) to be a danger to himself or herself or others;
- 5421 (b) to lack the mental capacity to contract or manage the individual's own affairs;
- 5422 (c) to be incompetent by a court in a criminal case; or
- 5423 (d) to be incompetent to stand trial or found not guilty by reason or lack of mental
- 5424 responsibility.

5425 (17) "Missing child" means an individual under 18 years old who is missing from the  
5426 individual's home environment or a temporary placement facility for any reason and whose  
5427 location cannot be determined by the person responsible for the individual's care.

5428 (18) "Missing person" means the same as that term is defined in Section [~~26-2-27~~]  
5429 [26B-8-130](#).

5430 (19) "Pathogens" means disease-causing agents.

5431 (20) "Physical evidence" means something submitted to the bureau to determine the  
5432 truth of a matter using scientific methods of analysis.

5433 (21) "Qualifying entity" means a business, organization, or a governmental entity that  
5434 employs persons or utilizes volunteers who deal with:

- 5435 (a) national security interests;
- 5436 (b) fiduciary trust over money; or
- 5437 (c) the provision of care, treatment, education, training, instruction, supervision, or
- 5438 recreation to children, the elderly, or individuals with disabilities.

5439 Section 76. Section **53-10-104** is amended to read:

5440 **53-10-104. Division duties.**

5441 The division shall:

- 5442 (1) provide and coordinate the delivery of support services to law enforcement
- 5443 agencies;
- 5444 (2) maintain and provide access to criminal records for use by law enforcement
- 5445 agencies;
- 5446 (3) publish law enforcement and statistical data;
- 5447 (4) maintain dispatch and communications services for public safety communications
- 5448 centers and provide emergency medical, fire suppression, highway maintenance, public works,
- 5449 and law enforcement communications for municipal, county, state, and federal agencies;
- 5450 (5) analyze evidence from crime scenes and crime-related incidents for criminal



5451 prosecution;

5452 (6) provide criminalistic laboratory services to federal, state, and local law enforcement  
5453 agencies, prosecuting attorneys<sup>[1]</sup> and agencies, and public defenders, with the exception of  
5454 those services provided by the state medical examiner in accordance with [~~Title 26, Chapter 4,~~  
5455 ~~Utah Medical Examiner Act~~] Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

5456 (7) establish satellite laboratories as necessary to provide criminalistic services;

5457 (8) safeguard the public through licensing and regulation of activities that impact  
5458 public safety, including concealed weapons, emergency vehicles, and private investigators;

5459 (9) provide investigative assistance to law enforcement and other government agencies;

5460 (10) collect and provide intelligence information to criminal justice agencies;

5461 (11) investigate crimes that jeopardize the safety of the citizens, as well as the interests,  
5462 of the state;

5463 (12) regulate and investigate laws pertaining to the sale and distribution of liquor;

5464 (13) make rules to implement this chapter;

5465 (14) perform the functions specified in this chapter;

5466 (15) comply with the requirements of Section [11-40-103](#);

5467 (16) comply with the requirements of Sections [72-10-602](#) and [72-10-603](#); and

5468 (17) develop and maintain a secure database of cold cases within the Utah Criminal  
5469 Justice Information System pursuant to Section [53-10-115](#).

5470 Section 77. Section **53-10-108** is amended to read:

5471 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**  
5472 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**  
5473 **-- Missing children records -- Penalty for misuse of records.**

5474 (1) As used in this section:

5475 (a) "Clone" means to copy a subscription or subscription data from a rap back system,  
5476 including associated criminal history record information, from a qualified entity to another  
5477 qualified entity.

5478 (b) "FBI Rap Back System" means the rap back system maintained by the Federal  
5479 Bureau of Investigation.

5480 (c) "Rap back system" means a system that enables authorized entities to receive  
5481 ongoing status notifications of any criminal history reported on individuals whose fingerprints

5482 are registered in the system.

5483 (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that  
5484 allows the bureau and the Federal Bureau of Investigation to provide criminal history record  
5485 information to a qualifying entity, including a non-governmental qualifying entity.

5486 (e) "WIN Database" means the Western Identification Network Database that consists  
5487 of eight western states sharing one electronic fingerprint database.

5488 (2) Except as provided in Subsection (17), dissemination of information from a  
5489 criminal history record, including information obtained from a fingerprint background check,  
5490 name check, warrant of arrest information, or information from division files, is limited to:

5491 (a) criminal justice agencies for purposes of administration of criminal justice and for  
5492 employment screening by criminal justice agencies;

5493 (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice  
5494 agency to provide services required for the administration of criminal justice; and

5495 (ii) the agreement shall specifically authorize access to data, limit the use of the data to  
5496 purposes for which given, and ensure the security and confidentiality of the data;

5497 (c) a qualifying entity for employment background checks for the qualifying entity's  
5498 own employees or volunteers and individuals who have applied for employment with or to  
5499 serve as a volunteer for the qualifying entity;

5500 (d) noncriminal justice agencies or individuals for any purpose authorized by statute,  
5501 executive order, court rule, court order, or local ordinance;

5502 (e) agencies or individuals for the purpose of obtaining required clearances connected  
5503 with foreign travel or obtaining citizenship;

5504 (f) agencies or individuals for the purpose of a preplacement adoptive study, in  
5505 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);

5506 (g) private security agencies through guidelines established by the commissioner for  
5507 employment background checks for their own employees and prospective employees;

5508 (h) state agencies for the purpose of conducting a background check for the following  
5509 individuals:

5510 (i) employees;

5511 (ii) applicants for employment;

5512 (iii) volunteers; and

- 5513 (iv) contract employees;
- 5514 (i) governor's office for the purpose of conducting a background check on the  
5515 following individuals:
- 5516 (i) cabinet members;
- 5517 (ii) judicial applicants; and
- 5518 (iii) members of boards, committees, and commissions appointed by the governor;
- 5519 (j) the office of the lieutenant governor for the purpose of conducting a background  
5520 check on an individual applying to be a notary public under Section 46-1-3;
- 5521 (k) agencies and individuals as the commissioner authorizes for the express purpose of  
5522 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice  
5523 agency; and
- 5524 (l) other agencies and individuals as the commissioner authorizes and finds necessary  
5525 for protection of life and property and for offender identification, apprehension, and  
5526 prosecution pursuant to an agreement.
- 5527 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data,  
5528 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of  
5529 individuals to whom the information relates, and ensure the confidentiality and security of the  
5530 data.
- 5531 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state  
5532 agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a  
5533 signed waiver from the person whose information is requested.
- 5534 (b) The waiver shall notify the signee:
- 5535 (i) that a criminal history background check will be conducted;
- 5536 (ii) who will see the information; and
- 5537 (iii) how the information will be used.
- 5538 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or  
5539 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal  
5540 justice name based background check of local databases to the bureau shall provide to the  
5541 bureau:
- 5542 (i) personal identifying information for the subject of the background check; and  
5543 (ii) the fee required by Subsection (15).

5544 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or  
5545 individual described in Subsections (2)(d) through (g) that submits a request for a WIN  
5546 database check and a nationwide background check shall provide to the bureau:

- 5547 (i) personal identifying information for the subject of the background check;
- 5548 (ii) a fingerprint card for the subject of the background check; and
- 5549 (iii) the fee required by Subsection (15).

5550 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or  
5551 other agency or individual described in Subsections (2)(d) through (j) may only be:

- 5552 (i) available to individuals involved in the hiring or background investigation of the job  
5553 applicant, employee, notary applicant, or as authorized under federal or state law;
- 5554 (ii) used for the purpose of assisting in making an employment appointment, selection,  
5555 or promotion decision or for considering a notary applicant under Section 46-1-3; and
- 5556 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection  
5557 (4)(b).

5558 (f) An individual who disseminates or uses information obtained from the division  
5559 under Subsections (2)(c) through (j) for purposes other than those specified under Subsection  
5560 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

5561 (g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or  
5562 individual described in Subsections (2)(d) through (j) that obtains background check  
5563 information shall provide the subject of the background check an opportunity to:

- 5564 (A) request a copy of the information received; and
- 5565 (B) respond to and challenge the accuracy of any information received.

5566 (ii) An individual who is the subject of a background check and who receives a copy of  
5567 the information described in Subsection (4)(g)(i) may use the information only for the purpose  
5568 of reviewing, responding to, or challenging the accuracy of the information.

5569 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5570 division may make rules to implement this Subsection (4).

5571 (i) The division or the division's employees are not liable for defamation, invasion of  
5572 privacy, negligence, or any other claim in connection with the contents of information  
5573 disseminated under Subsections (2)(c) through (j).

5574 (5) (a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise

5575 authorized under state law, criminal history record information obtained from division files  
5576 may be used only for the purposes for which the information was provided.

5577 (b) A criminal history provided to an agency under Subsection (2)(f) may be provided  
5578 by the agency to the individual who is the subject of the history, another licensed child-placing  
5579 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

5580 (c) A criminal history of a defendant provided to a criminal justice agency under  
5581 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,  
5582 upon request during the discovery process, for the purpose of establishing a defense in a  
5583 criminal case.

5584 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public  
5585 Transit District Act, that is under contract with a state agency to provide services may, for the  
5586 purposes of complying with Subsection [~~62A-5-103.5(5)~~] [26B-6-410\(5\)](#), provide a criminal  
5587 history record to the state agency or the agency's designee.

5588 (e) Criminal history record information obtained from a national source may be  
5589 disseminated if the dissemination is authorized by a policy issued by the Criminal Justice  
5590 Information Services Division or other federal law.

5591 (6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the  
5592 bureau and the Federal Bureau of Investigation for a local and national background check  
5593 under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

5594 (b) A qualifying entity under Subsection (2)(c) that submits fingerprints under  
5595 Subsection (6)(a):

5596 (i) shall meet all VECHS requirements for using VECHS; and

5597 (ii) may only submit fingerprints for an employee, volunteer, or applicant who has  
5598 resided in Utah for the seven years before the day on which the qualifying entity submits the  
5599 employee's, volunteer's, or applicant's fingerprints.

5600 (7) (a) This section does not preclude the use of the division's central computing  
5601 facilities for the storage and retrieval of criminal history record information.

5602 (b) This information shall be stored so the information cannot be modified, destroyed,  
5603 or accessed by unauthorized agencies or individuals.

5604 (8) Direct access through remote computer terminals to criminal history record  
5605 information in the division's files is limited to those agencies authorized by the commissioner

5606 under procedures designed to prevent unauthorized access to this information.

5607 (9) (a) The commissioner shall establish procedures to allow an individual right of  
5608 access to review and receive a copy of the individual's criminal history report.

5609 (b) A processing fee for the right of access service, including obtaining a copy of the  
5610 individual's criminal history report under Subsection (9)(a) shall be set in accordance with  
5611 Section [63J-1-504](#).

5612 (c) (i) The commissioner shall establish procedures for an individual to challenge the  
5613 completeness and accuracy of criminal history record information contained in the division's  
5614 computerized criminal history files regarding that individual.

5615 (ii) These procedures shall include provisions for amending any information found to  
5616 be inaccurate or incomplete.

5617 (10) The private security agencies as provided in Subsection (2)(g):

5618 (a) shall be charged for access; and

5619 (b) shall be registered with the division according to rules made by the division under  
5620 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5621 (11) Before providing information requested under this section, the division shall give  
5622 priority to a criminal justice agency's needs.

5623 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,  
5624 use, disclose, or disseminate a record created, maintained, or to which access is granted by the  
5625 division or any information contained in a record created, maintained, or to which access is  
5626 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or  
5627 policy of a governmental entity.

5628 (b) A person who discovers or becomes aware of any unauthorized use of records  
5629 created or maintained, or to which access is granted by the division shall inform the  
5630 commissioner and the director of the bureau of the unauthorized use.

5631 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in  
5632 Subsection (2) may request that the division register fingerprints taken for the purpose of  
5633 conducting current and future criminal background checks under this section with:

5634 (i) the WIN Database rap back system, or any successor system;

5635 (ii) the FBI Rap Back System; or

5636 (iii) a system maintained by the division.

5637 (b) A qualifying entity or an entity described in Subsection (2) may only make a  
5638 request under Subsection (13)(a) if the entity:

5639 (i) has the authority through state or federal statute or federal executive order;  
5640 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

5641 and

5642 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives  
5643 notifications for individuals with whom the entity maintains an authorizing relationship.

5644 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to  
5645 be retained in the FBI Rap Back System for the purpose of being searched by future  
5646 submissions to the FBI Rap Back System, including latent fingerprint searches.

5647 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for  
5648 the applicant fingerprint card, name check, and to register fingerprints under Subsection  
5649 (13)(a).

5650 (b) Funds generated under this Subsection (15) shall be deposited into the General  
5651 Fund as a dedicated credit by the department to cover the costs incurred in providing the  
5652 information.

5653 (c) The division may collect fees charged by an outside agency for services required  
5654 under this section.

5655 (16) For the purposes of conducting a criminal background check authorized under  
5656 Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with  
5657 Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall  
5658 have direct access to criminal background information maintained under Chapter 10, Part 2,  
5659 Bureau of Criminal Identification.

5660 (17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap  
5661 Back System subscription with a qualifying entity, the division may, upon request from another  
5662 qualifying entity, clone the subscription to the requesting qualifying entity if:

5663 (i) the requesting qualifying entity requests the clone:

5664 (A) for the purpose of evaluating whether the individual should be permitted to obtain  
5665 or retain a license for, or serve as an employee or volunteer in a position in which the  
5666 individual is responsible for, the care, treatment, training, instruction, supervision, or recreation  
5667 of children, the elderly, or individuals with disabilities; or



5668 (B) for the same purpose as the purpose for which the original qualifying entity  
5669 requested the criminal history record information;

5670 (ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal  
5671 history record information for the individual who is the subject of the request;

5672 (iii) before requesting the clone, the requesting qualifying entity obtains a signed  
5673 waiver, containing the information described in Subsection (4)(b), from the individual who is  
5674 the subject of the request;

5675 (iv) the requesting qualifying entity or the individual pays any applicable fees set by the  
5676 division in accordance with Section 63J-1-504; and

5677 (v) the requesting qualifying entity complies with the requirements described in  
5678 Subsection (4)(g).

5679 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5680 division may make rules regulating the process described in this Subsection (17).

5681 (18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation  
5682 approves the use of the FBI Rap Back System for the purpose described in Subsection  
5683 (17)(a)(i) under the conditions described in Subsection (17).

5684 (b) Subsection (17) does not apply to the extent that implementation of the provisions  
5685 of Subsection (17) are contrary to the requirements of the Child Care and Development Block  
5686 Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

5687 (19) (a) Information received by a qualifying entity under Subsection (17) may only be  
5688 disclosed and used as described in Subsection (4)(e).

5689 (b) A person who disseminates or uses information received under Subsection (17) for  
5690 a purpose other than those described in Subsection (4)(e) is subject to the penalties described in  
5691 this section and is also subject to civil liability.

5692 (c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or  
5693 any other claim in connection with the contents of information disseminated under Subsection  
5694 (17).

5695 Section 78. Section 53-10-202 is amended to read:

5696 **53-10-202. Criminal identification -- Duties of bureau.**

5697 The bureau shall:

5698 (1) procure and file information relating to identification and activities of persons who:



- 5699 (a) are fugitives from justice;
- 5700 (b) are wanted or missing;
- 5701 (c) have been arrested for or convicted of a crime under the laws of any state or nation;
- 5702 and
- 5703 (d) are believed to be involved in racketeering, organized crime, or a dangerous
- 5704 offense;
- 5705 (2) establish a statewide uniform crime reporting system that shall include:
- 5706 (a) statistics concerning general categories of criminal activities;
- 5707 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,
- 5708 religion, ancestry, national origin, ethnicity, or other categories that the division finds
- 5709 appropriate;
- 5710 (c) statistics concerning the use of force by law enforcement officers in accordance
- 5711 with the Federal Bureau of Investigation's standards; and
- 5712 (d) other statistics required by the Federal Bureau of Investigation;
- 5713 (3) make a complete and systematic record and index of the information obtained
- 5714 under this part;
- 5715 (4) subject to the restrictions in this part, establish policy concerning the use and
- 5716 dissemination of data obtained under this part;
- 5717 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature
- 5718 of crime in Utah;
- 5719 (6) establish a statewide central register for the identification and location of missing
- 5720 persons, which may include:
- 5721 (a) identifying data including fingerprints of each missing person;
- 5722 (b) identifying data of any missing person who is reported as missing to a law
- 5723 enforcement agency having jurisdiction;
- 5724 (c) dates and circumstances of any persons requesting or receiving information from
- 5725 the register; and
- 5726 (d) any other information, including blood types and photographs found necessary in
- 5727 furthering the purposes of this part;
- 5728 (7) publish a quarterly directory of missing persons for distribution to persons or
- 5729 entities likely to be instrumental in the identification and location of missing persons;

5730 (8) list the name of every missing person with the appropriate nationally maintained  
5731 missing persons lists;

5732 (9) establish and operate a 24-hour communication network for reports of missing  
5733 persons and reports of sightings of missing persons;

5734 (10) coordinate with the National Center for Missing and Exploited Children and other  
5735 agencies to facilitate the identification and location of missing persons and the identification of  
5736 unidentified persons and bodies;

5737 (11) receive information regarding missing persons as provided in Sections [26-2-27]  
5738 [26B-8-130](#) and [53G-6-602](#), and stolen vehicles, vessels, and outboard motors, as provided in  
5739 Section [41-1a-1401](#);

5740 (12) adopt systems of identification, including the fingerprint system, to be used by the  
5741 division to facilitate law enforcement;

5742 (13) assign a distinguishing number or mark of identification to any pistol or revolver,  
5743 as provided in Section [76-10-520](#);

5744 (14) check certain criminal records databases for information regarding motor vehicle  
5745 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,  
5746 and inform the Motor Vehicle Enforcement Division when new entries are made for certain  
5747 criminal offenses for motor vehicle salespersons in accordance with the requirements of  
5748 Section [41-3-205.5](#);

5749 (15) check certain criminal records databases for information regarding driving  
5750 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving  
5751 privilege applicants and cardholders and inform the federal Immigration and Customs  
5752 Enforcement Agency of the United States Department of Homeland Security when new entries  
5753 are made in accordance with the requirements of Section [53-3-205.5](#);

5754 (16) review and approve or disapprove applications for license renewal that meet the  
5755 requirements for renewal; and

5756 (17) forward to the board those applications for renewal under Subsection (16) that do  
5757 not meet the requirements for renewal.

5758 Section 79. Section [53-10-208.1](#) is amended to read:

5759 **53-10-208.1. Magistrates and court clerks to supply information.**

5760 (1) Every magistrate or clerk of a court responsible for court records in this state shall,

- 5761 within 30 days of the disposition and on forms and in the manner provided by the division,  
5762 furnish the division with information pertaining to:
- 5763 (a) all dispositions of criminal matters, including:
- 5764 (i) guilty pleas;
- 5765 (ii) convictions;
- 5766 (iii) dismissals;
- 5767 (iv) acquittals;
- 5768 (v) pleas held in abeyance;
- 5769 (vi) judgments of not guilty by reason of insanity;
- 5770 (vii) judgments of guilty with a mental illness;
- 5771 (viii) finding of mental incompetence to stand trial; and
- 5772 (ix) probations granted;
- 5773 (b) orders of civil commitment under the terms of Section [~~62A-15-631~~] [26B-5-332](#);
- 5774 (c) the issuance, recall, cancellation, or modification of all warrants of arrest or  
5775 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section [78B-6-303](#),  
5776 within one day of the action and in a manner provided by the division; and
- 5777 (d) protective orders issued after notice and hearing, pursuant to:
- 5778 (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
- 5779 (ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;
- 5780 (iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;
- 5781 (iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or
- 5782 (v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
- 5783 (2) The court in the county where a determination or finding was made shall transmit a  
5784 record of the determination or finding to the bureau no later than 48 hours after the  
5785 determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:
- 5786 (a) adjudicated as a mental defective; or
- 5787 (b) involuntarily committed to a mental institution in accordance with Subsection  
5788 [~~62A-15-631~~](16) [26B-5-332](#)(16).
- 5789 (3) The record described in Subsection (2) shall include:
- 5790 (a) an agency record identifier;
- 5791 (b) the individual's name, sex, race, and date of birth; and

5792 (c) the individual's social security number, government issued driver license or  
5793 identification number, alien registration number, government passport number, state  
5794 identification number, or FBI number.

5795 Section 80. Section **53-10-403** is amended to read:

5796 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

5797 (1) Sections [53-10-403.6](#), [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to  
5798 any person who:

5799 (a) has pled guilty to or has been convicted of any of the offenses under Subsection  
5800 (2)(a) or (b) on or after July 1, 2002;

5801 (b) has pled guilty to or has been convicted by any other state or by the United States  
5802 government of an offense which if committed in this state would be punishable as one or more  
5803 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

5804 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any  
5805 offense under Subsection (2)(c);

5806 (d) has been booked:

5807 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
5808 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

5809 (ii) on or after January 1, 2015, for any felony offense; or

5810 (e) is a minor under Subsection (3).

5811 (2) Offenses referred to in Subsection (1) are:

5812 (a) any felony or class A misdemeanor under the Utah Code;

5813 (b) any offense under Subsection (2)(a):

5814 (i) for which the court enters a judgment for conviction to a lower degree of offense  
5815 under Section [76-3-402](#); or

5816 (ii) regarding which the court allows the defendant to enter a plea in abeyance as  
5817 defined in Section [77-2a-1](#); or

5818 (c) (i) any violent felony as defined in Section [53-10-403.5](#);

5819 (ii) sale or use of body parts, Section [~~26-28-116~~] [26B-8-315](#);

5820 (iii) failure to stop at an accident that resulted in death, Section [41-6a-401.5](#);

5821 (iv) operating a motor vehicle with any amount of a controlled substance in an  
5822 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

5823 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);  
5824 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;  
5825 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);  
5826 (vii) a felony violation of propelling a substance or object at a correctional officer, a  
5827 peace officer, or an employee or a volunteer, including health care providers, Section  
5828 76-5-102.6;  
5829 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);  
5830 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human  
5831 smuggling, Section 76-5-310.1;  
5832 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;  
5833 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;  
5834 (xii) unlawful sexual contact with a 16- or 17-year old, Section 76-5-401.2;  
5835 (xiii) sale of a child, Section 76-7-203;  
5836 (xiv) aggravated escape, Subsection 76-8-309(2);  
5837 (xv) a felony violation of assault on an elected official, Section 76-8-315;  
5838 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of  
5839 Pardons and Parole, Section 76-8-316;  
5840 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;  
5841 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;  
5842 (xix) a felony violation of sexual battery, Section 76-9-702.1;  
5843 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;  
5844 (xxi) a felony violation of abuse or desecration of a dead human body, Section  
5845 76-9-704;  
5846 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
5847 76-10-402;  
5848 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
5849 Section 76-10-403;  
5850 (xxiv) possession of a concealed firearm in the commission of a violent felony,  
5851 Subsection 76-10-504(4);  
5852 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,  
5853 Subsection 76-10-1504(3);

5854 (xxvi) commercial obstruction, Subsection [76-10-2402](#)(2);  
5855 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section  
5856 [77-41-107](#);  
5857 (xxviii) repeat violation of a protective order, Subsection [77-36-1.1](#)(4); or  
5858 (xxix) violation of condition for release after arrest under Section [78B-7-802](#) .  
5859 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated  
5860 by the juvenile court due to the commission of any offense described in Subsection (2), and  
5861 who:  
5862 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile  
5863 court on or after July 1, 2002; or  
5864 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or  
5865 after July 1, 2002, for an offense under Subsection (2).  
5866 Section 81. Section **53-10-405** is amended to read:  
5867 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**  
5868 **Blood sample to be drawn by professional.**  
5869 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection  
5870 [53-10-404](#)(5).  
5871 (b) The sample shall be obtained in a professionally acceptable manner, using  
5872 appropriate procedures to ensure the sample is adequate for DNA analysis.  
5873 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the  
5874 following:  
5875 (i) a physician;  
5876 (ii) a physician assistant;  
5877 (iii) a registered nurse;  
5878 (iv) a licensed practical nurse;  
5879 (v) a paramedic;  
5880 (vi) as provided in Subsection (2)(b), emergency medical service personnel other than  
5881 paramedics; or  
5882 (vii) a person with a valid permit issued by the Department of Health and Human  
5883 Services under Section [~~26-1-30~~] [26B-1-202](#).  
5884 (b) The Department of Health and Human Services may designate by rule, in

5885 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency  
5886 medical service personnel, as defined in Section [~~26-8a-102~~] [26B-4-101](#), are authorized to  
5887 draw blood under Subsection (2)(a)(vi), based on the type of license under Section [~~26-8a-302~~]  
5888 [26B-4-116](#).

5889 (c) A person authorized by this section to draw a blood sample may not be held civilly  
5890 liable for drawing a sample in a medically acceptable manner.

5891 (3) A test result or opinion based upon a test result regarding a DNA specimen may not  
5892 be rendered inadmissible as evidence solely because of deviations from procedures adopted by  
5893 the department that do not affect the reliability of the opinion or test result.

5894 (4) A DNA specimen is not required to be obtained if:

5895 (a) the court or the responsible agency confirms with the department that the  
5896 department has previously received an adequate DNA specimen obtained from the person in  
5897 accordance with this section; or

5898 (b) the court determines that obtaining a DNA specimen would create a substantial and  
5899 unreasonable risk to the health of the person.

5900 Section 82. Section **53-10-801** is amended to read:

5901 **53-10-801. Definitions.**

5902 For purposes of this part:

5903 (1) "Alleged sexual offender" means an individual or a minor regarding whom an  
5904 indictment, petition, or an information has been filed or an arrest has been made alleging the  
5905 commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part  
5906 4, Sexual Offenses, and regarding which:

5907 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order  
5908 based upon probable cause regarding the alleged offense; and

5909 (b) the judge has found probable cause to believe that the alleged victim has been  
5910 exposed to conduct or activities that may result in an HIV infection as a result of the alleged  
5911 offense.

5912 (2) "Department of Health and Human Services" means the Department of Health and  
5913 Human Services created in Section [26B-1-201](#).

5914 (3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV)  
5915 infection determined by current medical standards and detected by any of the following:

5916 (a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as  
5917 Western blot or other method approved by the Utah State Health Laboratory. Western blot  
5918 interpretation will be based on criteria currently recommended by the Association of State and  
5919 Territorial Public Health Laboratory Directors;

5920 (b) presence of HIV antigen;

5921 (c) isolation of HIV; or

5922 (d) demonstration of HIV proviral DNA.

5923 (4) "HIV positive individual" means an individual who is HIV positive as determined  
5924 by the State Health Laboratory.

5925 (5) "Local department of health" means a local health department as defined in Section  
5926 [26A-1-102](#).

5927 (6) "Minor" means an individual younger than 18 years old.

5928 (7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

5929 (8) "Sexual offense" means a violation of any offense under Title 76, Chapter 5, Part 4,  
5930 Sexual Offenses.

5931 (9) "Test" or "testing" means a test or tests for HIV infection conducted by and in  
5932 accordance with standards recommended by the Department of Health and Human Services.

5933 Section 83. Section **53-10-802** is amended to read:

5934 **53-10-802. Request for testing -- Mandatory testing -- Liability for costs.**

5935 (1) (a) An alleged victim of a sexual offense, the parent or guardian of an alleged  
5936 victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined  
5937 in Section [~~62A-3-301~~] [26B-6-201](#) may request that the alleged sexual offender against whom  
5938 the indictment, information, or petition is filed or regarding whom the arrest has been made be  
5939 tested to determine whether the alleged offender is an HIV positive individual.

5940 (b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender  
5941 be tested, the alleged offender shall submit to being tested not later than 48 hours after an  
5942 information or indictment is filed or an order requiring a test is signed.

5943 (c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be  
5944 tested more than 48 hours after an information or indictment is filed, the offender shall submit  
5945 to being tested not later than 24 hours after the request is made.

5946 (d) As soon as practicable, the results of the test conducted pursuant to this section



5947 shall be provided to:

5948 (i) the alleged victim who requested the test;

5949 (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;

5950 (iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as

5951 defined in Section [~~62A-3-301~~] [26B-6-201](#);

5952 (iv) the alleged offender; and

5953 (v) the parent or legal guardian of the alleged offender, if the offender is a minor.

5954 (e) If follow-up testing is medically indicated, the results of follow-up testing of the

5955 alleged offender shall be sent as soon as practicable to:

5956 (i) the alleged victim;

5957 (ii) the parent or guardian of the alleged victim if the alleged victim is a minor;

5958 (iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as

5959 defined in Section [~~62A-3-301~~] [26B-6-201](#);

5960 (iv) the alleged offender; and

5961 (v) the parent or legal guardian of the alleged offender, if the alleged offender is a

5962 minor.

5963 (2) If the mandatory test has not been conducted, and the alleged offender or alleged  
5964 minor offender is already confined in a county jail, state prison, or a secure youth corrections  
5965 facility, the alleged offender shall be tested while in confinement.

5966 (3) (a) The secure youth corrections facility or county jail shall cause the blood  
5967 specimen of the alleged offender under Subsection (1) confined in that facility to be taken and  
5968 shall forward the specimen to:

5969 (i) the Department of Health and Human Services; or

5970 (ii) an alternate testing facility, as determined by the secure youth corrections facility or  
5971 county jail, if testing under Subsection (3)(a)(i) is unavailable.

5972 (b) The entity that receives the specimen under Subsection (3)(a) shall provide the  
5973 result to the prosecutor as soon as practicable for release to the parties as described in  
5974 Subsection (1)(d) or (e).

5975 (4) The Department of Corrections shall cause the blood specimen of the alleged  
5976 offender defined in Subsection (1) confined in any state prison to be taken and shall forward  
5977 the specimen to the Department of Health and Human Services as provided in Section

5978 64-13-36.

5979 (5) The alleged offender who is tested is responsible upon conviction for the costs of  
5980 testing, unless the alleged offender is indigent. The costs will then be paid by the Department  
5981 of Health and Human Services from the General Fund.

5982 Section 84. Section **53-10-804** is amended to read:

5983 **53-10-804. Victim notification and counseling.**

5984 (1) (a) The Department of Health of Human Services shall provide the victim who  
5985 requests testing of the alleged sexual offender's human immunodeficiency virus status  
5986 counseling regarding HIV disease and referral for appropriate health care and support services.

5987 (b) If the local health department in whose jurisdiction the victim resides and the  
5988 Department of Health and Human Services agree, the Department of Health and Human  
5989 Services shall forward a report of the alleged sexual offender's human immunodeficiency virus  
5990 status to the local health department and the local health department shall provide the victim  
5991 who requests the test with the test results, counseling regarding HIV disease, and referral for  
5992 appropriate health care and support services.

5993 (2) Notwithstanding the provisions of Section [~~26-6-27~~] 26B-7-217, the Department of  
5994 Health and Human Services and a local health department acting pursuant to an agreement  
5995 made under Subsection (1) may disclose to the victim the results of the alleged sexual  
5996 offender's human immunodeficiency virus status as provided in this section.

5997 Section 85. Section **53-13-105** is amended to read:

5998 **53-13-105. Special function officer.**

5999 (1) (a) "Special function officer" means a sworn and certified peace officer performing  
6000 specialized investigations, service of legal process, security functions, or specialized ordinance,  
6001 rule, or regulatory functions.

6002 (b) "Special function officer" includes:

6003 (i) state military police;

6004 (ii) constables;

6005 (iii) port-of-entry agents as defined in Section 72-1-102;

6006 (iv) authorized employees or agents of the Department of Transportation assigned to  
6007 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

6008 (v) school district security officers;

6009 (vi) Utah State Hospital security officers designated pursuant to Section [~~62A-15-603~~]  
6010 [26B-5-303](#);

6011 (vii) Utah State Developmental Center security officers designated pursuant to  
6012 [~~Subsection 62A-5-206(8)~~] [Section 26B-6-506](#);

6013 (viii) fire arson investigators for any political subdivision of the state;

6014 (ix) ordinance enforcement officers employed by municipalities or counties may be  
6015 special function officers;

6016 (x) employees of the Department of Natural Resources who have been designated to  
6017 conduct supplemental enforcement functions as a collateral duty;

6018 (xi) railroad special agents deputized by a county sheriff under Section [17-30-2](#) or  
6019 [17-30a-104](#), or appointed pursuant to Section [56-1-21.5](#);

6020 (xii) auxiliary officers, as described by Section [53-13-112](#);

6021 (xiii) special agents, process servers, and investigators employed by city attorneys;

6022 (xiv) criminal tax investigators designated under Section [59-1-206](#); and

6023 (xv) all other persons designated by statute as having special function officer authority  
6024 or limited peace officer authority.

6025 (2) (a) A special function officer may exercise that spectrum of peace officer authority  
6026 that has been designated by statute to the employing agency, and only while on duty, and not  
6027 for the purpose of general law enforcement.

6028 (b) If the special function officer is charged with security functions respecting facilities  
6029 or property, the powers may be exercised only in connection with acts occurring on the  
6030 property where the officer is employed or when required for the protection of the employer's  
6031 interest, property, or employees.

6032 (c) A special function officer may carry firearms only while on duty, and only if  
6033 authorized and under conditions specified by the officer's employer or chief administrator.

6034 (3) (a) A special function officer may not exercise the authority of a special function  
6035 officer until:

6036 (i) the officer has satisfactorily completed an approved basic training program for  
6037 special function officers as provided under Subsection (4); and

6038 (ii) the chief law enforcement officer or administrator has certified this fact to the  
6039 director of the division.

6040 (b) City and county constables and their deputies shall certify their completion of  
6041 training to the legislative governing body of the city or county they serve.

6042 (4) (a) The agency that the special function officer serves may establish and maintain a  
6043 basic special function course and in-service training programs as approved by the director of  
6044 the division with the advice and consent of the council.

6045 (b) The in-service training shall consist of no fewer than 40 hours per year and may be  
6046 conducted by the agency's own staff or by other agencies.

6047 (5) (a) An individual shall be 19 years old or older before being certified or employed  
6048 as a special function officer.

6049 (b) A special function officer who is under 21 years old may only work as a  
6050 correctional officer in accordance with Section [53-13-104](#).

6051 Section 86. Section **53-13-110** is amended to read:

6052 **53-13-110. Duties to investigate specified instances of abuse or neglect.**

6053 In accordance with the requirements of Section [80-2-703](#), law enforcement officers  
6054 shall investigate alleged instances of abuse or neglect of a child that occur while the child is in  
6055 the custody of the Division of Child and Family Services, within the Department of Health and  
6056 Human Services.

6057 Section 87. Section **53-21-101** is amended to read:

6058 **53-21-101. Definitions.**

6059 As used in this chapter:

6060 (1) "Crime scene investigator technician" means an individual employed by a law  
6061 enforcement agency to collect and analyze evidence from crime scenes and crime-related  
6062 incidents.

6063 (2) "Department" means the Department of Public Safety.

6064 (3) "First responder" means:

6065 (a) a law enforcement officer, as defined in Section [53-13-103](#);

6066 (b) an emergency medical technician, as defined in Section [~~26-8c-102~~] [26B-4-137](#);

6067 (c) an advanced emergency medical technician, as defined in Section [~~26-8c-102~~]

6068 [26B-4-137](#);

6069 (d) a paramedic, as defined in Section [~~26-8c-102~~] [26B-4-137](#);

6070 (e) a firefighter, as defined in Section [34A-3-113](#);

- 6071 (f) a dispatcher, as defined in Section [53-6-102](#);
- 6072 (g) a correctional officer, as defined in Section [53-13-104](#);
- 6073 (h) a special function officer, as defined in Section [53-13-105](#), employed by a local  
6074 sheriff;
- 6075 (i) a search and rescue worker under the supervision of a local sheriff;
- 6076 (j) a credentialed criminal justice system victim advocate as defined in Section  
6077 [77-38-403](#) who responds to incidents with a law enforcement officer;
- 6078 (k) a crime scene investigator technician; or
- 6079 (l) a wildland firefighter.
- 6080 (4) "First responder agency" means a local district, municipality, interlocal entity, or  
6081 other political subdivision that employs a first responder to provide fire protection, paramedic,  
6082 law enforcement, or emergency services.
- 6083 (5) "Mental health resources" means:
- 6084 (a) an assessment to determine appropriate mental health treatment that is performed  
6085 by a mental health therapist;
- 6086 (b) outpatient mental health treatment provided by a mental health therapist; or
- 6087 (c) peer support services provided by a peer support specialist who is qualified to  
6088 provide peer support services under Subsection [~~62A-15-103(2)(h)~~] [26B-5-102\(2\)\(h\)](#).
- 6089 (6) "Mental health therapist" means the same as that term is defined in Section  
6090 [58-60-102](#).
- 6091 (7) "Plan" means a plan to implement or expand a program that provides mental health  
6092 resources to first responders for which the division awards a grant under this chapter.
- 6093 Section 88. Section **53B-1-111** is amended to read:
- 6094 **53B-1-111. Organ donation notification.**
- 6095 (1) As used in this section:
- 6096 (a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] [26B-4-137](#).
- 6097 (b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~]  
6098 [26B-4-137](#).
- 6099 (c) "Institution of higher education" means an institution as described in Section  
6100 [53B-3-102](#).
- 6101 (2) (a) An institution of higher education shall distribute, twice each academic year to

6102 each enrolled student:

6103 (i) an electronic message notifying each student of the option to register as a donor by  
6104 selecting the Internet link described in Subsection (2)(a)(ii); and

6105 (ii) through the electronic message described in Subsection (2)(a)(i) an Internet link to  
6106 a website for a donor registry established under Section [~~26-28-120~~] [26B-8-319](#).

6107 (b) An institution of higher education may also provide to students information on  
6108 donor registry by other electronic, printed, or in-person means.

6109 Section 89. Section **53B-17-301** is amended to read:

6110 **53B-17-301. Unclaimed dead bodies -- Notice to school of medicine at the**  
6111 **University of Utah -- Preservation of dead bodies.**

6112 (1) A county shall, within 24 hours after assuming custody of an unclaimed body for  
6113 which the county is required to provide burial under Section [~~26-4-25~~] [26B-8-225](#), provide  
6114 notice of the county's custody of the body to the dean of the school of medicine at the  
6115 University of Utah.

6116 (2) The notice described in Subsection (1) shall specify the body's probable cause of  
6117 death.

6118 (3) Subject to Section [~~26-4-25~~] [26B-8-225](#), the county shall, at the request of the dean  
6119 of the school of medicine at the University of Utah, forward the body to the university, at the  
6120 university's expense, within 24 hours of receiving the dean's request.

6121 (4) The school of medicine at the University of Utah shall, for a body it receives under  
6122 Subsection (3):

6123 (a) properly embalm and preserve the body for at least 60 days; and

6124 (b) upon request, release the body to a person with priority to control the disposition of  
6125 the body under Section [58-9-602](#).

6126 Section 90. Section **53B-17-903** is amended to read:

6127 **53B-17-903. Education in pain treatment.**

6128 The University of Utah School of Medicine shall ensure that any licensed physicians  
6129 who oversee fellowship training to specialize in pain treatment are qualified medical providers,  
6130 as that term is defined in Section [~~26-61a-102~~] [26B-4-201](#).

6131 Section 91. Section **53B-17-1203** is amended to read:

6132 **53B-17-1203. SafeUT and School Safety Commission established -- Members.**

6133 (1) There is created the SafeUT and School Safety Commission composed of the  
6134 following members:

6135 (a) one member who represents the Office of the Attorney General, appointed by the  
6136 attorney general;

6137 (b) one member who represents the Utah public education system, appointed by the  
6138 State Board of Education;

6139 (c) one member who represents the Utah system of higher education, appointed by the  
6140 board;

6141 (d) one member who represents the [~~Utah~~] Department of Health and Human Services,  
6142 appointed by the executive director of the Department of Health and Human Services;

6143 (e) one member of the House of Representatives, appointed by the speaker of the  
6144 House of Representatives;

6145 (f) one member of the Senate, appointed by the president of the Senate;

6146 (g) one member who represents the University Neuropsychiatric Institute, appointed by  
6147 the chair of the commission;

6148 (h) one member who represents law enforcement who has extensive experience in  
6149 emergency response, appointed by the chair of the commission;

6150 (i) one member who represents the [~~Utah~~] Department of Health and Human Services  
6151 who has experience in youth services or treatment services, appointed by the executive director  
6152 of the Department of Health and Human Services; and

6153 (j) two members of the public, appointed by the chair of the commission.

6154 (2) (a) Except as provided in Subsection (2)(b), members of the commission shall be  
6155 appointed to four-year terms.

6156 (b) The length of the terms of the members shall be staggered so that approximately  
6157 half of the committee is appointed every two years.

6158 (c) When a vacancy occurs in the membership of the commission, the replacement  
6159 shall be appointed for the unexpired term.

6160 (3) (a) The attorney general's designee shall serve as chair of the commission.

6161 (b) The chair shall set the agenda for commission meetings.

6162 (4) Attendance of a simple majority of the members constitutes a quorum for the  
6163 transaction of official commission business.

6164 (5) Formal action by the commission requires a majority vote of a quorum.

6165 (6) (a) Except as provided in Subsection (6)(b), a member may not receive  
6166 compensation, benefits, per diem, or travel expenses for the member's service.

6167 (b) Compensation and expenses of a member who is a legislator are governed by  
6168 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

6169 (7) The Office of the Attorney General shall provide staff support to the commission.

6170 Section 92. Section **53B-26-202** is amended to read:

6171 **53B-26-202. Nursing initiative -- Reporting requirements -- Proposals -- Funding.**

6172 (1) Every even-numbered year, the Utah Health Workforce Information Center created  
6173 in Section [~~26-69-301~~] [26B-4-705](#) shall:

6174 (a) project the demand, by license classification, for individuals to enter a nursing  
6175 profession in each region;

6176 (b) receive input from at least one medical association in developing the projections  
6177 described in Subsection (1)(a); and

6178 (c) report the projections described in Subsection (1)(a) to:

6179 (i) the board; and

6180 (ii) the Higher Education Appropriations Subcommittee.

6181 (2) To receive funding under this section, on or before January 5, an eligible program  
6182 shall submit to the Higher Education Appropriations Subcommittee, through the budget  
6183 process for the board, as applicable, a proposal that describes:

6184 (a) a program of instruction offered by the eligible program that is responsive to a  
6185 projection described in Subsection (1)(a);

6186 (b) the following information about the eligible program:

6187 (i) expected student enrollment;

6188 (ii) attainment rates;

6189 (iii) job placement rates; and

6190 (iv) passage rates for exams required for licensure for a nursing profession;

6191 (c) the instructional cost per full-time equivalent student enrolled in the eligible  
6192 program;

6193 (d) financial or in-kind contributions to the eligible program from:

6194 (i) the health care industry; or



- 6195 (ii) an institution; and
- 6196 (e) a funding request, including justification for the request.
- 6197 (3) The Higher Education Appropriations Subcommittee shall:
- 6198 (a) review a proposal submitted under this section using the following criteria:
- 6199 (i) the proposal:
- 6200 (A) contains the elements described in Subsection (2);
- 6201 (B) expands the capacity to meet the projected demand described in Subsection (1)(a);
- 6202 and
- 6203 (C) has health care industry or institution support; and
- 6204 (ii) the program of instruction described in the proposal:
- 6205 (A) is cost effective;
- 6206 (B) has support from the health care industry or an institution; and
- 6207 (C) has high passage rates on exams required for licensure for a nursing profession;
- 6208 (b) determine the extent to which to fund the proposal; and
- 6209 (c) make an appropriation recommendation to the Legislature on the amount of money
- 6210 determined under Subsection (3)(b) to the eligible program's institution.
- 6211 (4) An institution that receives funding under this section shall use the funding to
- 6212 increase the number of students enrolled in the eligible program for which the institution
- 6213 receives funding.
- 6214 (5) On or before November 1 of each year, the board shall report to the Higher
- 6215 Education Appropriations Subcommittee on the elements described in Subsection (2) for each
- 6216 eligible program funded under this section.
- 6217 Section 93. Section **53B-28-202** is amended to read:
- 6218 **53B-28-202. Confidentiality of information -- Disclosure of confidential**
- 6219 **communication.**
- 6220 (1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2,
- 6221 Government Records Access and Management Act, a person may not disclose a confidential
- 6222 communication.
- 6223 (2) A person may disclose a confidential communication if:
- 6224 (a) the victim gives written and informed consent to the disclosure;
- 6225 (b) the person has an obligation to disclose the confidential communication under

6226 Section [~~62A-3-305~~] 26B-6-205, 80-2-602, or 78B-3-502;

6227 (c) the disclosure is required by federal law; or

6228 (d) a court of competent jurisdiction orders the disclosure.

6229 Section 94. Section **53B-28-303** is amended to read:

6230 **53B-28-303. Institution engagement with a law enforcement agency -- Articulate**  
6231 **and significant threat -- Notification to victim.**

6232 (1) (a) An institution shall keep confidential from a law enforcement agency a covered  
6233 allegation reported to the institution by the victim of the covered allegation.

6234 (b) Notwithstanding Subsection (1)(a), an institution may engage with a law  
6235 enforcement agency in response to a covered allegation described in Subsection (1)(a):

6236 (i) if the victim consents to the institution engaging with the law enforcement agency;

6237 or

6238 (ii) in accordance with Subsection (2).

6239 (2) (a) Subject to Subsection (3), an institution that receives a report described in

6240 Subsection (1)(a) may engage with a law enforcement agency in response to the covered

6241 allegation if the institution determines, in accordance with Subsection (2)(b), that the

6242 information in the covered allegation creates an articulable and significant threat to individual

6243 or campus safety at the institution.

6244 (b) To determine whether the information in a covered allegation creates an articulable

6245 and significant threat described in Subsection (2)(a), the institution shall consider, if the

6246 information is known to the institution, at least the following factors:

6247 (i) whether the circumstances of the covered allegation suggest an increased risk that

6248 the alleged perpetrator will commit an additional act of sexual violence or other violence;

6249 (ii) whether the alleged perpetrator has an arrest history that indicates a history of

6250 sexual violence or other violence;

6251 (iii) whether records from the alleged perpetrator's previous postsecondary institution

6252 indicate that the alleged perpetrator has a history of sexual violence or other violence;

6253 (iv) whether the alleged perpetrator is alleged to have threatened further sexual

6254 violence or other violence against the victim or another individual;

6255 (v) whether the act of sexual violence was committed by more than one alleged

6256 perpetrator;

- 6257 (vi) whether the circumstances of the covered allegation suggest there is an increased  
6258 risk of future acts of sexual violence under similar circumstances;
- 6259 (vii) whether the act of sexual violence was perpetrated with a weapon; and  
6260 (viii) the age of the victim.
- 6261 (3) An institution shall:
- 6262 (a) before engaging with a law enforcement agency in accordance with Subsection (2),  
6263 provide notice to the victim of the following:
- 6264 (i) the institution's intent to engage with a law enforcement agency;  
6265 (ii) the law enforcement agency with which the institution intends to engage; and  
6266 (iii) the reason the institution made the determination described in Subsection (2); and
- 6267 (b) in engaging with a law enforcement agency under Subsection (2):
- 6268 (i) maintain the confidentiality of the victim; and  
6269 (ii) disclose the minimum information required to appropriately address the threat  
6270 described in Subsection (2)(a).
- 6271 (4) Nothing in this section supersedes:
- 6272 (a) an obligation described in Section [~~62A-3-305~~] [26B-6-205](#), [80-2-602](#), or  
6273 [78B-3-502](#); or
- 6274 (b) a requirement described in Part 2, Confidential Communications for Institutional  
6275 Advocacy Services Act.
- 6276 Section 95. Section **53E-1-201** is amended to read:
- 6277 **53E-1-201. Reports to and action required of the Education Interim Committee.**
- 6278 (1) In accordance with applicable provisions and Section [68-3-14](#), the following  
6279 recurring reports are due to the Education Interim Committee:
- 6280 (a) the report described in Section [9-22-109](#) by the STEM Action Center Board,  
6281 including the information described in Section [9-22-113](#) on the status of the computer science  
6282 initiative and Section [9-22-114](#) on the Computing Partnerships Grants Program;
- 6283 (b) the prioritized list of data research described in Section [53B-33-302](#) and the report  
6284 on research and activities described in Section [53B-33-304](#) by the Utah Data Research Center;
- 6285 (c) the report described in Section [35A-15-303](#) by the State Board of Education on  
6286 preschool programs;
- 6287 (d) the report described in Section [53B-1-402](#) by the Utah Board of Higher Education

- 6288 on career and technical education issues and addressing workforce needs;
- 6289 (e) the annual report of the Utah Board of Higher Education described in Section
- 6290 [53B-1-402](#);
- 6291 (f) the reports described in Section [53B-28-401](#) by the Utah Board of Higher Education
- 6292 regarding activities related to campus safety;
- 6293 (g) the State Superintendent's Annual Report by the state board described in Section
- 6294 [53E-1-203](#);
- 6295 (h) the annual report described in Section [53E-2-202](#) by the state board on the strategic
- 6296 plan to improve student outcomes;
- 6297 (i) the report described in Section [53E-8-204](#) by the state board on the Utah Schools for
- 6298 the Deaf and the Blind;
- 6299 (j) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,
- 6300 Actionable, and Dynamic Education director on research and other activities;
- 6301 (k) the report described in Section [53F-2-522](#) regarding mental health screening
- 6302 programs;
- 6303 (l) the report described in Section [53F-4-203](#) by the state board and the independent
- 6304 evaluator on an evaluation of early interactive reading software;
- 6305 (m) the report described in Section [53F-4-407](#) by the state board on UPSTART;
- 6306 (n) the reports described in Sections [53F-5-214](#) and [53F-5-215](#) by the state board
- 6307 related to grants for professional learning and grants for an elementary teacher preparation
- 6308 assessment;
- 6309 (o) upon request, the report described in Section [53F-5-219](#) by the state board on the
- 6310 Local Innovations Civics Education Pilot Program;
- 6311 (p) the report described in Section [53F-5-405](#) by the State Board of Education
- 6312 regarding an evaluation of a partnership that receives a grant to improve educational outcomes
- 6313 for students who are low income;
- 6314 (q) the report described in Section [53B-35-202](#) regarding the Higher Education and
- 6315 Corrections Council;
- 6316 (r) the report described in Section [53G-7-221](#) by the State Board of Education
- 6317 regarding innovation plans; and
- 6318 (s) the annual report described in Section [63A-2-502](#) by the Educational Interpretation

6319 and Translation Service Procurement Advisory Council.

6320 (2) In accordance with applicable provisions and Section [68-3-14](#), the following  
6321 occasional reports are due to the Education Interim Committee:

6322 (a) the report described in Section [35A-15-303](#) by the School Readiness Board by  
6323 November 30, 2020, on benchmarks for certain preschool programs;

6324 (b) the report described in Section [53B-28-402](#) by the Utah Board of Higher Education  
6325 on or before the Education Interim Committee's November 2021 meeting;

6326 (c) if required, the report described in Section [53E-4-309](#) by the state board explaining  
6327 the reasons for changing the grade level specification for the administration of specific  
6328 assessments;

6329 (d) if required, the report described in Section [53E-5-210](#) by the state board of an  
6330 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

6331 (e) in 2022 and in 2023, on or before November 30, the report described in Subsection  
6332 [53E-10-309](#)(7) related to the PRIME pilot program;

6333 (f) the report described in Section [53E-10-702](#) by Utah Leading through Effective,  
6334 Actionable, and Dynamic Education;

6335 (g) if required, the report described in Section [53F-2-513](#) by the state board evaluating  
6336 the effects of salary bonuses on the recruitment and retention of effective teachers in high  
6337 poverty schools;

6338 (h) the report described in Section [53F-5-210](#) by the state board on the Educational  
6339 Improvement Opportunities Outside of the Regular School Day Grant Program;

6340 (i) upon request, a report described in Section [53G-7-222](#) by an LEA regarding  
6341 expenditure of a percentage of state restricted funds to support an innovative education  
6342 program;

6343 (j) the report described in Section [53G-7-503](#) by the state board regarding fees that  
6344 LEAs charge during the 2020-2021 school year;

6345 (k) the reports described in Section [53G-11-304](#) by the state board regarding proposed  
6346 rules and results related to educator exit surveys; and

6347 (l) the report described in Section [~~62A-15-117~~] [26B-5-113](#) by the [~~Division of~~  
6348 ~~Substance Abuse~~] Office of Substance Use and Mental Health, the State Board of Education,  
6349 and the Department of Health and Human Services regarding recommendations related to

6350 Medicaid reimbursement for school-based health services.

6351 Section 96. Section **53E-3-503** is amended to read:

6352 **53E-3-503. Education of individuals in custody of or receiving services from**  
6353 **certain state agencies -- Establishment of coordinating council -- Advisory councils.**

6354 (1) (a) The state board is directly responsible for the education of all individuals who  
6355 are:

6356 (i) (A) younger than 21 years old; or

6357 (B) eligible for special education services as described in Chapter 7, Part 2, Special

6358 Education Program; and

6359 (ii) (A) receiving services from the Department of Health and Human Services;

6360 (B) in the custody of an equivalent agency of a Native American tribe recognized by  
6361 the United States Bureau of Indian Affairs and whose custodial parent resides within the state;

6362 or

6363 (C) being held in a juvenile detention facility.

6364 (b) The state board shall:

6365 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
6366 Rulemaking Act, to provide for the distribution of funds for the education of individuals  
6367 described in Subsection (1)(a); and

6368 (ii) expend funds appropriated for the education of youth in custody in the following  
6369 order of priority:

6370 (A) for students in a facility described in Subsection (1)(a)(ii) who are not included in  
6371 an LEA's average daily membership; and

6372 (B) for students in a facility described in Subsection (1)(a)(ii) who are included in an  
6373 LEA's average daily membership and who may benefit from additional educational support  
6374 services.

6375 (c) Subject to future budget constraints, the amount appropriated for the education of  
6376 youth in custody under this section shall increase annually based on the following:

6377 (i) the percentage of enrollment growth of students in kindergarten through grade 12;

6378 and

6379 (ii) changes to the value of the weighted pupil unit as defined in Section [53F-4-301](#).

6380 (2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the

6381 primary purpose of obtaining access to education programs provided for youth in custody.

6382 (3) The state board shall, where feasible, contract with school districts or other  
6383 appropriate agencies to provide educational, administrative, and supportive services, but the  
6384 state board shall retain responsibility for the programs.

6385 (4) The Legislature shall establish and maintain separate education budget categories  
6386 for youth in custody or who are under the jurisdiction of the following state agencies:

6387 (a) detention centers and the Divisions of Juvenile Justice and Youth Services and  
6388 Child and Family Services;

6389 (b) the [~~Division of Substance Abuse~~] Office of Substance Use and Mental Health; and

6390 (c) the Division of Services for People with Disabilities.

6391 (5) (a) The Department of Health and Human Services and the state board shall appoint  
6392 a coordinating council to plan, coordinate, and recommend budget, policy, and program  
6393 guidelines for the education and treatment of persons in the custody of the Division of Juvenile  
6394 Justice and Youth Services and the Division of Child and Family Services.

6395 (b) The Department of Health and Human Services and the state board may appoint  
6396 similar councils for those in the custody of the [~~Division of Substance Abuse~~] Office of  
6397 Substance Use and Mental Health or the Division of Services for People with Disabilities.

6398 (6) A school district contracting to provide services under Subsection (3) shall  
6399 establish an advisory council to plan, coordinate, and review education and treatment programs  
6400 for individuals held in custody in the district.

6401 Section 97. Section **53E-8-405** is amended to read:

6402 **53E-8-405. Collaboration with Department of Health and Human Services.**

6403 The Utah Schools for the Deaf and the Blind shall collaborate with the Department of  
6404 Health and Human Services to provide services to children with disabilities who are younger  
6405 than three years [~~of age~~] old in accordance with the Individuals with Disabilities Education  
6406 Act, 20 U.S.C. Sec. 1400 et seq.

6407 Section 98. Section **53E-8-408** is amended to read:

6408 **53E-8-408. Educational services for an individual with a hearing loss.**

6409 (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide  
6410 educational services to an individual:

6411 (a) who seeks to receive the educational services; and

6412 (b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the  
6413 Deaf and the Blind in accordance with Section [~~26-10-6~~] [26B-4-319](#) or [~~26-10-13~~] [26B-4-323](#);  
6414 or

6415 (ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

6416 (2) If the individual who will receive the services described in Subsection (1) is a  
6417 minor, the Utah Schools for the Deaf and the Blind may not provide the services to the  
6418 individual until after receiving permission from the individual's parent.

6419 Section 99. Section **53E-9-301** is amended to read:

6420 **53E-9-301. Definitions.**

6421 As used in this part:

6422 (1) "Adult student" means a student who:

6423 (a) is at least 18 years old;

6424 (b) is an emancipated student; or

6425 (c) qualifies under the McKinney-Vento Homeless Education Assistance

6426 Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

6427 (2) "Aggregate data" means data that:

6428 (a) are totaled and reported at the group, cohort, school, school district, region, or state  
6429 level with at least 10 individuals in the level;

6430 (b) do not reveal personally identifiable student data; and

6431 (c) are collected in accordance with state board rule.

6432 (3) (a) "Biometric identifier" means a:

6433 (i) retina or iris scan;

6434 (ii) fingerprint;

6435 (iii) human biological sample used for valid scientific testing or screening; or

6436 (iv) scan of hand or face geometry.

6437 (b) "Biometric identifier" does not include:

6438 (i) a writing sample;

6439 (ii) a written signature;

6440 (iii) a voiceprint;

6441 (iv) a photograph;

6442 (v) demographic data; or



- 6443 (vi) a physical description, such as height, weight, hair color, or eye color.
- 6444 (4) "Biometric information" means information, regardless of how the information is  
6445 collected, converted, stored, or shared:
- 6446 (a) based on an individual's biometric identifier; and  
6447 (b) used to identify the individual.
- 6448 (5) "Data breach" means an unauthorized release of or unauthorized access to  
6449 personally identifiable student data that is maintained by an education entity.
- 6450 (6) "Data governance plan" means an education entity's comprehensive plan for  
6451 managing education data that:
- 6452 (a) incorporates reasonable data industry best practices to maintain and protect student  
6453 data and other education-related data;
- 6454 (b) describes the role, responsibility, and authority of an education entity data  
6455 governance staff member;
- 6456 (c) provides for necessary technical assistance, training, support, and auditing;  
6457 (d) describes the process for sharing student data between an education entity and  
6458 another person;
- 6459 (e) describes the education entity's data expungement process, including how to  
6460 respond to requests for expungement;
- 6461 (f) describes the data breach response process; and  
6462 (g) is published annually and available on the education entity's website.
- 6463 (7) "Education entity" means:
- 6464 (a) the state board;  
6465 (b) a local school board;  
6466 (c) a charter school governing board;  
6467 (d) a school district;  
6468 (e) a charter school; or  
6469 (f) the Utah Schools for the Deaf and the Blind.
- 6470 (8) "Expunge" means to seal or permanently delete data, as described in state board  
6471 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
6472 under Section [53E-9-306](#).
- 6473 (9) "General audience application" means an Internet website, online service, online

6474 application, mobile application, or software program that:

6475 (a) is not specifically intended for use by an audience member that attends kindergarten  
6476 or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from  
6477 1 to 12; and

6478 (b) is not subject to a contract between an education entity and a third-party contractor.

6479 (10) "Local education agency" or "LEA" means:

6480 (a) a school district;

6481 (b) a charter school; or

6482 (c) the Utah Schools for the Deaf and the Blind.

6483 (11) "Metadata dictionary" means a record that:

6484 (a) defines and discloses all personally identifiable student data collected and shared by  
6485 the education entity;

6486 (b) comprehensively lists all recipients with whom the education entity has shared  
6487 personally identifiable student data, including:

6488 (i) the purpose for sharing the data with the recipient;

6489 (ii) the justification for sharing the data, including whether sharing the data was  
6490 required by federal law, state law, or a local directive; and

6491 (iii) how sharing the data is permitted under federal or state law; and

6492 (c) without disclosing personally identifiable student data, is displayed on the  
6493 education entity's website.

6494 (12) "Necessary student data" means data required by state statute or federal law to  
6495 conduct the regular activities of an education entity, including:

6496 (a) name;

6497 (b) date of birth;

6498 (c) sex;

6499 (d) parent contact information;

6500 (e) custodial parent information;

6501 (f) contact information;

6502 (g) a student identification number;

6503 (h) local, state, and national assessment results or an exception from taking a local,  
6504 state, or national assessment;

- 6505 (i) courses taken and completed, credits earned, and other transcript information;
- 6506 (j) course grades and grade point average;
- 6507 (k) grade level and expected graduation date or graduation cohort;
- 6508 (l) degree, diploma, credential attainment, and other school exit information;
- 6509 (m) attendance and mobility;
- 6510 (n) drop-out data;
- 6511 (o) immunization record or an exception from an immunization record;
- 6512 (p) race;
- 6513 (q) ethnicity;
- 6514 (r) tribal affiliation;
- 6515 (s) remediation efforts;
- 6516 (t) an exception from a vision screening required under Section [53G-9-404](#) or
- 6517 information collected from a vision screening described in Section [53G-9-404](#);
- 6518 (u) information related to the Utah Registry of Autism and Developmental Disabilities,
- 6519 described in Section [~~26-7-4~~] [26B-7-115](#);
- 6520 (v) student injury information;
- 6521 (w) a disciplinary record created and maintained as described in Section [53E-9-306](#);
- 6522 (x) juvenile delinquency records;
- 6523 (y) English language learner status; and
- 6524 (z) child find and special education evaluation data related to initiation of an IEP.
- 6525 (13) (a) "Optional student data" means student data that is not:
- 6526 (i) necessary student data; or
- 6527 (ii) student data that an education entity may not collect under Section [53E-9-305](#).
- 6528 (b) "Optional student data" includes:
- 6529 (i) information that is:
- 6530 (A) related to an IEP or needed to provide special needs services; and
- 6531 (B) not necessary student data;
- 6532 (ii) biometric information; and
- 6533 (iii) information that is not necessary student data and that is required for a student to
- 6534 participate in a federal or other program.
- 6535 (14) "Parent" means:

- 6536 (a) a student's parent;
- 6537 (b) a student's legal guardian; or
- 6538 (c) an individual who has written authorization from a student's parent or legal
- 6539 guardian to act as a parent or legal guardian on behalf of the student.
- 6540 (15) (a) "Personally identifiable student data" means student data that identifies or is
- 6541 used by the holder to identify a student.
- 6542 (b) "Personally identifiable student data" includes:
- 6543 (i) a student's first and last name;
- 6544 (ii) the first and last name of a student's family member;
- 6545 (iii) a student's or a student's family's home or physical address;
- 6546 (iv) a student's email address or other online contact information;
- 6547 (v) a student's telephone number;
- 6548 (vi) a student's social security number;
- 6549 (vii) a student's biometric identifier;
- 6550 (viii) a student's health or disability data;
- 6551 (ix) a student's education entity student identification number;
- 6552 (x) a student's social media user name and password or alias;
- 6553 (xi) if associated with personally identifiable student data, the student's persistent
- 6554 identifier, including:
- 6555 (A) a customer number held in a cookie; or
- 6556 (B) a processor serial number;
- 6557 (xii) a combination of a student's last name or photograph with other information that
- 6558 together permits a person to contact the student online;
- 6559 (xiii) information about a student or a student's family that a person collects online and
- 6560 combines with other personally identifiable student data to identify the student; and
- 6561 (xiv) information that, alone or in combination, is linked or linkable to a specific
- 6562 student that would allow a reasonable person in the school community, who does not have
- 6563 personal knowledge of the relevant circumstances, to identify the student with reasonable
- 6564 certainty.
- 6565 (16) "School official" means an employee or agent of an education entity, if the
- 6566 education entity has authorized the employee or agent to request or receive student data on

6567 behalf of the education entity.

6568 (17) (a) "Student data" means information about a student at the individual student  
6569 level.

6570 (b) "Student data" does not include aggregate or de-identified data.

6571 (18) "Student data manager" means:

6572 (a) the state student data officer; or

6573 (b) an individual designated as a student data manager by an education entity under  
6574 Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

6575 (19) (a) "Targeted advertising" means presenting advertisements to a student where the  
6576 advertisement is selected based on information obtained or inferred over time from that  
6577 student's online behavior, usage of applications, or student data.

6578 (b) "Targeted advertising" does not include advertising to a student:

6579 (i) at an online location based upon that student's current visit to that location; or

6580 (ii) in response to that student's request for information or feedback, without retention  
6581 of that student's online activities or requests over time for the purpose of targeting subsequent  
6582 ads.

6583 (20) "Third-party contractor" means a person who:

6584 (a) is not an education entity; and

6585 (b) pursuant to a contract with an education entity, collects or receives student data in  
6586 order to provide a product or service, as described in the contract, if the product or service is  
6587 not related to school photography, yearbooks, graduation announcements, or a similar product  
6588 or service.

6589 (21) "Written consent" means written authorization to collect or share a student's  
6590 student data, from:

6591 (a) the student's parent, if the student is not an adult student; or

6592 (b) the student, if the student is an adult student.

6593 Section 100. Section 53E-9-307 is amended to read:

6594 **53E-9-307. Securing and cataloguing student data.**

6595 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6596 state board shall make rules that:

6597 (1) using reasonable data industry best practices, prescribe the maintenance and

6598 protection of stored student data by:

6599 (a) an education entity;

6600 (b) the Utah Registry of Autism and Developmental Disabilities, described in Section  
6601 ~~[26-7-4]~~ 26B-7-115, for student data obtained under Section 53E-9-308; and

6602 (c) a third-party contractor; and

6603 (2) state requirements for an education entity's metadata dictionary.

6604 Section 101. Section **53E-9-308** is amended to read:

6605 **53E-9-308. Sharing student data -- Prohibition -- Requirements for student data**

6606 **manager -- Authorized student data sharing.**

6607 (1) (a) Except as provided in Subsection (1)(b), an education entity, including a student  
6608 data manager, may not share personally identifiable student data without written consent.

6609 (b) An education entity, including a student data manager, may share personally  
6610 identifiable student data:

6611 (i) in accordance with the Family Education Rights and Privacy Act and related  
6612 provisions under 20 U.S.C. Secs. 1232g and 1232h;

6613 (ii) as required by federal law; and

6614 (iii) as described in Subsections (3), (5), and (6).

6615 (2) A student data manager shall:

6616 (a) authorize and manage the sharing, outside of the student data manager's education  
6617 entity, of personally identifiable student data for the education entity as described in this  
6618 section;

6619 (b) act as the primary local point of contact for the state student data officer described  
6620 in Section 53E-9-302; and

6621 (c) fulfill other responsibilities described in the data governance plan of the student  
6622 data manager's education entity.

6623 (3) A student data manager may share a student's personally identifiable student data  
6624 with a caseworker or representative of the Department of Health and Human Services if:

6625 (a) the Department of Health and Human Services is:

6626 (i) legally responsible for the care and protection of the student, including the  
6627 responsibility to investigate a report of educational neglect, as provided in Subsection

6628 80-2-701(5); or

- 6629 (ii) providing services to the student;
- 6630 (b) the student's personally identifiable student data is not shared with a person who is  
6631 not authorized:
- 6632 (i) to address the student's education needs; or
- 6633 (ii) by the Department of Health and Human Services to receive the student's  
6634 personally identifiable student data; and
- 6635 (c) the Department of Health and Human Services maintains and protects the student's  
6636 personally identifiable student data.
- 6637 (4) The Department of Health and Human Services, a school official, or the Utah  
6638 Juvenile Court may share personally identifiable student data to improve education outcomes  
6639 for youth:
- 6640 (a) in the custody of, or under the guardianship of, the Department of Health and  
6641 Human Services;
- 6642 (b) receiving services from the Division of Juvenile Justice and Youth Services;
- 6643 (c) in the custody of the Division of Child and Family Services;
- 6644 (d) receiving services from the Division of Services for People with Disabilities; or
- 6645 (e) under the jurisdiction of the Utah Juvenile Court.
- 6646 (5) (a) A student data manager may share personally identifiable student data in  
6647 response to a subpoena issued by a court.
- 6648 (b) A person who receives personally identifiable student data under Subsection (5)(a)  
6649 may not use the personally identifiable student data outside of the use described in the  
6650 subpoena.
- 6651 (6) (a) A student data manager may share student data, including personally  
6652 identifiable student data, in response to a request to share student data for the purpose of  
6653 research or evaluation, if the student data manager:
- 6654 (i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);
- 6655 (ii) submits the request to the education entity's research review process; and
- 6656 (iii) fulfills the instructions that result from the review process.
- 6657 (b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the  
6658 state board shall share student data, including personally identifiable student data, as requested  
6659 by the Utah Registry of Autism and Developmental Disabilities described in Section [26-7-4]

6660 [26B-7-115](#).

6661 (ii) (A) At least 30 days before the state board shares student data in accordance with  
6662 Subsection (6)(b)(i), the education entity from which the state board received the student data  
6663 shall provide notice to the parent of each student for which the state board intends to share  
6664 student data.

6665 (B) The state board may not, for a particular student, share student data as described in  
6666 Subsection (6)(b)(i) if the student's parent requests that the state board not share the student  
6667 data.

6668 (iii) A person who receives student data under Subsection (6)(b)(i):

6669 (A) shall maintain and protect the student data in accordance with state board rule  
6670 described in Section [53E-9-307](#);

6671 (B) may not use the student data for a purpose not described in Section [~~26-7-4~~]  
6672 [26B-7-115](#); and

6673 (C) is subject to audit by the state student data officer described in Section [53E-9-302](#).

6674 Section 102. Section **53F-2-415** is amended to read:

6675 **53F-2-415. Student health and counseling support -- Qualifying personnel --**

6676 **Distribution formula -- Rulemaking.**

6677 (1) As used in this section:

6678 (a) "Qualifying personnel" means a school counselor or other counselor, school  
6679 psychologist or other psychologist, school social worker or other social worker, or school nurse  
6680 who:

6681 (i) is licensed; and

6682 (ii) collaborates with educators and a student's parent on:

6683 (A) early identification and intervention of the student's academic and mental health  
6684 needs; and

6685 (B) removing barriers to learning and developing skills and behaviors critical for the  
6686 student's academic achievement.

6687 (b) "Telehealth services" means the same as that term is defined in Section [~~26-60-102~~]

6688 [26B-4-704](#).

6689 (2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b),  
6690 the state board shall distribute money appropriated under this section to LEAs to provide in a



6691 school targeted school-based mental health support, including clinical services and  
6692 trauma-informed care, through:

6693 (i) employing qualifying personnel; or

6694 (ii) entering into contracts for services provided by qualifying personnel, including  
6695 telehealth services.

6696 (b) (i) The state board shall, after consulting with LEA governing boards, develop a  
6697 formula to distribute money appropriated under this section to LEAs.

6698 (ii) The state board shall ensure that the formula described in Subsection (2)(b)(i)  
6699 incentivizes an LEA to provide school-based mental health support in collaboration with the  
6700 local mental health authority of the county in which the LEA is located.

6701 (3) To qualify for money under this section, an LEA shall submit to the state board a  
6702 plan that includes:

6703 (a) measurable goals approved by the LEA governing board on improving student  
6704 safety, student engagement, school culture, or academic achievement;

6705 (b) how the LEA intends to meet the goals described in Subsection (3)(a) through the  
6706 use of the money;

6707 (c) how the LEA is meeting the requirements related to parent education described in  
6708 Section [53G-9-703](#); and

6709 (d) whether the LEA intends to provide school-based mental health support in  
6710 collaboration with the local mental health authority of the county in which the LEA is located.

6711 (4) The state board shall distribute money appropriated under this section to an LEA  
6712 that qualifies under Subsection (3):

6713 (a) based on the formula described in Subsection (2)(b); and

6714 (b) if the state board approves the LEA's plan before April 1, 2020, in an amount of  
6715 money that the LEA equally matches using local money, unrestricted state money, or money  
6716 distributed to the LEA under Section [53G-7-1303](#).

6717 (5) An LEA may not use money distributed by the state board under this section to  
6718 supplant federal, state, or local money previously allocated to:

6719 (a) employ qualifying personnel; or

6720 (b) enter into contracts for services provided by qualified personnel, including  
6721 telehealth services.

6722 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6723 state board shall make rules that establish:

6724 (a) procedures for submitting a plan for and distributing money under this section;

6725 (b) the formula the state board will use to distribute money to LEAs described in  
6726 Subsection (2)(b); and

6727 (c) in accordance with Subsection (7), annual reporting requirements for an LEA that  
6728 receives money under this section.

6729 (7) An LEA that receives money under this section shall submit an annual report to the  
6730 state board, including:

6731 (a) progress toward achieving the goals submitted under Subsection (3)(a);

6732 (b) if the LEA discontinues a qualifying personnel position, the LEA's reason for  
6733 discontinuing the position; and

6734 (c) how the LEA, in providing school-based mental health support, complies with the  
6735 provisions of Section [53E-9-203](#).

6736 (8) Beginning on or before July 1, 2019, the state board shall provide training that  
6737 instructs school personnel on the impact of childhood trauma on student learning, including  
6738 information advising educators against practicing medicine, giving a diagnosis, or providing  
6739 treatment.

6740 (9) The state board may use up to:

6741 (a) 2% of an appropriation under this section for costs related to the administration of  
6742 the provisions of this section; and

6743 (b) \$1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described  
6744 in this section to provide scholarships for up to four years to certain LEA employees, as defined  
6745 by the state board, for education and training to become a school social worker, a school  
6746 psychologist, or other school-based mental health worker.

6747 (10) Notwithstanding the provisions of this section, money appropriated under this  
6748 section may be used, as determined by the state board, for:

6749 (a) the SafeUT Crisis Line described in Section [53B-17-1202](#); or

6750 (b) youth suicide prevention programs described in Section [53G-9-702](#).

6751 Section 103. Section **53F-2-522** is amended to read:

6752 **53F-2-522. Public education mental health screening.**

6753 (1) As used in this section:

6754 (a) "Division" means the Division of [~~Substance Abuse and Mental Health.~~] Integrated  
6755 Healthcare within the Department of Health and Human Services.

6756 (b) "Participating LEA" means an LEA that has an approved screening program  
6757 described in this section.

6758 (c) "Participating student" means a student in a participating LEA who participates in a  
6759 mental health screening program.

6760 (d) "Qualifying parent" means a parent:

6761 (i) of a participating student who, based on the results of a screening program, would  
6762 benefit from resources that cannot be provided to the participating student in the school setting;  
6763 and

6764 (ii) who qualifies for financial assistance to pay for the resources under rules made by  
6765 the state board.

6766 (e) "Screening program" means a student mental health screening program selected by  
6767 a participating LEA and approved by the state board in consultation with the division.

6768 (2) A participating LEA may implement a mental health screening for participating  
6769 students using an evidence-based screening program.

6770 (3) The state board shall:

6771 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
6772 Rulemaking Act, to establish:

6773 (i) a process for a participating LEA to submit a selected screening program to the state  
6774 board for approval;

6775 (ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and  
6776 the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, who may access and use a  
6777 participating student's screening data; and

6778 (iii) a requirement and a process for appropriate LEA or school personnel to attend  
6779 annual training related to administering the screening program;

6780 (b) in consultation with the division, approve an evidence-based student mental health  
6781 screening program selected by a participating LEA that:

6782 (i) is age appropriate for each grade in which the screening program is administered;

6783 (ii) screens for the mental health conditions determined by the state board and division;

6784 and

6785 (iii) is an effective tool for identifying whether a student has a mental health condition  
6786 that requires intervention; and

6787 (c) on or before November 30 of each year, submit a report on the screening programs  
6788 to:

6789 (i) the State Suicide Prevention Coalition created under Subsection [~~62A-15-1101~~(2)]  
6790 26B-5-611(2); and

6791 (ii) the Education Interim Committee in accordance with Section 53E-1-201.

6792 (4) A participating LEA shall:

6793 (a) in accordance with rules made by the state board under Subsection (3)(a), submit a  
6794 selected screening program to the state board for approval;

6795 (b) administer a screening program to participating students in the participating LEA;

6796 (c) obtain prior written consent from a student's parent, that complies with Section  
6797 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before  
6798 the participating LEA administers the screening program to a participating student; and

6799 (d) if results of a participating student's screening indicate a potential mental health  
6800 condition, notify the parent of the participating student of:

6801 (i) the participating student's results; and

6802 (ii) resources available to the participating student, including any services that can be  
6803 provided by the school mental health provider or by a partnering entity.

6804 (5) (a) Within appropriations made by the Legislature for this purpose, the state board  
6805 may distribute funds to a participating LEA to use to assist a qualifying parent to pay for  
6806 resources described in Subsection (4)(d)(ii) that cannot be provided by a school mental health  
6807 professional in the school setting.

6808 (b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah  
6809 Administrative Rulemaking Act, for:

6810 (i) determining whether a parent is eligible to receive the financial support described in  
6811 Subsection (5)(a); and

6812 (ii) applying for and distributing the financial support described in Subsection (5)(a).

6813 (6) A school employee trained in accordance with rules made by the state board under  
6814 Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with

6815 this section in good faith, is not liable in a civil action for an act taken or not taken under this  
6816 section.

6817 Section 104. Section **53F-4-401** is amended to read:

6818 **53F-4-401. Definitions.**

6819 As used in this part:

6820 (1) "Contractor" means the educational technology provider selected by the state board  
6821 under Section [53F-4-402](#).

6822 (2) "Intergenerational poverty" means the same as that term is defined in Section  
6823 [35A-9-102](#).

6824 (3) "Preschool child" means a child who is:

6825 (a) four or five years old; and

6826 (b) not eligible for enrollment under Subsection [53G-4-402\(6\)](#).

6827 (4) (a) "Private preschool provider" means a child care program that:

6828 (i) (A) is licensed under [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~] Title  
6829 26B, Chapter 2, Part 4, Child Care Licensing; or

6830 (B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section  
6831 [~~26-39-403~~] [26B-2-405](#); and

6832 (ii) meets other criteria as established by the state board, consistent with Utah  
6833 Constitution, Article X, Section 1.

6834 (b) "Private preschool provider" does not include:

6835 (i) a residential certificate provider described in Section [~~26-39-402~~] [26B-2-404](#); or

6836 (ii) a program exempt from licensure under Subsection [~~26-39-403(2)(c)~~]  
6837 [26B-2-405\(2\)\(c\)](#).

6838 (5) "Public preschool" means a preschool program that is provided by a school district  
6839 or charter school.

6840 (6) "Qualifying participant" means a preschool child who:

6841 (a) resides within the boundaries of a qualifying school as determined under Section  
6842 [53G-6-302](#); or

6843 (b) is enrolled in a qualifying preschool.

6844 (7) "Qualifying preschool" means a public preschool or private preschool provider that:

6845 (a) serves preschool children covered by child care subsidies funded by the Child Care

- 6846 and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;
- 6847 (b) participates in a federally assisted meal program that provides funds to licensed
- 6848 child care centers as authorized under Section [53E-3-501](#); or
- 6849 (c) is located within the boundaries of a qualifying school.
- 6850 (8) "Qualifying school" means a school district elementary school that:
- 6851 (a) has at least 50% of students who were eligible to receive free or reduced lunch the
- 6852 previous school year;
- 6853 (b) is a school with a high percentage, as determined by the Department of Workforce
- 6854 Services through rule and based on the previous school year enrollments, of students
- 6855 experiencing intergenerational poverty; or
- 6856 (c) is located in one of the following school districts:
- 6857 (i) Beaver School District;
- 6858 (ii) Carbon School District;
- 6859 (iii) Daggett School District;
- 6860 (iv) Duchesne School District;
- 6861 (v) Emery School District;
- 6862 (vi) Garfield School District;
- 6863 (vii) Grand School District;
- 6864 (viii) Iron School District;
- 6865 (ix) Juab School District;
- 6866 (x) Kane School District;
- 6867 (xi) Millard School District;
- 6868 (xii) Morgan School District;
- 6869 (xiii) North Sanpete School District;
- 6870 (xiv) North Summit School District;
- 6871 (xv) Piute School District;
- 6872 (xvi) Rich School District;
- 6873 (xvii) San Juan School District;
- 6874 (xviii) Sevier School District;
- 6875 (xix) South Sanpete School District;
- 6876 (xx) South Summit School District;

- 6877 (xxi) Tintic School District;
- 6878 (xxii) Uintah School District; or
- 6879 (xxiii) Wayne School District.

6880 (9) "UPSTART" means the project established by Section 53F-4-402 that uses a  
6881 home-based educational technology program to develop school readiness skills of preschool  
6882 children.

6883 Section 105. Section 53F-5-207 is amended to read:

6884 **53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions**  
6885 **-- Grant requirements -- Reporting requirements.**

6886 (1) As used in this section:

6887 (a) "Eligible student" means a student who is classified as a child affected by  
6888 intergenerational poverty.

6889 (b) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

6890 (c) "LEA governing board" means a local school board or a charter school governing  
6891 board.

6892 (d) "Local education agency" or "LEA" means a school district or charter school.

6893 (e) "Program" means the Intergenerational Poverty Interventions Grant Program  
6894 created in Subsection (2).

6895 (2) The Intergenerational Poverty Interventions Grant Program is created to provide  
6896 grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for  
6897 eligible students, outside of the regular school day offerings.

6898 (3) Subject to future budget constraints, the state board shall distribute to LEAs money  
6899 appropriated for the program in accordance with this section.

6900 (4) The state board shall:

6901 (a) solicit proposals from LEA governing boards to receive money under the program;  
6902 and

6903 (b) award grants to an LEA governing board on behalf of an LEA based on criteria  
6904 described in Subsection (5).

6905 (5) In awarding a grant under Subsection (4), the state board shall consider:

6906 (a) the percentage of an LEA's students that are classified as children affected by  
6907 intergenerational poverty;

6908 (b) the level of administrative support and leadership at an eligible LEA to effectively  
6909 implement, monitor, and evaluate the program; and

6910 (c) an LEA's commitment and ability to work with the Department of Workforce  
6911 Services, the Department of Health and Human Services, [~~the Department of Human Services,~~]  
6912 and the juvenile courts to provide services to the LEA's eligible students.

6913 (6) To receive a grant under the program on behalf of an LEA, an LEA governing  
6914 board shall submit a proposal to the state board detailing:

6915 (a) the LEA's strategy to implement the program, including the LEA's strategy to  
6916 improve the academic achievement of children affected by intergenerational poverty;

6917 (b) the LEA's strategy for coordinating with and engaging the Department of  
6918 Workforce Services to provide services for the LEA's eligible students;

6919 (c) the number of students the LEA plans to serve, categorized by age and  
6920 intergenerational poverty status;

6921 (d) the number of students, eligible students, and schools the LEA plans to fund with  
6922 the grant money; and

6923 (e) the estimated cost per student.

6924 (7) (a) The state board shall annually prepare, for inclusion in the State  
6925 Superintendent's Annual Report described in Section [53E-1-203](#), a report on:

6926 (i) the progress of LEA programs using grant money;

6927 (ii) the progress of LEA programs in improving the academic achievement of children  
6928 affected by intergenerational poverty; and

6929 (iii) the LEA's coordination efforts with the Department of Workforce Services, the  
6930 Department of Health and Human Services, [~~the Department of Human Services,~~]  
6931 and the juvenile courts.

6932 (b) The state board shall provide the report described in Subsection (7)(a) to the  
6933 Education Interim Committee upon request.

6934 (c) An LEA that receives grant money pursuant to this section shall provide to the state  
6935 board information that is necessary for the state board's report described in Subsection (7)(a).

6936 (8) The state board may use up to 8.5% of the money appropriated for the program in  
6937 accordance with this section for administration and evaluation of the program.

6938 Section 106. Section **53G-6-302** is amended to read:



6939           **53G-6-302. Child's school district of residence -- Determination -- Responsibility**  
6940 **for providing educational services.**

6941           (1) As used in this section:

6942           (a) "Health care facility" means the same as that term is defined in Section ~~[26-21-2]~~

6943 [26B-2-201](#).

6944           (b) "Human services program" means the same as that term is defined in Section

6945 ~~[62A-2-101]~~ [26B-2-101](#).

6946           (c) "Supervision" means a minor child is:

6947           (i) receiving services from a state agency, local mental health authority, or substance  
6948 abuse authority with active involvement or oversight; and

6949           (ii) engaged in a human services program that is properly licensed or certified and has  
6950 provided the school district receiving the minor child with an education plan that complies with  
6951 the requirements of Section ~~[62A-2-108.1]~~ [26B-2-116](#).

6952           (2) The school district of residence of a minor child whose custodial parent resides  
6953 within Utah is:

6954           (a) the school district in which the custodial parent resides; or

6955           (b) the school district in which the child resides:

6956           (i) while in the custody or under the supervision of a Utah state agency, local mental  
6957 health authority, or substance abuse authority;

6958           (ii) while under the supervision of a private or public agency which is in compliance  
6959 with Section ~~[62A-2-127]~~ [26B-2-131](#) and is authorized to provide child placement services by  
6960 the state;

6961           (iii) while living with a responsible adult resident of the district, if a determination has  
6962 been made in accordance with rules made by the state board in accordance with Title 63G,  
6963 Chapter 3, Utah Administrative Rulemaking Act, that:

6964           (A) the child's physical, mental, moral, or emotional health will best be served by  
6965 considering the child to be a resident for school purposes;

6966           (B) exigent circumstances exist that do not permit the case to be appropriately  
6967 addressed under Section [53G-6-402](#); and

6968           (C) considering the child to be a resident of the district under this Subsection (2)(b)(iii)  
6969 does not violate any other law or rule of the state board;

6970 (iv) while the child is receiving services from a health care facility or human services  
6971 program, if a determination has been made in accordance with rules made by the state board in  
6972 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

6973 (A) the child's physical, mental, moral, or emotional health will best be served by  
6974 considering the child to be a resident for school purposes;

6975 (B) exigent circumstances exist that do not permit the case to be appropriately  
6976 addressed under Section [53G-6-402](#); and

6977 (C) considering the child to be a resident of the district under this Subsection (2)(b)(iv)  
6978 does not violate any other law or rule of the state board; or

6979 (v) if the child is married or has been determined to be an emancipated minor by a  
6980 court of law or by a state administrative agency authorized to make that determination.

6981 (3) A minor child whose custodial parent does not reside in the state is considered to be  
6982 a resident of the district in which the child lives, unless that designation violates any other law  
6983 or rule of the state board, if:

6984 (a) the child is married or an emancipated minor under Subsection (2)(b)(v);

6985 (b) the child lives with a resident of the district who is a responsible adult and whom  
6986 the district agrees to designate as the child's legal guardian under Section [53G-6-303](#);

6987 (c) if permissible under policies adopted by a local school board, it is established to the  
6988 satisfaction of the local school board that:

6989 (i) the child lives with a responsible adult who is a resident of the district and is the  
6990 child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

6991 (ii) the child's presence in the district is not for the primary purpose of attending the  
6992 public schools;

6993 (iii) the child's physical, mental, moral, or emotional health will best be served by  
6994 considering the child to be a resident for school purposes; and

6995 (iv) the child is prepared to abide by the policies of the school and school district in  
6996 which attendance is sought; or

6997 (d) it is established to the satisfaction of the local school board that:

6998 (i) the child's parent moves from the state;

6999 (ii) the child's parent executes a power of attorney under Section [75-5-103](#) that:

7000 (A) meets the requirements of Subsection (4); and

7001 (B) delegates powers regarding care, custody, or property, including schooling, to a  
7002 responsible adult with whom the child resides;

7003 (iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the  
7004 district;

7005 (iv) the child's physical, mental, moral, or emotional health will best be served by  
7006 considering the child to be a resident for school purposes;

7007 (v) the child is prepared to abide by the policies of the school and school district in  
7008 which attendance is sought; and

7009 (vi) the child's attendance in the school will not be detrimental to the school or school  
7010 district.

7011 (4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the  
7012 district may require the person with whom the child lives to be designated as the child's  
7013 custodian in a durable power of attorney, issued by the party who has legal custody of the child,  
7014 granting the custodian full authority to take any appropriate action, including authorization for  
7015 educational or medical services, in the interests of the child.

7016 (b) Both the party granting and the party empowered by the power of attorney shall  
7017 agree to:

7018 (i) assume responsibility for any fees or other charges relating to the child's education  
7019 in the district; and

7020 (ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the  
7021 school district with all financial information requested by the district for purposes of  
7022 determining eligibility for fee waivers.

7023 (c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of  
7024 this section and accepted by the school district shall remain in force until the earliest of the  
7025 following occurs:

7026 (i) the child reaches the age of 18, marries, or becomes emancipated;

7027 (ii) the expiration date stated in the document; or

7028 (iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee,  
7029 or by order of a court of competent jurisdiction.

7030 (5) A power of attorney does not confer legal guardianship.

7031 (6) Each school district is responsible for providing educational services for all

7032 children of school age who are residents of the district.

7033 Section 107. Section **53G-6-601** is amended to read:

7034 **53G-6-601. Definitions.**

7035 As used in this part:

7036 (1) "Division" means the Criminal Investigations and Technical Services Division of  
7037 the Department of Public Safety, established in Section [53-10-103](#).

7038 (2) "Missing child" has the same meaning as provided in Section [~~26-2-27~~] [26B-8-130](#).

7039 (3) "State registrar" means the State Registrar of Vital Statistics within the Department  
7040 of Health and Human Services.

7041 Section 108. Section **53G-8-802** is amended to read:

7042 **53G-8-802. State Safety and Support Program -- State board duties -- LEA**  
7043 **duties.**

7044 (1) There is created the State Safety and Support Program.

7045 (2) The state board shall:

7046 (a) develop in conjunction with the [~~Division of Substance Abuse~~] Office of Substance  
7047 Use and Mental Health model student safety and support policies for an LEA, including:

7048 (i) evidence-based procedures for the assessment of and intervention with an individual  
7049 whose behavior poses a threat to school safety;

7050 (ii) procedures for referrals to law enforcement; and

7051 (iii) procedures for referrals to a community services entity, a family support  
7052 organization, or a health care provider for evaluation or treatment;

7053 (b) provide training:

7054 (i) in school safety;

7055 (ii) in evidence-based approaches to improve school climate and address and correct  
7056 bullying behavior;

7057 (iii) in evidence-based approaches in identifying an individual who may pose a threat  
7058 to the school community;

7059 (iv) in evidence-based approaches in identifying an individual who may be showing  
7060 signs or symptoms of mental illness;

7061 (v) on permitted disclosures of student data to law enforcement and other support  
7062 services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

- 7063 (vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections  
7064 [53E-9-203](#) and [53E-9-305](#); and
- 7065 (vii) for administrators on rights and prohibited acts under:
- 7066 (A) Chapter 9, Part 6, Bullying and Hazing;
- 7067 (B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;
- 7068 (C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- 7069 (D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and
- 7070 (E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;
- 7071 (c) conduct and disseminate evidence-based research on school safety concerns;
- 7072 (d) disseminate information on effective school safety initiatives;
- 7073 (e) encourage partnerships between public and private sectors to promote school safety;
- 7074 (f) provide technical assistance to an LEA in the development and implementation of  
7075 school safety initiatives;
- 7076 (g) in conjunction with the Department of Public Safety, develop and make available to  
7077 an LEA a model critical incident response training program that includes protocols for  
7078 conducting a threat assessment, and ensuring building security during an incident;
- 7079 (h) provide space for the public safety liaison described in Section [53-1-106](#) and the  
7080 school-based mental health specialist described in Section [~~62A-15-103~~] [26B-5-102](#);
- 7081 (i) create a model school climate survey that may be used by an LEA to assess  
7082 stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3,  
7083 Utah Administrative Rulemaking Act, adopt rules:
- 7084 (i) requiring an LEA to:
- 7085 (A) create or adopt and disseminate a school climate survey; and
- 7086 (B) disseminate the school climate survey;
- 7087 (ii) recommending the distribution method, survey frequency, and sample size of the  
7088 survey; and
- 7089 (iii) specifying the areas of content for the school climate survey; and
- 7090 (j) collect aggregate data and school climate survey results from each LEA.
- 7091 (3) Nothing in this section requires an individual to respond to a school climate survey.
- 7092 (4) The state board shall require an LEA to:
- 7093 (a) (i) review data from the state board-facilitated surveys containing school climate

7094 data for each school within the LEA; and

7095 (ii) based on the review described in Subsection (4)(a)(i):

7096 (A) revise practices, policies, and training to eliminate harassment and discrimination  
7097 in each school within the LEA;

7098 (B) adopt a plan for harassment- and discrimination-free learning; and

7099 (C) host outreach events or assemblies to inform students and parents of the plan  
7100 adopted under Subsection (4)(a)(ii)(B);

7101 (b) no later than September 1 of each school year, send a notice to each student, parent,  
7102 and LEA staff member stating the LEA's commitment to maintaining a school climate that is  
7103 free of harassment and discrimination; and

7104 (c) report to the state board:

7105 (i) no later than August 1, 2023, on the LEA's plan adopted under Subsection  
7106 (4)(a)(ii)(B); and

7107 (ii) after August 1, 2023, annually on the LEA's implementation of the plan and  
7108 progress.

7109 Section 109. Section **53G-9-211** is amended to read:

7110 **53G-9-211. Therapy animal handling -- Policy.**

7111 (1) As used in this section:

7112 (a) "Animal-assisted intervention" means an intervention designed to promote  
7113 improvement in an individual's physical, social, emotional, or cognitive functioning through  
7114 interactions with a specially trained animal.

7115 (b) "Local education agency" means a school district or charter school.

7116 (c) (i) "Therapy animal" means an animal that:

7117 (A) provides affection and comfort to an individual for emotional support;

7118 (B) is accompanied by a therapy animal handler; and

7119 (C) is trained to provide animal-assisted intervention.

7120 (ii) "Therapy animal" does not include a service animal or support animal as those  
7121 terms are defined in Section [~~62A-5b-102~~] [26B-6-801](#).

7122 (d) "Therapy animal handler" means an individual who is trained to handle a therapy  
7123 animal for animal-assisted interventions.

7124 (2) (a) If a school within a local education agency provides animal-assisted

7125 interventions through therapy animals, the local education agency shall adopt a policy for  
7126 proper handling of a therapy animal on school grounds.

7127 (b) The policy described in Subsection (2)(a) shall include:

7128 (i) local or national certification or registration requirements for a therapy animal and  
7129 therapy animal handler;

7130 (ii) guidelines for when a therapy animal and therapy animal handler are allowed on  
7131 school grounds;

7132 (iii) notice requirements for parents, students, and school faculty and staff regarding  
7133 the use of a therapy animal on school grounds; and

7134 (iv) guidelines to prevent students and staff who have an animal allergy or are  
7135 uncomfortable around animals from interacting with a therapy animal on school grounds.

7136 (3) This section does not require a school to allow the use of a therapy animal.

7137 Section 110. Section **53G-9-301** is amended to read:

7138 **53G-9-301. Definitions.**

7139 As used in this part:

7140 (1) "Department" means the Department of Health and Human Services created in  
7141 Section [26B-1-201](#).

7142 (2) "Health official" means an individual designated by a local health department from  
7143 within the local health department to consult and counsel parents and licensed health care  
7144 providers, in accordance with Subsection [53G-9-304\(2\)\(a\)](#).

7145 (3) "Health official designee" means a licensed health care provider designated by a  
7146 local health department, in accordance with Subsection [53G-9-304\(2\)\(b\)](#), to consult with  
7147 parents, licensed health care professionals, and school officials.

7148 (4) "Immunization" or "immunize" means a process through which an individual  
7149 develops an immunity to a disease, through vaccination or natural exposure to the disease.

7150 (5) "Immunization record" means a record relating to a student that includes:

7151 (a) information regarding each required vaccination that the student has received,  
7152 including the date each vaccine was administered, verified by:

7153 (i) a licensed health care provider;

7154 (ii) an authorized representative of a local health department;

7155 (iii) an authorized representative of the department;

- 7156 (iv) a registered nurse; or  
7157 (v) a pharmacist;  
7158 (b) information regarding each disease against which the student has been immunized  
7159 by previously contracting the disease; and  
7160 (c) an exemption form identifying each required vaccination from which the student is  
7161 exempt, including all required supporting documentation described in Section [53G-9-303](#).  
7162 (6) "Legally responsible individual" means:  
7163 (a) a student's parent;  
7164 (b) the student's legal guardian;  
7165 (c) an adult brother or sister of a student who has no legal guardian; or  
7166 (d) the student, if the student:  
7167 (i) is an adult; or  
7168 (ii) is a minor who may consent to treatment under Section [~~26-10-9~~] [26B-4-321](#).  
7169 (7) "Licensed health care provider" means a health care provider who is licensed under  
7170 Title 58, Occupations and Professions, as:  
7171 (a) a medical doctor;  
7172 (b) an osteopathic doctor;  
7173 (c) a physician assistant; or  
7174 (d) an advanced practice registered nurse.  
7175 (8) "Local health department" means the same as that term is defined in Section  
7176 [26A-1-102](#).  
7177 (9) "Required vaccines" means vaccines required by department rule described in  
7178 Section [53G-9-305](#).  
7179 (10) "School" means any public or private:  
7180 (a) elementary or secondary school through grade 12;  
7181 (b) preschool;  
7182 (c) child care program, as that term is defined in Section [~~26-39-102~~] [26B-2-401](#);  
7183 (d) nursery school; or  
7184 (e) kindergarten.  
7185 (11) "Student" means an individual who attends a school.  
7186 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.



7187 (13) "Vaccination exemption form" means a form, described in Section 53G-9-304,  
7188 that documents and verifies that a student is exempt from the requirement to receive one or  
7189 more required vaccines.

7190 (14) "Vaccine" means the substance licensed for use by the United States Food and  
7191 Drug Administration that is injected into or otherwise administered to an individual to  
7192 immunize the individual against a communicable disease.

7193 Section 111. Section 53G-9-303 is amended to read:

7194 **53G-9-303. Grounds for exemption from required vaccines -- Renewal.**

7195 (1) A student is exempt from the requirement to receive a vaccine required under  
7196 Section 53G-9-305 if the student qualifies for a medical or personal exemption from the  
7197 vaccination under Subsection (2) or (3).

7198 (2) A student qualifies for a medical exemption from a vaccination required under  
7199 Section 53G-9-305 if the student's legally responsible individual provides to the student's  
7200 school:

7201 (a) a completed vaccination exemption form; and

7202 (b) a written notice signed by a licensed health care provider stating that, due to the  
7203 physical condition of the student, administration of the vaccine would endanger the student's  
7204 life or health.

7205 (3) A student qualifies for a personal exemption from a vaccination required under  
7206 Section 53G-9-305 if the student's legally responsible individual provides to the student's  
7207 school a completed vaccination exemption form, stating that the student is exempt from the  
7208 vaccination because of a personal or religious belief.

7209 (4) (a) A vaccination exemption form submitted under this section is valid for as long  
7210 as the student remains at the school to which the form first is presented.

7211 (b) If the student changes schools before the student is old enough to enroll in  
7212 kindergarten, the vaccination exemption form accepted as valid at the student's previous school  
7213 is valid until the earlier of the day on which:

7214 (i) the student enrolls in kindergarten; or

7215 (ii) the student turns six years old.

7216 (c) If the student changes schools after the student is old enough to enroll in  
7217 kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption

7218 form accepted as valid at the student's previous school is valid until the earlier of the day on  
7219 which:

7220 (i) the student enrolls in grade 7; or

7221 (ii) the student turns 12 years old.

7222 (d) If the student changes schools after the student is old enough to enroll in grade 7,

7223 the vaccination exemption form accepted as valid at the student's previous school is valid until

7224 the student completes grade 12.

7225 (e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained

7226 through completion of the online education module created in Section [~~26-7-9~~] [26B-7-118](#) is

7227 valid for at least two years.

7228 (5) An LEA that offers both remote and in-person learning options may not deny a

7229 student who is exempt from a requirement to receive a vaccine under Subsection (1) to

7230 participate in an in-person learning option based upon the student's vaccination status.

7231 (6) Nothing in this section restricts a state or local health department from acting under

7232 applicable law to contain the spread of an infectious disease.

7233 Section 112. Section **53G-9-304** is amended to read:

7234 **53G-9-304. Vaccination exemption form.**

7235 (1) The department shall:

7236 (a) develop a vaccination exemption form that includes only the following information:

7237 (i) identifying information regarding:

7238 (A) the student to whom an exemption applies; and

7239 (B) the legally responsible individual who claims the exemption for the student and

7240 signs the vaccination exemption form;

7241 (ii) an indication regarding the vaccines to which the exemption relates;

7242 (iii) a statement that the claimed exemption is for:

7243 (A) a medical reason; or

7244 (B) a personal or religious belief; and

7245 (iv) an explanation of the requirements, in the event of an outbreak of a disease for

7246 which a required vaccine exists, for a student who:

7247 (A) has not received the required vaccine; and

7248 (B) is not otherwise immune from the disease; and

7249 (b) provide the vaccination exemption form created in this Subsection (1) to local  
7250 health departments.

7251 (2) (a) Each local health department shall designate one or more individuals from  
7252 within the local health department as a health official to consult, regarding the requirements of  
7253 this part, with:

- 7254 (i) parents, upon the request of parents;
- 7255 (ii) school principals and administrators; and
- 7256 (iii) licensed health care providers.

7257 (b) A local health department may designate a licensed health care provider as a health  
7258 official designee to provide the services described in Subsection (2)(a).

7259 (3) (a) To receive a vaccination exemption form described in Subsection (1), a legally  
7260 responsible individual shall complete the online education module described in Section  
7261 ~~[26-7-9]~~ [26B-7-118](#), permitting an individual to:

- 7262 (i) complete any requirements online; and
- 7263 (ii) download and print the vaccine exemption form immediately upon completion of  
7264 the requirements.

7265 (b) A legally responsible individual may decline to take the online education module  
7266 and obtain a vaccination exemption form from a local health department if the individual:

- 7267 (i) requests and receives an in-person consultation at a local health department from a  
7268 health official or a health official designee regarding the requirements of this part; and
- 7269 (ii) pays any fees established under Subsection (4)(b).

7270 (4) (a) Neither the department nor any other person may charge a fee for the exemption  
7271 form offered through the online education module in Subsection (3)(a).

7272 (b) A local health department may establish a fee of up to \$25 to cover the costs of  
7273 providing an in-person consultation.

7274 Section 113. Section **53G-9-402** is amended to read:

7275 **53G-9-402. Rules for examinations prescribed by Department of Health and**  
7276 **Human Services -- Notification of impairment.**

7277 (1) (a) Each local school board shall implement policies as prescribed by the  
7278 Department of Health and Human Services for vision, dental, abnormal spinal curvature, and  
7279 hearing examinations of students attending the district's schools.

7280 (b) Under guidelines of the Department of Health and Human Services, qualified  
7281 health professionals shall provide instructions, equipment, and materials for conducting the  
7282 examinations.

7283 (c) The policies shall include exemption provisions for students whose parents contend  
7284 the examinations violate their personal beliefs.

7285 (2) The school shall notify, in writing, a student's parent of any impairment disclosed  
7286 by the examinations.

7287 Section 114. Section **53G-9-404** is amended to read:

7288 **53G-9-404. Public education vision screening.**

7289 (1) As used in this section:

7290 (a) "Health care professional" means an individual licensed under:

7291 (i) Title 58, Chapter 16a, Utah Optometry Practice Act;

7292 (ii) Title 58, Chapter 31b, Nurse Practice Act, if the individual is licensed for the  
7293 practice of advance practice registered nursing, as defined in Section [58-31b-102](#);

7294 (iii) Title 58, Chapter 42a, Occupational Therapy Practice Act;

7295 (iv) Title 58, Chapter 67, Utah Medical Practice Act;

7296 (v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

7297 (vi) Title 58, Chapter 70a, Utah Physician Assistant Act.

7298 (b) "Qualifying child" means a child who:

7299 (i) attends an LEA;

7300 (ii) is at least three years old; and

7301 (iii) is not yet 16 years old.

7302 (c) "Tier one vision screening" means a lower-level evaluation of an individual's  
7303 vision, as determined by Department of Health and Human Services rule.

7304 (d) "Tier two vision screening" means an individual, higher-level evaluation of an  
7305 individual's vision, as determined by Department of Health and Human Services rule.

7306 (2) The Department of Health and Human Services shall oversee public education  
7307 vision screening, as described in this section.

7308 (3) A child who is less than nine years old and has not yet attended public school in the  
7309 state shall, before attending a public school in the state, provide:

7310 (a) a completed vision screening form, described in Subsection (5)(a)(i), that is signed

7311 by a health care professional; or

7312 (b) a written statement signed by a parent that the child will not be screened before  
7313 attending public school in the state.

7314 (4) The Department of Health and Human Services shall prepare and provide:

7315 (a) training for a school nurse who supervises an LEA tier one vision screening clinic;  
7316 and

7317 (b) an online training module for a potential volunteer for an LEA tier one vision  
7318 screening clinic.

7319 (5) (a) The Department of Health and Human Services shall provide a template for:

7320 (i) a form for use by a health care professional under Subsection (3)(a) to certify that a  
7321 child has received an adequate vision screening; and

7322 (ii) a referral form used for the referral and follow up of a qualifying child after a tier  
7323 one or tier two vision screening.

7324 (b) A template described in Subsection (5)(a) shall include the following statement: "A  
7325 screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

7326 (6) The Department of Health and Human Services shall make rules to:

7327 (a) generally provide for and require the administration of tier one vision screening in  
7328 accordance with this section, including an opt-out process;

7329 (b) describe standards and procedures for tier one vision screening, including referral  
7330 and follow up protocols and reporting a student's significant vision impairment results to the  
7331 Utah Schools for the Deaf and the Blind;

7332 (c) outline the qualifications of and parameters for the use of an outside entity to  
7333 supervise an LEA tier one vision screening clinic when an LEA does not have a school nurse to  
7334 supervise an LEA tier one vision screening clinic;

7335 (d) determine when a potential volunteer at an LEA tier one vision screening clinic has  
7336 a conflict of interest, including if the potential volunteer could profit financially from  
7337 volunteering;

7338 (e) determine the regularity of tier one vision screening in order to ensure that a  
7339 qualifying child receives tier one vision screening at particular intervals; and

7340 (f) provide for tier two vision screening for a qualifying child, including:

7341 (i) in coordination with the state board, determining mandatory and optional tier two

7342 vision screening for a qualifying child;

7343 (ii) identification of and training for an individual who provides tier two vision  
7344 screening;

7345 (iii) (A) the creation of a symptoms questionnaire that includes questions for a  
7346 nonprofessionally trained individual to identify an eye focusing or tracking problem as well as  
7347 convergence insufficiency of a qualifying child; and

7348 (B) protocol on how to administer the symptoms questionnaire in coordination with  
7349 tier two vision screening;

7350 (iv) general standards, procedures, referral, and follow up protocol; and

7351 (v) aggregate reporting requirements.

7352 (7) (a) In accordance with Department of Health and Human Services oversight and  
7353 rule and Subsection (7)(b), an LEA shall conduct free tier one vision screening clinics for all  
7354 qualifying children who attend the LEA or a school within the LEA.

7355 (b) If the parent of a qualifying child requests that the qualifying child not participate in  
7356 a tier one or tier two vision screening, an LEA may not require the qualifying child to receive  
7357 the tier one or tier two vision screening.

7358 (8) (a) Except as provided in Subsection (8)(b), a school nurse shall supervise an LEA  
7359 tier one vision screening clinic as well as provide referral and followup services.

7360 (b) If an LEA does not have a school nurse to supervise an LEA tier one vision  
7361 screening clinic, an LEA may, in accordance with Department of Health and Human Services  
7362 rule, use an outside entity to supervise an LEA tier one vision screening clinic.

7363 (9) (a) An LEA shall ensure that a volunteer who assists with an LEA tier one vision  
7364 screening clinic:

7365 (i) (A) is trained by a school nurse; or

7366 (B) demonstrates successful completion of the training module described in Subsection  
7367 (4)(b);

7368 (ii) complies with the requirements of Subsection (9)(c); and

7369 (iii) is supervised by a school nurse or, in accordance with Subsection (8)(b), an  
7370 outside entity.

7371 (b) In accordance with Department of Health and Human Services rule, an LEA may  
7372 exclude a person from volunteering at an LEA tier one vision screening clinic if the person has

7373 a conflict of interest, including if the person could profit financially from volunteering.

7374 (c) A volunteer who assists with an LEA tier one vision screening clinic may not  
7375 market, advertise, or promote a business in connection with assisting at the LEA tier one vision  
7376 screening clinic.

7377 (d) A volunteer who assists with an LEA tier one vision screening clinic is not liable  
7378 for damages that result from an act or omission related to the LEA tier one vision screening  
7379 clinic, if the act or omission is not willful or grossly negligent.

7380 Section 115. Section **53G-9-502** is amended to read:

7381 **53G-9-502. Administration of medication to students -- Prerequisites -- Immunity**  
7382 **from liability -- Applicability.**

7383 (1) A public or private school that holds any classes in grades kindergarten through 12  
7384 may provide for the administration of medication to any student during periods when the  
7385 student is under the control of the school, subject to the following conditions:

7386 (a) the local school board, charter school governing board, or the private equivalent,  
7387 after consultation with the Department of Health and Human Services and school nurses shall  
7388 adopt policies that provide for:

- 7389 (i) the designation of volunteer employees who may administer medication;
- 7390 (ii) proper identification and safekeeping of medication;
- 7391 (iii) the training of designated volunteer employees by the school nurse;
- 7392 (iv) maintenance of records of administration; and
- 7393 (v) notification to the school nurse of medication that will be administered to students;

7394 and

7395 (b) medication may only be administered to a student if:

- 7396 (i) the student's parent has provided a current written and signed request that  
7397 medication be administered during regular school hours to the student; and
- 7398 (ii) the student's licensed health care provider has prescribed the medication and  
7399 provides documentation as to the method, amount, and time schedule for administration, and a  
7400 statement that administration of medication by school employees during periods when the  
7401 student is under the control of the school is medically necessary.

7402 (2) Authorization for administration of medication by school personnel may be  
7403 withdrawn by the school at any time following actual notice to the student's parent.

7404 (3) School personnel who provide assistance under Subsection (1) in substantial  
7405 compliance with the licensed health care provider's written prescription and the employers of  
7406 these school personnel are not liable, civilly or criminally, for:

7407 (a) any adverse reaction suffered by the student as a result of taking the medication;

7408 and

7409 (b) discontinuing the administration of the medication under Subsection (2).

7410 (4) Subsections (1) through (3) do not apply to:

7411 (a) the administration of glucagon in accordance with Section [53G-9-504](#);

7412 (b) the administration of a seizure rescue medication in accordance with Section

7413 [53G-9-505](#); or

7414 (c) the administration of an opiate antagonist in accordance with [~~Title 26, Chapter 55,~~  
7415 ~~Opiate Overdose Response Act~~] Title 26B, Chapter 4, Part 5, Treatment Access.

7416 Section 116. Section **53G-9-702** is amended to read:

7417 **53G-9-702. Youth suicide prevention programs -- State board to develop model**  
7418 **programs.**

7419 (1) As used in the section:

7420 (a) "Elementary grades" means:

7421 (i) kindergarten through grade 5; and

7422 (ii) if the associated middle or junior high school does not include grade 6, grade 6.

7423 (b) "Intervention" means an effort to prevent a student from attempting suicide.

7424 (c) "Postvention" means mental health intervention after a suicide attempt or death to  
7425 prevent or contain contagion.

7426 (d) "Program" means a youth suicide prevention program described in Subsection (2).

7427 (e) "Public education suicide prevention coordinator" means an individual designated  
7428 by the state board as described in Subsection (4).

7429 (f) "Secondary grades" means:

7430 (i) grades 7 through 12; and

7431 (ii) if a middle or junior high school includes grade 6, grade 6.

7432 (g) "State suicide prevention coordinator" means the state suicide prevention  
7433 coordinator described in Section [~~62A-15-1101~~] [26B-5-611](#).

7434 (2) In collaboration with the public education suicide prevention coordinator, a school



7435 district or charter school shall implement a youth suicide prevention program, which, in  
7436 collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall  
7437 include programs and training to address:

7438 (a) for elementary grades and secondary grades:

7439 (i) life-affirming education, including on the concepts of resiliency, healthy habits,  
7440 self-care, problem solving, and conflict resolution;

7441 (ii) methods of strengthening the family; and

7442 (iii) methods of strengthening a youth's relationships in the school and community; and

7443 (b) for secondary grades:

7444 (i) prevention of youth suicide;

7445 (ii) decreasing the risk of suicide among youth who are:

7446 (A) not accepted by family for any reason, including lesbian, gay, bisexual,  
7447 transgender, or questioning youth; or

7448 (B) suffer from bullying;

7449 (iii) youth suicide intervention; and

7450 (iv) postvention for family, students, and faculty.

7451 (3) Each school district and charter school shall ensure that the youth suicide  
7452 prevention program described in Subsection (2):

7453 (a) considers appropriate coordination with the following prevention programs:

7454 (i) the prevention of bullying and cyber-bullying, as those terms are defined in Section  
7455 53G-9-601; and

7456 (ii) the prevention of underage drinking of alcohol and substance abuse under Section  
7457 53G-10-406; and

7458 (b) includes provisions to ensure that the school district or charter school promptly  
7459 communicates with the parent or guardian of a student in accordance with Section 53G-9-604.

7460 (4) The state board shall:

7461 (a) designate a public education suicide prevention coordinator; and

7462 (b) in collaboration with the Department of Health and Human Services and the state  
7463 suicide prevention coordinator, develop model programs to provide to school districts and  
7464 charter schools:

7465 (i) program training; and

7466 (ii) resources regarding the required components described in Subsections (2)(a) and  
7467 (b).

7468 (5) The public education suicide prevention coordinator shall:

7469 (a) oversee the youth suicide prevention programs of school districts and charter  
7470 schools; and

7471 (b) coordinate prevention and postvention programs, services, and efforts with the state  
7472 suicide prevention coordinator.

7473 (6) A public school suicide prevention program may allow school personnel to ask a  
7474 student questions related to youth suicide prevention, intervention, or postvention.

7475 (7) (a) Subject to legislative appropriation, the state board may distribute money to a  
7476 school district or charter school to be used to implement evidence-based practices and  
7477 programs, or emerging best practices and programs, for preventing suicide in the school district  
7478 or charter school.

7479 (b) The state board shall ensure that an LEA's allocation of funds from the board's  
7480 distribution of money under Subsection (7)(a) provides an amount equal to at least \$1,000 per  
7481 school.

7482 (c) (i) A school shall use money allocated to the school under Subsection (7)(b) to  
7483 implement evidence-based practices and programs, or emerging best practices and programs,  
7484 for preventing suicide.

7485 (ii) Each school may select the evidence-based practices and programs, or emerging  
7486 best practices and programs, for preventing suicide that the school implements.

7487 (8) An LEA may not charge indirect costs to the program.

7488 Section 117. Section **58-1-112** is amended to read:

7489 **58-1-112. Data collection.**

7490 (1) As used in this section:

7491 (a) "Council" means the Utah Health Workforce Advisory Council created in Section  
7492 ~~[26-69-201]~~ [26B-1-425](#).

7493 (b) "Information center" means the Utah Health Workforce Information Center created  
7494 in Section ~~[26-69-301]~~ [26B-4-705](#).

7495 (2) (a) In accordance with Subsection ~~[26-69-301(2)(a)]~~ [26B-4-705\(2\)\(a\)](#), the  
7496 department shall work with the information center to identify relevant data pertaining to a

- 7497 profession described in Subsection (3).
- 7498 (b) The data should focus on:
- 7499 (i) identifying workforce shortages;
- 7500 (ii) identifying labor market indicators;
- 7501 (iii) determining the educational background of a licensee; and
- 7502 (iv) determining whether Utah is retaining a stable health workforce.
- 7503 (c) After the council approves data to be collected, the department shall request the
- 7504 data from a licensee when a licensee applies for a license or renews the licensee's license.
- 7505 (d) The department shall send the obtained data to the information center.
- 7506 (e) A licensee may not be denied a license for failing to provide the data described in
- 7507 Subsection (2)(c) to the department.
- 7508 (3) (a) The department shall prioritize data collection for each profession licensed
- 7509 under:
- 7510 (i) Chapter 31b, Nurse Practice Act;
- 7511 (ii) Chapter 60, Mental Health Professional Practice Act;
- 7512 (iii) Chapter 61, Psychologist Licensing Act;
- 7513 (iv) Chapter 67, Utah Medical Practice Act;
- 7514 (v) Chapter 68, Utah Osteopathic Medical Practice Act;
- 7515 (vi) Chapter 69, Dentist and Dental Hygienist Practice Act; or
- 7516 (vii) Chapter 70a, Utah Physician Assistant Act.
- 7517 (b) After the department has collected data for each profession described in Subsection
- 7518 (3)(a), the department shall collect data for each profession licensed under:
- 7519 (i) Chapter 5a, Podiatric Physician Licensing Act;
- 7520 (ii) Chapter 17b, Pharmacy Practice Act;
- 7521 (iii) Chapter 24b, Physical Therapy Practice Act;
- 7522 (iv) Chapter 40, Recreational Therapy Practice Act;
- 7523 (v) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- 7524 (vi) Chapter 42a, Occupational Therapy Practice Act;
- 7525 (vii) Chapter 44a, Nurse Midwife Practice Act;
- 7526 (viii) Chapter 54, Radiologic Technologist, Radiologist Assistant, and Radiology
- 7527 Practical Technician Licensing Act; or

7528 (ix) Chapter 57, Respiratory Care Practices Act.

7529 (c) The department shall collect data in accordance with this section for any  
7530 health-related occupation or profession that is regulated by the department and is not described  
7531 in Subsection (3)(a) or (b) if:

7532 (i) funding is available;

7533 (ii) the council has identified a need for the data; and

7534 (iii) data has been collected for each profession described in Subsections (3)(a) and  
7535 (3)(b).

7536 Section 118. Section **58-1-307** is amended to read:

7537 **58-1-307. Exemptions from licensure.**

7538 (1) Except as otherwise provided by statute or rule, the following individuals may  
7539 engage in the practice of their occupation or profession, subject to the stated circumstances and  
7540 limitations, without being licensed under this title:

7541 (a) an individual serving in the armed forces of the United States, the United States  
7542 Public Health Service, the United States Department of Veterans Affairs, or other federal  
7543 agencies while engaged in activities regulated under this chapter as a part of employment with  
7544 that federal agency if the individual holds a valid license to practice a regulated occupation or  
7545 profession issued by any other state or jurisdiction recognized by the division;

7546 (b) a student engaged in activities constituting the practice of a regulated occupation or  
7547 profession while in training in a recognized school approved by the division to the extent the  
7548 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
7549 part of the training program;

7550 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,  
7551 fellowship, apprenticeship, or on-the-job training program approved by the division while  
7552 under the supervision of qualified individuals;

7553 (d) an individual residing in another state and licensed to practice a regulated  
7554 occupation or profession in that state, who is called in for a consultation by an individual  
7555 licensed in this state, and the services provided are limited to that consultation;

7556 (e) an individual who is invited by a recognized school, association, society, or other  
7557 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a  
7558 regulated occupation or profession if the individual does not establish a place of business or

7559 regularly engage in the practice of the regulated occupation or profession in this state;

7560 (f) an individual licensed under the laws of this state, other than under this title, to  
7561 practice or engage in an occupation or profession, while engaged in the lawful, professional,  
7562 and competent practice of that occupation or profession;

7563 (g) an individual licensed in a health care profession in another state who performs that  
7564 profession while attending to the immediate needs of a patient for a reasonable period during  
7565 which the patient is being transported from outside of this state, into this state, or through this  
7566 state;

7567 (h) an individual licensed in another state or country who is in this state temporarily to  
7568 attend to the needs of an athletic team or group, except that the practitioner may only attend to  
7569 the needs of the athletic team or group, including all individuals who travel with the team or  
7570 group in any capacity except as a spectator;

7571 (i) an individual licensed and in good standing in another state, who is in this state:

7572 (i) temporarily, under the invitation and control of a sponsoring entity;

7573 (ii) for a reason associated with a special purpose event, based upon needs that may  
7574 exceed the ability of this state to address through its licensees, as determined by the division;  
7575 and

7576 (iii) for a limited period of time not to exceed the duration of that event, together with  
7577 any necessary preparatory and conclusionary periods; and

7578 (j) the spouse of an individual serving in the armed forces of the United States while  
7579 the individual is stationed within this state, provided:

7580 (i) the spouse holds a valid license to practice a regulated occupation or profession  
7581 issued by any other state or jurisdiction recognized by the division; and

7582 (ii) the license is current and the spouse is in good standing in the state of licensure.

7583 (2) (a) A practitioner temporarily in this state who is exempted from licensure under  
7584 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the  
7585 practitioner derives authority to practice.

7586 (b) Violation of a limitation imposed by this section constitutes grounds for removal of  
7587 exempt status, denial of license, or other disciplinary proceedings.

7588 (3) An individual who is licensed under a specific chapter of this title to practice or  
7589 engage in an occupation or profession may engage in the lawful, professional, and competent

7590 practice of that occupation or profession without additional licensure under other chapters of  
7591 this title, except as otherwise provided by this title.

7592 (4) Upon the declaration of a national, state, or local emergency, a public health  
7593 emergency as defined in Section ~~[26-23b-102]~~ [26B-7-301](#), or a declaration by the president of  
7594 the United States or other federal official requesting public health-related activities, the  
7595 division in collaboration with the relevant board may:

7596 (a) suspend the requirements for permanent or temporary licensure of individuals who  
7597 are licensed in another state for the duration of the emergency while engaged in the scope of  
7598 practice for which they are licensed in the other state;

7599 (b) modify, under the circumstances described in this Subsection (4) and Subsection  
7600 (5), the scope of practice restrictions under this title for individuals who are licensed under this  
7601 title as:

7602 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah  
7603 Osteopathic Medical Practice Act;

7604 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure  
7605 Compact - Revised;

7606 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

7607 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,  
7608 Pharmacy Practice Act;

7609 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

7610 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist  
7611 Practice Act; and

7612 (vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

7613 (c) suspend the requirements for licensure under this title and modify the scope of  
7614 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical  
7615 services personnel or paramedics required to be licensed under Section ~~[26-8a-302]~~ [26B-4-116](#);

7616 (d) suspend requirements in Subsections ~~58-17b-620~~(3) through (6) which require  
7617 certain prescriptive procedures;

7618 (e) exempt or modify the requirement for licensure of an individual who is activated as  
7619 a member of a medical reserve corps during a time of emergency as provided in Section  
7620 [26A-1-126](#);

7621 (f) exempt or modify the requirement for licensure of an individual who is registered as  
7622 a volunteer health practitioner as provided in [~~Title 26, Chapter 49, Uniform Emergency~~  
7623 ~~Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform Emergency  
7624 Volunteer Health Practitioners Act; and

7625 (g) in accordance with rules made by the division in accordance with Title 63G,  
7626 Chapter 3, Utah Administrative Rulemaking Act, exempt or modify the requirements for  
7627 licensure of an individual engaged in one or more of the construction trades described in  
7628 Chapter 55, Utah Construction Trades Licensing Act.

7629 (5) Individuals exempt under Subsection (4)(c) and individuals operating under  
7630 modified scope of practice provisions under Subsection (4)(b):

7631 (a) are exempt from licensure or subject to modified scope of practice for the duration  
7632 of the emergency;

7633 (b) must be engaged in the distribution of medicines or medical devices in response to  
7634 the emergency or declaration; and

7635 (c) must be employed by or volunteering for:

7636 (i) a local or state department of health; or

7637 (ii) a host entity as defined in Section [~~26-49-102~~] [26B-4-801](#).

7638 (6) In accordance with the protocols established under Subsection (8), upon the  
7639 declaration of a national, state, or local emergency, the Department of Health and Human  
7640 Services or a local health department shall coordinate with public safety authorities as defined  
7641 in Subsection [~~26-23b-110(1)~~] [26B-7-323\(1\)](#) and may:

7642 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a  
7643 controlled substance to prevent or treat a disease or condition that gave rise to, or was a  
7644 consequence of, the emergency; or

7645 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not  
7646 a controlled substance:

7647 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial  
7648 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication  
7649 is exhausted; or

7650 (ii) for dispensing or direct administration to treat the disease or condition that gave  
7651 rise to, or was a consequence of, the emergency by:

- 7652 (A) a pharmacy;
  - 7653 (B) a prescribing practitioner;
  - 7654 (C) a licensed health care facility;
  - 7655 (D) a federally qualified community health clinic; or
  - 7656 (E) a governmental entity for use by a community more than 50 miles from a person
- 7657 described in Subsections (6)(b)(ii)(A) through (D).

7658 (7) In accordance with protocols established under Subsection (8), upon the declaration  
7659 of a national, state, or local emergency, the Department of Health and Human Services shall  
7660 coordinate the distribution of medications:

- 7661 (a) received from the strategic national stockpile to local health departments; and
  - 7662 (b) from local health departments to emergency personnel within the local health
- 7663 departments' geographic region.

7664 (8) The Department of Health and Human Services shall establish by rule, made in  
7665 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for  
7666 administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other  
7667 prescription medication that is not a controlled substance in the event of a declaration of a  
7668 national, state, or local emergency. The protocol shall establish procedures for the Department  
7669 of Health and Human Services or a local health department to:

- 7670 (a) coordinate the distribution of:
  - 7671 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
  - 7672 controlled substance received by the Department of Health and Human Services from the
  - 7673 strategic national stockpile to local health departments; and
  - 7674 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
  - 7675 medication received by a local health department to emergency personnel within the local
  - 7676 health department's geographic region;
- 7677 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
- 7678 an antibiotic, or other prescription medication that is not a controlled substance to the contact
- 7679 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
- 7680 that of the physician's or physician assistant's patient; and
- 7681 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
- 7682 an antibiotic, or other non-controlled prescription medication to an individual who:



- 7683 (i) is working in a triage situation;  
7684 (ii) is receiving preventative or medical treatment in a triage situation;  
7685 (iii) does not have coverage for the prescription in the individual's health insurance  
7686 plan;  
7687 (iv) is involved in the delivery of medical or other emergency services in response to  
7688 the declared national, state, or local emergency; or  
7689 (v) otherwise has a direct impact on public health.

7690 (9) The Department of Health and Human Services shall give notice to the division  
7691 upon implementation of the protocol established under Subsection (8).

7692 Section 119. Section **58-1-312** is amended to read:

7693 **58-1-312. Organ donation notification.**

7694 (1) As used in this section:

7695 (a) "Donor" means the same as that term is defined in Section [~~26-28-102~~] [26B-8-301](#).

7696 (b) "Donor registry" means the same as that term is defined in Section [~~26-28-102~~]

7697 [26B-8-301](#).

7698 (2) At the same time the division issues a new license to a licensee in accordance with  
7699 Subsection [58-1-301](#)(4), and at the same time the division notifies a licensee that the licensee's  
7700 license is due for renewal in accordance with Subsection [58-1-308](#)(3)(a), the division shall  
7701 distribute to the licensee, by email using the most recent email address furnished to the division  
7702 by the licensee, a message notifying the licensee of the option to register as a donor and  
7703 providing the licensee an Internet link to a website for a donor registry established under  
7704 Section [~~26-28-120~~] [26B-8-319](#).

7705 Section 120. Section **58-1-405** is amended to read:

7706 **58-1-405. Provisions of volunteer health or veterinary services -- Division**  
7707 **authority.**

7708 In accordance with Section [~~26-49-205~~] [26B-4-807](#), the division may pursue actions  
7709 against a volunteer health practitioner operating under [~~Title 26, Chapter 49, Uniform~~  
7710 ~~Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform  
7711 Emergency Volunteer Health Practitioners Act.

7712 Section 121. Section **58-1-501.5** is amended to read:

7713 **58-1-501.5. Anatomic pathology services -- Billing violations.**

7714 (1) As used in this section, the following definitions apply:

7715 (a) (i) "Anatomic pathology services" including "technical or professional component  
7716 of anatomic pathology services" means:

7717 (A) histopathology or surgical pathology, meaning the gross examination of, histologic  
7718 processing of, or microscopic examination of human organ tissue performed by a physician or  
7719 under the supervision of a physician;

7720 (B) cytopathology, meaning the examination of human cells, from fluids, aspirates,  
7721 washings, brushings, or smears, including the pap test examination performed by a physician or  
7722 under the supervision of a physician;

7723 (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates  
7724 and biopsies performed by a physician or under the supervision of a physician and peripheral  
7725 human blood smears when the attending or treating physician or other practitioner of the  
7726 healing arts or a technologist requests that a blood smear be reviewed by a pathologist;

7727 (D) subcellular pathology and molecular pathology; and

7728 (E) blood bank services performed by a pathologist.

7729 (ii) "Anatomic pathology services" including "technical or professional component of  
7730 anatomic pathology services" does not include the initial collection or packaging of a sample  
7731 for transport.

7732 (b) "Clinical laboratory" or "laboratory" means a facility for the biological,  
7733 microbiological, serological, chemical, immunohematological, hematological, biophysical,  
7734 cytological, pathological, or other examination of materials derived from the human body for  
7735 the purpose of providing information for the diagnosis, prevention, or treatment of any disease  
7736 or impairment of human beings or the assessment of the health of human beings.

7737 (c) "Health care facility" has the meaning provided in Section [~~26-21-2~~] [26B-2-201](#).

7738 (d) "Health care provider" includes:

7739 (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice  
7740 Act;

7741 (ii) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice  
7742 Act;

7743 (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;

7744 (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;

- 7745 (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;
- 7746 (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic  
7747 Medical Practice Act;
- 7748 (vii) a podiatric physician licensed under Chapter 5a, Podiatric Physician Licensing  
7749 Act;
- 7750 (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act;  
7751 and
- 7752 (ix) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act.
- 7753 (e) "Insurer" includes:
- 7754 (i) any entity offering accident and health insurance as defined in Section 31A-1-301;  
7755 (ii) workers' compensation benefits;  
7756 (iii) a health maintenance organization; or  
7757 (iv) any self-insurance, as defined in Section 31A-1-301, that offers health care  
7758 insurance or benefits.
- 7759 (2) (a) A health care provider who orders anatomic pathology services for a patient  
7760 from an independent physician or laboratory may not directly or indirectly mark up, charge a  
7761 commission, or make a profit on the anatomic pathology service provided by the independent  
7762 physician or laboratory.
- 7763 (b) Nothing in Subsection (2)(a):
- 7764 (i) restricts the ability of a health care provider, who has not performed or supervised  
7765 either the technical or professional component of the anatomic pathology service, to obtain  
7766 payment for services related solely to the collection and packaging of a sample and  
7767 administrative billing costs; or
- 7768 (ii) restricts the ability of the lab function in the Department of Health and Human  
7769 Services to bill for services.
- 7770 (3) A health care provider when billing a patient directly for anatomic pathology  
7771 services provided by an independent physician or laboratory shall furnish an itemized bill  
7772 which conforms with the billing practices of the American Medical Association that  
7773 conspicuously discloses the charge for each anatomic pathology service, physician or  
7774 laboratory name, and address for each anatomic pathology service rendered to the patient by the  
7775 physician or laboratory that performed the anatomic pathology service.

7776 (4) The disclosure to be made under Subsection (3) shall not be required when the  
7777 anatomic pathology service is being ordered by a hospital, a laboratory performing either the  
7778 professional or technical component of the service, or a physician performing either the  
7779 professional or technical component of the service, a public health clinic, or a state or federal  
7780 agency.

7781 (5) Failure to comply with the requirements of this section shall be considered to be  
7782 unprofessional conduct.

7783 Section 122. Section **58-1-501.7** is amended to read:

7784 **58-1-501.7. Standards of conduct for prescription drug education -- Academic**  
7785 **and commercial detailing.**

7786 (1) For purposes of this section:

7787 (a) "Academic detailing":

7788 (i) means a health care provider who is licensed under this title to prescribe or dispense  
7789 a prescription drug and employed by someone other than a pharmaceutical manufacturer:

7790 (A) for the purpose of countering information provided in commercial detailing; and

7791 (B) to disseminate educational information about prescription drugs to other health  
7792 care providers in an effort to better align clinical practice with scientific research; and

7793 (ii) does not include a health care provider who:

7794 (A) is disseminating educational information about a prescription drug as part of  
7795 teaching or supervising students or graduate medical education students at an institution of  
7796 higher education or through a medical residency program;

7797 (B) is disseminating educational information about a prescription drug to a patient or a  
7798 patient's representative; or

7799 (C) is acting within the scope of practice for the health care provider regarding the  
7800 prescribing or dispensing of a prescription drug.

7801 (b) "Commercial detailing" means an educational practice employed by a  
7802 pharmaceutical manufacturer in which clinical information and evidence about a prescription  
7803 drug is shared with health care professionals.

7804 (c) "Manufacture" is as defined in Section [58-37-2](#).

7805 (d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

7806 (2) (a) Except as provided in Subsection (3), the provisions of this section apply to an

7807 academic detailer beginning July 1, 2013.

7808 (b) An academic detailer and a commercial detailer who educate another health care  
7809 provider about prescription drugs through written or oral educational material is subject to  
7810 federal regulations regarding:

7811 (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

7812 (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

7813 (iii) the federal Office of the Inspector General's Compliance Program Guidance for  
7814 Pharmaceutical Manufacturers issued in April 2003, as amended.

7815 (c) A person who is injured by a violation of this section has a private right of action  
7816 against a person engaged in academic detailing, if:

7817 (i) the actions of the person engaged in academic detailing, that are a violation of this  
7818 section, are:

7819 (A) the result of gross negligence by the person; or

7820 (B) willful and wanton behavior by the person; and

7821 (ii) the damages to the person are reasonable, foreseeable, and proximately caused by  
7822 the violations of this section.

7823 (3) (a) For purposes of this Subsection, "accident and health insurance":

7824 (i) means the same as that term is defined in Section [31A-1-301](#); and

7825 (ii) includes a self-funded health benefit plan and an administrator for a self-funded  
7826 health benefit plan.

7827 (b) This section does not apply to a person who engages in academic detailing if that  
7828 person is engaged in academic detailing on behalf of:

7829 (i) a person who provides accident and health insurance, including when the person  
7830 who provides accident and health insurance contracts with or offers:

7831 (A) the state Medicaid program, including the Primary Care Network within the state's  
7832 Medicaid program;

7833 (B) the Children's Health Insurance Program created in Section [~~26-40-103~~]  
7834 [26B-3-902](#);

7835 (C) a Medicare plan; or

7836 (D) a Medicare supplement plan;

7837 (ii) a hospital as defined in Section [~~26-21-2~~] [26B-2-201](#);

7838 (iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated  
7839 pharmacies;

7840 (iv) an integrated health system as defined in Section 13-5b-102; or

7841 (v) a medical clinic.

7842 (c) This section does not apply to communicating or disseminating information about a  
7843 prescription drug for the purpose of conducting research using prescription drugs at a health  
7844 care facility as defined in Section ~~[26-21-2]~~ 26B-2-201, or a medical clinic.

7845 Section 123. Section 58-1-509 is amended to read:

7846 **58-1-509. Patient consent for certain medical examinations.**

7847 (1) As used in this section:

7848 (a) "Health care provider" means:

7849 (i) an individual who is:

7850 (A) a healthcare provider as defined in Section 78B-3-403; and

7851 (B) licensed under this title;

7852 (ii) emergency medical service personnel as defined in Section ~~[26-8a-102]~~ 26B-4-101;

7853 or

7854 (iii) an individual described in Subsection 58-1-307(1)(b) or (c).

7855 (b) "Patient examination" means a medical examination that requires contact with the  
7856 patient's sexual organs.

7857 (2) A health care provider may not perform a patient examination on an anesthetized or  
7858 unconscious patient unless:

7859 (a) the health care provider obtains consent from the patient or the patient's  
7860 representative in accordance with Subsection (3);

7861 (b) a court orders performance of the patient examination for the collection of  
7862 evidence;

7863 (c) the performance of the patient examination is within the scope of care for a  
7864 procedure or diagnostic examination scheduled to be performed on the patient; or

7865 (d) the patient examination is immediately necessary for diagnosis or treatment of the  
7866 patient.

7867 (3) To obtain consent to perform a patient examination on an anesthetized or  
7868 unconscious patient, before performing the patient examination, the health care provider shall:

- 7869 (a) provide the patient or the patient's representative with a written or electronic  
7870 document that:
- 7871 (i) is provided separately from any other notice or agreement;
  - 7872 (ii) contains the following heading at the top of the document in not smaller than  
7873 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";
  - 7874 (iii) specifies the nature and purpose of the patient examination;
  - 7875 (iv) names one or more primary health care providers whom the patient or the patient's  
7876 representative may authorize to perform the patient examination;
  - 7877 (v) states whether there may be a student or resident that the patient or the patient's  
7878 representative authorizes to:
    - 7879 (A) perform an additional patient examination; or
    - 7880 (B) observe or otherwise be present at the patient examination, either in person or  
7881 through electronic means; and
    - 7882 (vi) provides the patient or the patient's representative with a series of check boxes that  
7883 allow the patient or the patient's representative to:
      - 7884 (A) consent to the patient examination for diagnosis or treatment and an additional  
7885 patient examination performed by a student or resident for an educational or training purpose;
      - 7886 (B) consent to the patient examination only for diagnosis or treatment; or
      - 7887 (C) refuse to consent to the patient examination;
  - 7888 (b) obtain the signature of the patient or the patient's representative on the written or  
7889 electronic document while witnessed by a third party; and
  - 7890 (c) sign the written or electronic document.

7891 Section 124. Section **58-4a-102** is amended to read:

7892 **58-4a-102. Definitions.**

7893 As used in this chapter:

- 7894 (1) "Diversion agreement" means a written agreement entered into by a licensee and  
7895 the division that describes the requirements of the licensee's monitoring regimen and that was  
7896 entered into before May 12, 2020.
- 7897 (2) "Licensee" means an individual licensed to practice under:
  - 7898 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
  - 7899 (b) Title 58, Chapter 17b, Pharmacy Practice Act;

- 7900 (c) Title 58, Chapter 28, Veterinary Practice Act;
- 7901 (d) Title 58, Chapter 31b, Nurse Practice Act;
- 7902 (e) Title 58, Chapter 67, Utah Medical Practice Act;
- 7903 (f) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 7904 (g) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or
- 7905 (h) Title 58, Chapter 70a, Utah Physician Assistant Act.
- 7906 (3) "Program" means the Utah Professionals Health Program.
- 7907 (4) "Program contract" means a written agreement entered into by a licensee and the
- 7908 division that allows the licensee to participate in the program.
- 7909 (5) "Substance use disorder" means the same as that term is defined in Section
- 7910 [\[62A-15-1202\]](#) [26B-5-501](#).
- 7911 Section 125. Section **58-5a-102** is amended to read:
- 7912 **58-5a-102. Definitions.**
- 7913 In addition to the definitions under Section [58-1-102](#), as used in this chapter:
- 7914 (1) "Board" means the Podiatric Physician Board created in Section [58-5a-201](#).
- 7915 (2) "Indirect supervision" means the same as that term is defined by the division by
- 7916 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 7917 (3) "Medical assistant" means an unlicensed individual working under the indirect
- 7918 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the
- 7919 licensed podiatric physician in accordance with the standards and ethics of the podiatry
- 7920 profession.
- 7921 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the
- 7922 human foot and ankle and their manifestations of systemic conditions by all appropriate and
- 7923 lawful means, subject to Section [58-5a-103](#).
- 7924 (5) "Unlawful conduct" includes:
- 7925 (a) the conduct that constitutes unlawful conduct under Section [58-1-501](#); and
- 7926 (b) for an individual who is not licensed under this chapter:
- 7927 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,
- 7928 foot specialist, or D.P.M.; or
- 7929 (ii) implying or representing that the individual is qualified to practice podiatry.
- 7930 (6) (a) "Unprofessional conduct" includes, for an individual licensed under this



7931 chapter:

7932 (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

7933 (ii) communicating to a third party, without the consent of the patient, information the  
7934 individual acquires in treating the patient, except as necessary for professional consultation  
7935 regarding treatment of the patient;

7936 (iii) allowing the individual's name or license to be used by an individual who is not  
7937 licensed to practice podiatry under this chapter;

7938 (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any  
7939 unlicensed individual to practice podiatry;

7940 (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs  
7941 the individual's ability to practice podiatry;

7942 (vi) unlawfully prescribing, selling, or giving away any prescription drug, including  
7943 controlled substances, as defined in Section 58-37-2;

7944 (vii) gross incompetency in the practice of podiatry;

7945 (viii) willfully and intentionally making a false statement or entry in hospital records,  
7946 medical records, or reports;

7947 (ix) willfully making a false statement in reports or claim forms to governmental  
7948 agencies or insurance companies with the intent to secure payment not rightfully due;

7949 (x) willfully using false or fraudulent advertising;

7950 (xi) conduct the division defines as unprofessional conduct by rule made in accordance  
7951 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

7952 (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

7953 (A) a wrongful or negligent act or omission of an individual licensed under this chapter  
7954 or an individual under the direction or control of an individual licensed under this chapter; or

7955 (B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection 58-1-501(1);

7956 or

7957 (xiii) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]  
7958 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

7959 (b) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter~~  
7960 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and  
7961 Medical Cannabis, when registered as a qualified medical provider or acting as a limited

7962 medical provider, as those terms are defined in Section ~~[26-61a-102]~~ [26B-4-201](#),  
7963 recommending the use of medical cannabis within the scope of a practice of podiatry.

7964 Section 126. Section **58-5a-103** is amended to read:

7965 **58-5a-103. Scope of practice.**

7966 (1) Subject to the provisions of this section, an individual licensed as a podiatric  
7967 physician under this chapter may perform a surgical procedure on a bone of the foot or ankle.

7968 (2) Except as provided in Subsections (3) and (4), an individual licensed as a podiatric  
7969 physician under this chapter may not perform:

7970 (a) an ankle fusion;

7971 (b) a massive ankle reconstruction; or

7972 (c) a reduction of a trimalleolar ankle fracture.

7973 (3) An individual licensed as a podiatric physician under this chapter who meets the  
7974 requirements described in Subsection (4) may only:

7975 (a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle  
7976 joint;

7977 (b) treat a foot or ankle condition using hardware, including screws, plates, staples,  
7978 pins, and wires, if at least one portion of the hardware system is attached to a bony structure at  
7979 or below the ankle mortise; and

7980 (c) place hardware for the treatment of soft tissues in the foot or ankle no more  
7981 proximal than the distal 10 centimeters of the tibia.

7982 (4) Subject to Subsection (3), an individual licensed as a podiatric physician under this  
7983 chapter may only perform a procedure described in Subsection (2) if the individual:

7984 (a) (i) graduated on or after June 1, 2006, from a three-year residency program in  
7985 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on  
7986 Podiatric Medical Education; and

7987 (ii) is board certified in reconstructive rearfoot and ankle surgery by the American  
7988 Board of Foot and Ankle Surgery;

7989 (b) (i) graduated on or after June 1, 2006, from a three-year residency program in  
7990 podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on  
7991 Podiatric Medical Education;

7992 (ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board

7993 of Foot and Ankle Surgery; and

7994 (iii) provides the division documentation that the podiatric physician has completed  
7995 training or experience, which the division determines is acceptable, in standard or advanced  
7996 rearfoot and ankle procedures; or

7997 (c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine  
7998 and surgery that was at least two years in length and that was accredited, at the time of  
7999 graduation, by the Council on Podiatric Medical Education;

8000 (ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American  
8001 Board of Foot and Ankle Surgery;

8002 (B) if the residency described in Subsection (4)(c)(i) is a PSR-24 24-month podiatric  
8003 surgical residency, provides proof that the individual completed the residency, to a hospital that  
8004 is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot  
8005 and ankle surgery; or

8006 (C) in addition to the residency described in Subsection (4)(c)(i), has completed a  
8007 fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical  
8008 Education at the time of completion; and

8009 (iii) provides the division documentation that the podiatric physician has completed  
8010 training and experience, which the division determines is acceptable, in standard or advanced  
8011 rearfoot and ankle procedures.

8012 (5) An individual licensed as a podiatric physician under this chapter may not perform  
8013 an amputation proximal to Chopart's joint.

8014 (6) An individual licensed as a podiatric physician under this chapter may not perform  
8015 a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle,  
8016 or on a structure related to the foot or ankle above the ankle, unless the individual performs the  
8017 surgical treatment:

8018 (a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as  
8019 defined in Section ~~[26-21-2]~~ 26B-2-201; and

8020 (b) subject to review by a quality care review body that includes qualified, licensed  
8021 physicians and surgeons.

8022 Section 127. Section **58-9-610** is amended to read:

8023 **58-9-610. Cremation procedures.**

8024 (1) A funeral service establishment may not cremate human remains until the funeral  
8025 service establishment:

8026 (a) completes and files a death certificate with the office of vital statistics and the  
8027 county health department as indicated on the regular medical certificate of death or the  
8028 coroner's certificate; and

8029 (b) complies with the provisions of Section [~~26-4-29~~] [26B-8-230](#).

8030 (2) (a) A funeral service establishment may not cremate human remains with a  
8031 pacemaker or other battery-powered, potentially hazardous implant in place.

8032 (b) (i) An authorizing agent for the cremation of human remains is responsible for  
8033 informing the funeral service establishment in writing on the cremation authorization form  
8034 about the presence of a pacemaker or other battery-powered, potentially hazardous implant in  
8035 the human remains to be cremated.

8036 (ii) (A) Except as provided in Subsection (2)(b)(ii)(B), the authorizing agent is  
8037 responsible to ensure that a pacemaker or other battery-powered, potentially hazardous implant  
8038 is removed prior to cremation.

8039 (B) If the authorizing agent informs the funeral service establishment of the presence of  
8040 a pacemaker or other battery-powered, potentially hazardous implant under Subsection  
8041 (2)(b)(i), and the funeral service establishment fails to have the pacemaker or other  
8042 battery-powered, potentially hazardous implant removed prior to cremation, then the funeral  
8043 service establishment is liable for all resulting damages.

8044 (3) Only authorized persons are permitted in the crematory while human remains are in  
8045 the crematory area awaiting cremation, being cremated, or being removed from the cremation  
8046 chamber.

8047 (4) (a) Simultaneous cremation of the human remains of more than one person within  
8048 the same cremation chamber or processor is not allowed, unless the funeral service  
8049 establishment has received specific written authorization to do so from the authorizing agent of  
8050 each person to be cremated.

8051 (b) The written authorization, described in Subsection (4)(a), exempts the funeral  
8052 license establishment from liability for co-mingling of the cremated remains during the  
8053 cremation process.

8054 (5) A funeral service establishment shall:

8055 (a) verify the identification of human remains as indicated on a cremation container  
8056 immediately before placing the human remains in the cremation chamber;

8057 (b) attach a metal identification tag to the cremation container;

8058 (c) remove the identification tag from the cremation container; and

8059 (d) place the identification tag near the cremation chamber control where the  
8060 identification tag shall remain until the cremation process is complete.

8061 (6) Upon completion of a cremation, the funeral service establishment shall:

8062 (a) in so far as is possible, remove all of the recoverable residue of the cremation  
8063 process from the cremation chamber;

8064 (b) separate all other residue from the cremation process from remaining bone  
8065 fragments, in so far as possible, and process the bone fragments so as to reduce them to  
8066 unidentifiable particles; and

8067 (c) remove anything other than the unidentifiable bone particles from the cremated  
8068 residuals, as far as is possible, and dispose of that material.

8069 (7) (a) A funeral service establishment shall pack cremated remains, including the  
8070 identification tag described in Subsection (5), in a temporary container or urn ordered by the  
8071 authorizing agent.

8072 (b) The container or urn shall be packed in clean packing materials and not be  
8073 contaminated with any other object, unless otherwise directed by the authorizing agent.

8074 (c) If the cremated remains cannot fit within the designated temporary container or urn,  
8075 the funeral service establishment shall:

8076 (i) return the excess to the authorizing agent or the agent's representative in a separate  
8077 container; and

8078 (ii) mark both containers or urns on the outside with the name of the deceased person  
8079 and an indication that the cremated remains of the named decedent are in both containers or  
8080 urns.

8081 (8) (a) If the cremated remains are to be shipped, then the funeral services  
8082 establishment shall pack the designated temporary container or urn in a suitable, sturdy  
8083 container.

8084 (b) The funeral service establishment shall have the remains shipped only by a method  
8085 that:

- 8086 (i) has an available internal tracing system; and  
8087 (ii) provides a receipt signed by the person accepting delivery.  
8088 Section 128. Section **58-9-616** is amended to read:  
8089 **58-9-616. Procedure for alkaline hydrolysis.**  
8090 (1) A funeral service establishment may not perform alkaline hydrolysis on human  
8091 remains until the funeral service establishment:  
8092 (a) completes and files a death certificate with the Office of Vital Records and  
8093 Statistics and the county health department as indicated on the regular medical certificate of  
8094 death or the coroner's certificate; and  
8095 (b) complies with the provisions of Section [~~26-4-29~~] 26B-8-230.  
8096 (2) While human remains are in the area where alkaline hydrolysis takes place, both  
8097 before and during the alkaline hydrolysis process and while being removed from the alkaline  
8098 hydrolysis chamber, only authorized persons are permitted in the area.  
8099 (3) Simultaneous alkaline hydrolysis of the human remains of more than one person  
8100 within the same alkaline hydrolysis chamber is not allowed.  
8101 (4) A funeral service establishment shall:  
8102 (a) verify the identification of human remains as indicated on an alkaline hydrolysis  
8103 container immediately before performing alkaline hydrolysis;  
8104 (b) attach an identification tag to the alkaline hydrolysis container;  
8105 (c) remove the identification tag from the alkaline hydrolysis container; and  
8106 (d) place the identification tag near the alkaline hydrolysis chamber where the  
8107 identification tag shall remain until the alkaline hydrolysis process is complete.  
8108 (5) Upon completion of the alkaline hydrolysis process, the funeral service  
8109 establishment shall:  
8110 (a) dispose of liquid remains in accordance with state and local requirements;  
8111 (b) to the extent possible, remove all of the recoverable residue of the remains of the  
8112 alkaline hydrolysis process from the alkaline hydrolysis chamber;  
8113 (c) separate all other residue from the alkaline hydrolysis process from remaining bone  
8114 fragments, to the extent possible, and process the bone fragments so as to reduce them to  
8115 unidentifiable particles; and  
8116 (d) remove anything other than the unidentifiable bone particles from the remains of

8117 the alkaline hydrolysis process, to the extent possible, and dispose of that material.

8118 (6) (a) A funeral service establishment shall pack the remains of the alkaline hydrolysis  
8119 process, which consist of the unidentifiable bone particles and the identification tag described  
8120 in Subsection (4), in an urn or temporary container ordered by the authorizing agent.

8121 (b) The urn or temporary container shall be packed in clean packing materials and not  
8122 be contaminated with any other object, unless otherwise directed by the authorizing agent.

8123 (c) If the remains of the alkaline hydrolysis process cannot fit within the designated urn  
8124 or temporary container, the funeral service establishment shall:

8125 (i) return the excess remains to the authorizing agent or the agent's representative in a  
8126 separate urn or temporary container; and

8127 (ii) mark both urns or temporary containers on the outside with the name of the  
8128 decedent and an indication that the remains of the named decedent are in both urns or  
8129 temporary containers.

8130 (7) (a) If the remains are to be shipped, the funeral service establishment shall pack the  
8131 designated temporary container or urn in a suitable, sturdy container.

8132 (b) The funeral service establishment shall have the remains shipped only by a method  
8133 that:

8134 (i) has an available tracking system; and

8135 (ii) provides a receipt signed by the person accepting delivery.

8136 Section 129. Section **58-11a-501** is amended to read:

8137 **58-11a-501. Unprofessional conduct.**

8138 Unprofessional conduct includes:

8139 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;

8140 (2) failing as a licensed school to comply with the standards of accreditation applicable  
8141 to such schools;

8142 (3) failing as a licensed school to provide adequate instruction to enrolled students;

8143 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

8144 (5) failing as an instructor to provide direct supervision to students who are providing  
8145 services to an individual under the instructor's supervision;

8146 (6) failing as an apprentice supervisor to comply with division rules relating to  
8147 apprenticeship programs under this chapter;

8148 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an  
8149 unsanitary condition;

8150 (8) failing to comply with [~~Title 26, Utah Health Code~~] Title 26B, Utah Health and  
8151 Human Services Code;

8152 (9) failing to display licenses or certificates as required under Section 58-11a-305;

8153 (10) failing to comply with physical facility requirements established by rule;

8154 (11) failing to maintain mechanical or electrical equipment in safe operating condition;

8155 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,  
8156 showers, or saunas;

8157 (13) prescribing or administering prescription drugs;

8158 (14) failing to comply with all applicable state and local health or sanitation laws;

8159 (15) engaging in any act or practice in a professional capacity that is outside the  
8160 applicable scope of practice;

8161 (16) engaging in any act or practice in a professional capacity which the licensee is not  
8162 competent to perform through education or training;

8163 (17) in connection with the use of a chemical exfoliant, unless under the supervision of  
8164 a licensed health care practitioner acting within the scope of his or her license:

8165 (a) using any acid, concentration of an acid, or combination of treatments which  
8166 violates the standards established by rule;

8167 (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

8168 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

8169 (18) in connection with the sanding of the skin, unless under the supervision of a  
8170 licensed health care practitioner acting within the scope of his or her license, removing any  
8171 layer of skin deeper than the stratum corneum of the epidermis;

8172 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or  
8173 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed  
8174 under this chapter from using a nonprescriptive laser device; or

8175 (20) failing to comply with a judgment order from a court of competent jurisdiction  
8176 resulting from the failure to pay outstanding tuition or education costs incurred to comply with  
8177 this chapter.

8178 Section 130. Section 58-13-2 is amended to read:



8179 **58-13-2. Emergency care rendered by licensee.**

8180 (1) A person licensed under Title 58, Occupations and Professions, to practice as any  
8181 of the following health care professionals, who is under no legal duty to respond, and who in  
8182 good faith renders emergency care at the scene of an emergency gratuitously and in good faith,  
8183 is not liable for any civil damages as a result of any acts or omissions by the person in  
8184 rendering the emergency care:

- 8185 (a) osteopathic physician;
- 8186 (b) physician and surgeon;
- 8187 (c) naturopathic physician;
- 8188 (d) dentist or dental hygienist;
- 8189 (e) chiropractic physician;
- 8190 (f) physician assistant;
- 8191 (g) optometrist;
- 8192 (h) nurse licensed under Section [58-31b-301](#) or [58-31d-102](#);
- 8193 (i) podiatrist;
- 8194 (j) certified nurse midwife;
- 8195 (k) respiratory care practitioner;
- 8196 (l) pharmacist, pharmacy technician, and pharmacy intern;
- 8197 (m) direct-entry midwife licensed under Section [58-77-301](#);
- 8198 (n) veterinarian; or
- 8199 (o) acupuncturist licensed under Chapter 72, Acupuncture Licensing Act.

8200 (2) This Subsection (2) applies to a health care professional:

- 8201 (a) (i) described in Subsection (1); and
- 8202 (ii) who is under no legal duty to respond to the circumstances described in Subsection
- 8203 (3);
- 8204 (b) who is:
  - 8205 (i) (A) activated as a member of a medical reserve corps as described in Section
  - 8206 [26A-1-126](#) during the time of an emergency or declaration for public health related activities as
  - 8207 provided in Subsection [26A-1-126\(2\)](#); or
  - 8208 (B) participating in training to prepare the medical reserve corps to respond to a
  - 8209 declaration of an emergency or request for public health related activities pursuant to

8210 Subsection [26A-1-126\(2\)](#);

8211 (ii) acting within the scope of:

8212 (A) the health care professional's license; or

8213 (B) practice as modified under Subsection [58-1-307\(4\)](#) or Section [26A-1-126](#); and

8214 (iii) acting in good faith without compensation or remuneration as defined in

8215 Subsection [58-13-3\(2\)](#); or

8216 (c) who is acting as a volunteer health practitioner under [~~Title 26, Chapter 49,~~

8217 ~~Uniform Emergency Volunteer Health Practitioners Act~~] Title 26B, Chapter 4, Part 8, Uniform

8218 Emergency Volunteer Health Practitioners Act.

8219 (3) A health care professional described in Subsection (2) is not liable for any civil  
8220 damages as a result of any acts or omissions by the health care professional in rendering care as  
8221 a result of:

8222 (a) implementation of measures to control the causes of epidemic and communicable  
8223 diseases and other conditions significantly affecting the public health or necessary to protect  
8224 the public health as set out in Title 26A, Chapter 1, Local Health Departments;

8225 (b) investigating and controlling suspected bioterrorism and disease as set out in [~~Title~~  
8226 ~~26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title 26B, Chapter 7, Part 4,  
8227 Treatment, Isolation, and Quarantine Procedures for Communicable Disease; and

8228 (c) responding to a national, state, or local emergency, a public health emergency as  
8229 defined in Section [~~26-23b-102~~] [26B-7-301](#), or a declaration by the President of the United  
8230 States or other federal official requesting public health-related activities.

8231 (4) The immunity in Subsection (3) is in addition to any immunity or protection in state  
8232 or federal law that may apply.

8233 (5) For purposes of Subsection (2)(b)(iii) remuneration does not include:

8234 (a) food supplied to the volunteer;

8235 (b) clothing supplied to the volunteer to help identify the volunteer during the time of  
8236 the emergency; or

8237 (c) other similar support for the volunteer.

8238 Section 131. Section **58-13-2.6** is amended to read:

8239 **58-13-2.6. Emergency care rendered by a person or health care facility.**

8240 (1) For purposes of this section:

8241 (a) "Emergency" means an unexpected occurrence involving injury, the threat of injury,  
8242 or illness to a person or the public due to:

8243 (i) a natural disaster;

8244 (ii) bioterrorism;

8245 (iii) an act of terrorism;

8246 (iv) a pandemic; or

8247 (v) other event of similar nature.

8248 (b) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or  
8249 attempt to mitigate the effects of an emergency.

8250 (c) "Person" [is] means the same as that term is defined in Subsection [26-21-2(18)]

8251 26B-2-201(18).

8252 (2) (a) A person who, in good faith, assists governmental agencies or political  
8253 subdivisions with the activities described in Subsection (2)(b) is not liable for civil damages or  
8254 penalties as a result of any act or omission unless the person rendering the assistance:

8255 (i) is grossly negligent;

8256 (ii) caused the emergency; or

8257 (iii) has engaged in criminal conduct.

8258 (b) The following activities are protected from liability in accordance with Subsection  
8259 (2)(a):

8260 (i) implementing measures to control the causes of epidemic, pandemic, communicable  
8261 diseases, or other conditions significantly affecting public health, as necessary to protect the  
8262 public health in accordance with Title 26A, Chapter 1, Local Health Departments;

8263 (ii) investigating, controlling, and treating suspected bioterrorism or disease in  
8264 accordance with [~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~] Title  
8265 26B, Chapter 7, Part 4, Treatment, Isolation, and Quarantine Procedures for Communicable  
8266 Diseases;

8267 (iii) responding to:

8268 (A) a national, state, or local emergency;

8269 (B) a public health emergency as defined in Section [~~26-23b-102~~] 26B-7-301; or

8270 (C) a declaration by the President of the United States or other federal official

8271 requesting public health related activities; and

8272 (iv) providing a facility for use by a governmental agency or political subdivision to  
8273 distribute pharmaceuticals or administer vaccines to the public.

8274 (c) Subsection (2)(a) applies to a person even if that person has:

8275 (i) a duty to respond; or

8276 (ii) an expectation of payment or remuneration.

8277 (3) The immunity in Subsection (2) is in addition to any immunity protections that may  
8278 apply in state or federal law.

8279 Section 132. Section **58-13-3** is amended to read:

8280 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

8281 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care  
8282 and preventive health care because they lack health insurance or because of financial  
8283 difficulties or cost.

8284 (ii) The Legislature also finds that many physicians, charity health care facilities, and  
8285 other health care professionals in this state would be willing to volunteer medical and allied  
8286 services without compensation if they were not subject to the high exposure of liability  
8287 connected with providing these services.

8288 (b) The Legislature therefore declares that its intention in enacting this section is to  
8289 encourage the provision of uncompensated volunteer charity health care in exchange for a  
8290 limitation on liability for the health care facilities and health care professionals who provide  
8291 those volunteer services.

8292 (2) As used in this section:

8293 (a) "Continuing education requirement" means the requirement for hours of continuing  
8294 education, established by the division, with which a health care professional must comply to  
8295 renew the health care professional's license under the applicable chapter described in  
8296 Subsection (2)(c).

8297 (b) "Health care facility" means any clinic or hospital, church, or organization whose  
8298 primary purpose is to sponsor, promote, or organize uncompensated health care services for  
8299 people unable to pay for health care services.

8300 (c) "Health care professional" means a person licensed under:

8301 (i) Chapter 5a, Podiatric Physician Licensing Act;

8302 (ii) Chapter 16a, Utah Optometry Practice Act;

- 8303 (iii) Chapter 17b, Pharmacy Practice Act;
- 8304 (iv) Chapter 24b, Physical Therapy Practice Act;
- 8305 (v) Chapter 31b, Nurse Practice Act;
- 8306 (vi) Chapter 40, Recreational Therapy Practice Act;
- 8307 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- 8308 (viii) Chapter 42a, Occupational Therapy Practice Act;
- 8309 (ix) Chapter 44a, Nurse Midwife Practice Act;
- 8310 (x) Chapter 49, Dietitian Certification Act;
- 8311 (xi) Chapter 60, Mental Health Professional Practice Act;
- 8312 (xii) Chapter 67, Utah Medical Practice Act;
- 8313 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- 8314 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- 8315 (xv) Chapter 70a, Utah Physician Assistant Act;
- 8316 (xvi) Chapter 71, Naturopathic Physician Practice Act;
- 8317 (xvii) Chapter 72, Acupuncture Licensing Act; and
- 8318 (xviii) Chapter 73, Chiropractic Physician Practice Act.
- 8319 (d) "Remuneration or compensation":
- 8320 (i) (A) means direct or indirect receipt of any payment by a health care professional or
- 8321 health care facility on behalf of the patient, including payment or reimbursement under
- 8322 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
- 8323 patient; and
- 8324 (B) compensation, salary, or reimbursement to the health care professional from any
- 8325 source for the health care professional's services or time in volunteering to provide
- 8326 uncompensated health care; and
- 8327 (ii) does not mean:
- 8328 (A) any grant or donation to the health care facility used to offset direct costs
- 8329 associated with providing the uncompensated health care such as:
- 8330 (I) medical supplies;
- 8331 (II) drugs; or
- 8332 (III) a charitable donation that is restricted for charitable services at the health care
- 8333 facility; or

8334 (B) incidental reimbursements to the volunteer such as:  
8335 (I) food supplied to the volunteer;  
8336 (II) clothing supplied to the volunteer to help identify the volunteer during the time of  
8337 volunteer services;  
8338 (III) mileage reimbursement to the volunteer; or  
8339 (IV) other similar support to the volunteer.  
8340 (3) A health care professional who provides health care treatment at or on behalf of a  
8341 health care facility is not liable in a medical malpractice action if:  
8342 (a) the treatment was within the scope of the health care professional's license under  
8343 this title;  
8344 (b) neither the health care professional nor the health care facility received  
8345 compensation or remuneration for the treatment;  
8346 (c) the acts or omissions of the health care professional were not grossly negligent or  
8347 willful and wanton; and  
8348 (d) prior to rendering services:  
8349 (i) the health care professional disclosed in writing to the patient, or if a minor, to the  
8350 patient's parent or legal guardian, that the health care professional is providing the services  
8351 without receiving remuneration or compensation; and  
8352 (ii) the patient consented in writing to waive any right to sue for professional  
8353 negligence except for acts or omissions which are grossly negligent or are willful and wanton.  
8354 (4) A health care facility which sponsors, promotes, or organizes the uncompensated  
8355 care is not liable in a medical malpractice action for acts and omissions if:  
8356 (a) the health care facility meets the requirements in Subsection (3)(b);  
8357 (b) the acts and omissions of the health care facility were not grossly negligent or  
8358 willful and wanton; and  
8359 (c) the health care facility has posted, in a conspicuous place, a notice that in  
8360 accordance with this section the health care facility is not liable for any civil damages for acts  
8361 or omissions except for those acts or omissions that are grossly negligent or are willful and  
8362 wanton.  
8363 (5) A health care professional who provides health care treatment at a federally  
8364 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an

8365 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health  
8366 Care Improvement Act, is not liable in a medical malpractice action if:

8367 (a) the treatment was within the scope of the health care professional's license under  
8368 this title;

8369 (b) the health care professional:

8370 (i) does not receive compensation or remuneration for treatment provided to any  
8371 patient that the provider treats at the federally qualified health center, the Indian health clinic,  
8372 or the Urban Indian Health Center; and

8373 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the  
8374 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban  
8375 Indian Health Center;

8376 (c) the acts or omissions of the health care professional were not grossly negligent or  
8377 willful and wanton; and

8378 (d) prior to rendering services:

8379 (i) the health care professional disclosed in writing to the patient, or if a minor, to the  
8380 patient's parent or legal guardian, that the health care professional is providing the services  
8381 without receiving remuneration or compensation; and

8382 (ii) the patient consented in writing to waive any right to sue for professional  
8383 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

8384 (6) Immunity from liability under this section does not extend to the use of general  
8385 anesthesia or care that requires an overnight stay in a general acute or specialty hospital  
8386 licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~] Title  
8387 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

8388 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare  
8389 professional on or after May 13, 2014.

8390 (8) A health care professional:

8391 (a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care  
8392 professional's continuing education requirement with hours the health care professional spends  
8393 providing health care treatment described in Subsection (3) or (5); and

8394 (b) subject to Subsection (8)(a), earns one hour of the health care professional's  
8395 continuing education requirement for every four documented hours of volunteer health care

8396 treatment.

8397 Section 133. Section **58-13-5** is amended to read:

8398 **58-13-5. Information relating to adequacy and quality of medical care --**

8399 **Immunity from liability.**

8400 (1) As used in this section, "health care provider" has the same meaning as defined in  
8401 Section [78B-3-403](#).

8402 (2) (a) The division, and the boards within the division that act regarding the health  
8403 care providers defined in this section, shall adopt rules to establish procedures to obtain  
8404 information concerning the quality and adequacy of health care rendered to patients by those  
8405 health care providers.

8406 (b) It is the duty of an individual licensed under Title 58, Occupations and Professions,  
8407 as a health care provider to furnish information known to him with respect to health care  
8408 rendered to patients by any health care provider licensed under Title 58, Occupations and  
8409 Professions, as the division or a board may request during the course of the performance of its  
8410 duties.

8411 (3) A health care facility as defined in Section [~~26-21-2~~] [26B-2-201](#) which employs,  
8412 grants privileges to, or otherwise permits a licensed health care provider to engage in licensed  
8413 practice within the health care facility, and any professional society of licensed health care  
8414 providers, shall report any of the following events in writing to the division within 60 days  
8415 after the event occurs regarding the licensed health care provider:

8416 (a) terminating employment of an employee for cause related to the employee's practice  
8417 as a licensed health care provider;

8418 (b) terminating or restricting privileges for cause to engage in any act or practice  
8419 related to practice as a licensed health care provider;

8420 (c) terminating, suspending, or restricting membership or privileges associated with  
8421 membership in a professional association for acts of unprofessional, unlawful, incompetent, or  
8422 negligent conduct related to practice as a licensed health care provider;

8423 (d) subjecting a licensed health care provider to disciplinary action for a period of more  
8424 than 30 days;

8425 (e) a finding that a licensed health care provider has violated professional standards or  
8426 ethics;



- 8427 (f) a finding of incompetence in practice as a licensed health care provider;
- 8428 (g) a finding of acts of moral turpitude by a licensed health care provider; or
- 8429 (h) a finding that a licensed health care provider is engaged in abuse of alcohol or
- 8430 drugs.

8431 (4) This section does not prohibit any action by a health care facility, or professional  
8432 society comprised primarily of licensed health care providers to suspend, restrict, or revoke the  
8433 employment, privileges, or membership of a health care provider.

8434 (5) The data and information obtained in accordance with this section is classified as a  
8435 "protected" record under Title 63G, Chapter 2, Government Records Access and Management  
8436 Act.

8437 (6) (a) Any person or organization furnishing information in accordance with this  
8438 section in response to the request of the division or a board, or voluntarily, is immune from  
8439 liability with respect to information provided in good faith and without malice, which good  
8440 faith and lack of malice is presumed to exist absent clear and convincing evidence to the  
8441 contrary.

8442 (b) The members of the board are immune from liability for any decisions made or  
8443 actions taken in response to information acquired by the board if those decisions or actions are  
8444 made in good faith and without malice, which good faith and lack of malice is presumed to  
8445 exist absent clear and convincing evidence to the contrary.

8446 (7) An individual who is a member of a hospital administration, board, committee,  
8447 department, medical staff, or professional organization of health care providers, and any  
8448 hospital, other health care entity, or professional organization conducting or sponsoring the  
8449 review, is immune from liability arising from participation in a review of a health care  
8450 provider's professional ethics, medical competence, moral turpitude, or substance abuse.

8451 (8) This section does not exempt a person licensed under Title 58, Occupations and  
8452 Professions, from complying with any reporting requirements established under state or federal  
8453 law.

8454 Section 134. Section **58-15-303** is amended to read:

8455 **58-15-303. Exemptions to chapter.**

8456 (1) In addition to the exemptions described in Section **58-1-307**, this chapter does not  
8457 apply to:

8458 (a) a facility of a recognized church or denomination that cares for the sick and  
8459 suffering by mental or spiritual means if no drug or material remedy is used in the care  
8460 provided; or

8461 (b) the superintendent of the Utah State Developmental Center described in Section  
8462 [~~62A-5-201~~] [26B-6-502](#).

8463 (2) Any facility or person exempted under this section shall comply with each statute  
8464 and rule on sanitation and life safety.

8465 Section 135. Section **58-17b-102** is amended to read:

8466 **58-17b-102. Definitions.**

8467 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

8468 (1) "Administering" means:

8469 (a) the direct application of a prescription drug or device, whether by injection,  
8470 inhalation, ingestion, or by any other means, to the body of a human patient or research subject  
8471 by another person; or

8472 (b) the placement by a veterinarian with the owner or caretaker of an animal or group  
8473 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other  
8474 means directed to the body of the animal by the owner or caretaker in accordance with written  
8475 or verbal directions of the veterinarian.

8476 (2) "Adulterated drug or device" means a drug or device considered adulterated under  
8477 21 U.S.C. Sec. 351 (2003).

8478 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for  
8479 the purpose of analysis.

8480 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs  
8481 used as standards and controls in performing drug monitoring or drug screening analysis if the  
8482 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid  
8483 components, organic solvents, or inorganic buffers at a concentration not exceeding one  
8484 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic  
8485 use.

8486 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by  
8487 the use of prescription drugs.

8488 (5) "Automated pharmacy systems" includes mechanical systems which perform

8489 operations or activities, other than compounding or administration, relative to the storage,  
8490 packaging, dispensing, or distribution of medications, and which collect, control, and maintain  
8491 all transaction information.

8492 (6) "Beyond use date" means the date determined by a pharmacist and placed on a  
8493 prescription label at the time of dispensing that indicates to the patient or caregiver a time  
8494 beyond which the contents of the prescription are not recommended to be used.

8495 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created  
8496 in Section [58-17b-201](#).

8497 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically  
8498 underserved area, used for the storage and dispensing of prescription drugs, which is dependent  
8499 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and  
8500 approved by the division as the parent pharmacy.

8501 (9) "Centralized prescription processing" means the processing by a pharmacy of a  
8502 request from another pharmacy to fill or refill a prescription drug order or to perform  
8503 processing functions such as dispensing, drug utilization review, claims adjudication, refill  
8504 authorizations, and therapeutic interventions.

8505 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a  
8506 retail pharmacy to compound or dispense a drug or dispense a device to the public under a  
8507 prescription order.

8508 (11) "Class B pharmacy":

8509 (a) means a pharmacy located in Utah:

8510 (i) that is authorized to provide pharmaceutical care for patients in an institutional  
8511 setting; and

8512 (ii) whose primary purpose is to provide a physical environment for patients to obtain  
8513 health care services; and

8514 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

8515 (ii) pharmaceutical administration and sterile product preparation facilities.

8516 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture,  
8517 production, wholesale, or distribution of drugs or devices in Utah.

8518 (13) "Class D pharmacy" means a nonresident pharmacy.

8519 (14) "Class E pharmacy" means all other pharmacies.

8520 (15) (a) "Closed-door pharmacy" means a pharmacy that:

8521 (i) provides pharmaceutical care to a defined and exclusive group of patients who have  
8522 access to the services of the pharmacy because they are treated by or have an affiliation with a  
8523 specific entity, including a health maintenance organization or an infusion company; or

8524 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in  
8525 retail customers.

8526 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods  
8527 to the general public, or the office of a practitioner.

8528 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or  
8529 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or  
8530 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical  
8531 care functions authorized by the practitioner or practitioners under certain specified conditions  
8532 or limitations.

8533 (17) "Collaborative pharmacy practice agreement" means a written and signed  
8534 agreement between one or more pharmacists and one or more practitioners that provides for  
8535 collaborative pharmacy practice for the purpose of drug therapy management of patients and  
8536 prevention of disease of human subjects.

8537 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or  
8538 labeling of a limited quantity drug, sterile product, or device:

8539 (i) as the result of a practitioner's prescription order or initiative based on the  
8540 practitioner, patient, or pharmacist relationship in the course of professional practice;

8541 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and  
8542 not for sale or dispensing; or

8543 (iii) in anticipation of prescription drug orders based on routine, regularly observed  
8544 prescribing patterns.

8545 (b) "Compounding" does not include:

8546 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to  
8547 another pharmacist or pharmaceutical facility;

8548 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a  
8549 dosage form which is regularly and commonly available from a manufacturer in quantities and  
8550 strengths prescribed by a practitioner; or

8551 (iii) the preparation of a prescription drug, sterile product, or device which has been  
8552 withdrawn from the market for safety reasons.

8553 (19) "Confidential information" has the same meaning as "protected health  
8554 information" under the Standards for Privacy of Individually Identifiable Health Information,  
8555 45 C.F.R. Parts 160 and 164.

8556 (20) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

8557 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter  
8558 417, Sec. 3a(ff) which is incorporated by reference.

8559 (22) "Dispense" means the interpretation, evaluation, and implementation of a  
8560 prescription drug order or device or nonprescription drug or device under a lawful order of a  
8561 practitioner in a suitable container appropriately labeled for subsequent administration to or use  
8562 by a patient, research subject, or an animal.

8563 (23) "Dispensing medical practitioner" means an individual who is:

8564 (a) currently licensed as:

8565 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

8566 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical  
8567 Practice Act;

8568 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

8569 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

8570 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist  
8571 is acting within the scope of practice for an optometrist; and

8572 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice  
8573 of a dispensing medical practitioner.

8574 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy  
8575 located within a licensed dispensing medical practitioner's place of practice.

8576 (25) "Distribute" means to deliver a drug or device other than by administering or  
8577 dispensing.

8578 (26) (a) "Drug" means:

8579 (i) a substance recognized in the official United States Pharmacopoeia, official  
8580 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any  
8581 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or

8582 prevention of disease in humans or animals;

8583 (ii) a substance that is required by any applicable federal or state law or rule to be  
8584 dispensed by prescription only or is restricted to administration by practitioners only;

8585 (iii) a substance other than food intended to affect the structure or any function of the  
8586 body of humans or other animals; and

8587 (iv) substances intended for use as a component of any substance specified in  
8588 Subsections (26)(a)(i), (ii), (iii), and (iv).

8589 (b) "Drug" does not include dietary supplements.

8590 (27) "Drug regimen review" includes the following activities:

8591 (a) evaluation of the prescription drug order and patient record for:

8592 (i) known allergies;

8593 (ii) rational therapy-contraindications;

8594 (iii) reasonable dose and route of administration; and

8595 (iv) reasonable directions for use;

8596 (b) evaluation of the prescription drug order and patient record for duplication of  
8597 therapy;

8598 (c) evaluation of the prescription drug order and patient record for the following  
8599 interactions:

8600 (i) drug-drug;

8601 (ii) drug-food;

8602 (iii) drug-disease; and

8603 (iv) adverse drug reactions; and

8604 (d) evaluation of the prescription drug order and patient record for proper utilization,  
8605 including over- or under-utilization, and optimum therapeutic outcomes.

8606 (28) "Drug sample" means a prescription drug packaged in small quantities consistent  
8607 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to  
8608 be sold, and is intended to be provided to practitioners for the immediate needs of patients for  
8609 trial purposes or to provide the drug to the patient until a prescription can be filled by the  
8610 patient.

8611 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound,  
8612 symbol, or process attached to or logically associated with a record and executed or adopted by

8613 a person with the intent to sign the record.

8614 (30) "Electronic transmission" means transmission of information in electronic form or  
8615 the transmission of the exact visual image of a document by way of electronic equipment.

8616 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to  
8617 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health  
8618 and Human Services under [~~Title 26, Chapter 21, Health Care Facility Licensing and Inspection~~  
8619 ~~Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

8620 (32) "Legend drug" has the same meaning as prescription drug.

8621 (33) "Licensed pharmacy technician" means an individual licensed with the division,  
8622 that may, under the supervision of a pharmacist, perform the activities involved in the  
8623 technician practice of pharmacy.

8624 (34) "Manufacturer" means a person or business physically located in Utah licensed to  
8625 be engaged in the manufacturing of drugs or devices.

8626 (35) (a) "Manufacturing" means:

8627 (i) the production, preparation, propagation, conversion, or processing of a drug or  
8628 device, either directly or indirectly, by extraction from substances of natural origin or  
8629 independently by means of chemical or biological synthesis, or by a combination of extraction  
8630 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling  
8631 or relabeling of its container; and

8632 (ii) the promotion and marketing of such drugs or devices.

8633 (b) "Manufacturing" includes the preparation and promotion of commercially available  
8634 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

8635 (c) "Manufacturing" does not include the preparation or compounding of a drug by a  
8636 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,  
8637 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical  
8638 analysis.

8639 (36) "Medical order" means a lawful order of a practitioner which may include a  
8640 prescription drug order.

8641 (37) "Medication profile" or "profile" means a record system maintained as to drugs or  
8642 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze  
8643 the profile to provide pharmaceutical care.

8644 (38) "Misbranded drug or device" means a drug or device considered misbranded under  
8645 21 U.S.C. Sec. 352 (2003).

8646 (39) (a) "Nonprescription drug" means a drug which:

8647 (i) may be sold without a prescription; and

8648 (ii) is labeled for use by the consumer in accordance with federal law.

8649 (b) "Nonprescription drug" includes homeopathic remedies.

8650 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a  
8651 person in Utah.

8652 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

8653 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located  
8654 outside the state that is licensed and in good standing in another state, that:

8655 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in  
8656 this state pursuant to a lawfully issued prescription;

8657 (b) provides information to a patient in this state on drugs or devices which may  
8658 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;  
8659 or

8660 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic  
8661 effects of drugs.

8662 (43) "Patient counseling" means the written and oral communication by the pharmacist  
8663 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of  
8664 drugs, devices, and dietary supplements.

8665 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in  
8666 which:

8667 (a) prescription drugs or devices are held, stored, or are otherwise under the control of  
8668 the facility or agency for administration to patients of that facility or agency;

8669 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist  
8670 or pharmacy intern with whom the facility has established a prescription drug supervising  
8671 relationship under which the pharmacist or pharmacy intern provides counseling to the facility  
8672 or agency staff as required, and oversees drug control, accounting, and destruction; and

8673 (c) prescription drugs are professionally administered in accordance with the order of a  
8674 practitioner by an employee or agent of the facility or agency.



8675 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a  
8676 prescribing practitioner, and in accordance with division rule:

8677 (i) designing, implementing, and monitoring a therapeutic drug plan intended to  
8678 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing  
8679 the patient's disease;

8680 (ii) eliminating or reducing a patient's symptoms; or

8681 (iii) arresting or slowing a disease process.

8682 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a  
8683 prescribing practitioner.

8684 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,  
8685 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this  
8686 state.

8687 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility  
8688 engaged in the business of wholesale vending or selling of a prescription drug or device to  
8689 other than a consumer or user of the prescription drug or device that the pharmaceutical facility  
8690 has not produced, manufactured, compounded, or dispensed.

8691 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical  
8692 facility carrying out the following business activities:

8693 (i) intracompany sales;

8694 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,  
8695 purchase, or trade a prescription drug or device, if the activity is carried out between one or  
8696 more of the following entities under common ownership or common administrative control, as  
8697 defined by division rule:

8698 (A) hospitals;

8699 (B) pharmacies;

8700 (C) chain pharmacy warehouses, as defined by division rule; or

8701 (D) other health care entities, as defined by division rule;

8702 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,  
8703 purchase, or trade a prescription drug or device, for emergency medical reasons, including  
8704 supplying another pharmaceutical facility with a limited quantity of a drug, if:

8705 (A) the facility is unable to obtain the drug through a normal distribution channel in

8706 sufficient time to eliminate the risk of harm to a patient that would result from a delay in  
8707 obtaining the drug; and

8708 (B) the quantity of the drug does not exceed an amount reasonably required for  
8709 immediate dispensing to eliminate the risk of harm;

8710 (iv) the distribution of a prescription drug or device as a sample by representatives of a  
8711 manufacturer; and

8712 (v) the distribution of prescription drugs, if:

8713 (A) the facility's total distribution-related sales of prescription drugs does not exceed  
8714 5% of the facility's total prescription drug sales; and

8715 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

8716 (48) "Pharmacist" means an individual licensed by this state to engage in the practice  
8717 of pharmacy.

8718 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing  
8719 who accepts responsibility for the operation of a pharmacy in conformance with all laws and  
8720 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally  
8721 in full and actual charge of the pharmacy and all personnel.

8722 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or  
8723 more years of licensed experience. The preceptor serves as a teacher, example of professional  
8724 conduct, and supervisor of interns in the professional practice of pharmacy.

8725 (51) "Pharmacy" means any place where:

8726 (a) drugs are dispensed;

8727 (b) pharmaceutical care is provided;

8728 (c) drugs are processed or handled for eventual use by a patient; or

8729 (d) drugs are used for the purpose of analysis or research.

8730 (52) "Pharmacy benefits manager or coordinator" means a person or entity that  
8731 provides a pharmacy benefits management service as defined in Section [31A-46-102](#) on behalf  
8732 of a self-insured employer, insurance company, health maintenance organization, or other plan  
8733 sponsor, as defined by rule.

8734 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice  
8735 as a pharmacy intern.

8736 (54) "Pharmacy technician training program" means an approved technician training

8737 program providing education for pharmacy technicians.

8738 (55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,  
8739 specifically relating to the dispensing of a prescription drug in accordance with Part 8,  
8740 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and  
8741 division rule adopted after consultation with the Board of pharmacy and the governing boards  
8742 of the practitioners described in Subsection (23)(a).

8743 (b) "Practice as a dispensing medical practitioner" does not include:

8744 (i) using a vending type of dispenser as defined by the division by administrative rule;

8745 or

8746 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as  
8747 defined in Section 58-37-2.

8748 (56) "Practice as a licensed pharmacy technician" means engaging in practice as a  
8749 pharmacy technician under the general supervision of a licensed pharmacist and in accordance  
8750 with a scope of practice defined by division rule made in collaboration with the board.

8751 (57) "Practice of pharmacy" includes the following:

8752 (a) providing pharmaceutical care;

8753 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy  
8754 practice agreement;

8755 (c) compounding, packaging, labeling, dispensing, administering, and the coincident  
8756 distribution of prescription drugs or devices, provided that the administration of a prescription  
8757 drug or device is:

8758 (i) pursuant to a lawful order of a practitioner when one is required by law; and

8759 (ii) in accordance with written guidelines or protocols:

8760 (A) established by the licensed facility in which the prescription drug or device is to be  
8761 administered on an inpatient basis; or

8762 (B) approved by the division, in collaboration with the board and, when appropriate,  
8763 the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device  
8764 is to be administered on an outpatient basis solely by a licensed pharmacist;

8765 (d) participating in drug utilization review;

8766 (e) ensuring proper and safe storage of drugs and devices;

8767 (f) maintaining records of drugs and devices in accordance with state and federal law

8768 and the standards and ethics of the profession;

8769 (g) providing information on drugs or devices, which may include advice relating to  
8770 therapeutic values, potential hazards, and uses;

8771 (h) providing drug product equivalents;

8772 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy  
8773 technicians;

8774 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

8775 (k) providing emergency refills as defined by rule;

8776 (l) telepharmacy;

8777 (m) formulary management intervention;

8778 (n) prescribing and dispensing a self-administered hormonal contraceptive in

8779 accordance with [~~Title 26, Chapter 64, Family Planning Access Act~~] Title 26B, Chapter 4, Part  
8780 5, Treatment Access; and

8781 (o) issuing a prescription in accordance with Section [58-17b-627](#).

8782 (58) "Practice of telepharmacy" means the practice of pharmacy through the use of  
8783 telecommunications and information technologies.

8784 (59) "Practice of telepharmacy across state lines" means the practice of pharmacy  
8785 through the use of telecommunications and information technologies that occurs when the  
8786 patient is physically located within one jurisdiction and the pharmacist is located in another  
8787 jurisdiction.

8788 (60) "Practitioner" means an individual currently licensed, registered, or otherwise  
8789 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of  
8790 professional practice.

8791 (61) "Prescribe" means to issue a prescription:

8792 (a) orally or in writing; or

8793 (b) by telephone, facsimile transmission, computer, or other electronic means of  
8794 communication as defined by division rule.

8795 (62) "Prescription" means an order issued:

8796 (a) by a licensed practitioner in the course of that practitioner's professional practice or  
8797 by collaborative pharmacy practice agreement; and

8798 (b) for a controlled substance or other prescription drug or device for use by a patient

8799 or an animal.

8800 (63) "Prescription device" means an instrument, apparatus, implement, machine,  
8801 contrivance, implant, in vitro reagent, or other similar or related article, and any component  
8802 part or accessory, which is required under federal or state law to be prescribed by a practitioner  
8803 and dispensed by or through a person or entity licensed under this chapter or exempt from  
8804 licensure under this chapter.

8805 (64) "Prescription drug" means a drug that is required by federal or state law or rule to  
8806 be dispensed only by prescription or is restricted to administration only by practitioners.

8807 (65) "Repackage":

8808 (a) means changing the container, wrapper, or labeling to further the distribution of a  
8809 prescription drug; and

8810 (b) does not include:

8811 (i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the  
8812 product to a patient; or

8813 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8,  
8814 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for  
8815 dispensing a product to a patient.

8816 (66) "Research using pharmaceuticals" means research:

8817 (a) conducted in a research facility, as defined by division rule, that is associated with a  
8818 university or college in the state accredited by the Northwest Commission on Colleges and  
8819 Universities;

8820 (b) requiring the use of a controlled substance, prescription drug, or prescription  
8821 device;

8822 (c) that uses the controlled substance, prescription drug, or prescription device in  
8823 accordance with standard research protocols and techniques, including, if required, those  
8824 approved by an institutional review committee; and

8825 (d) that includes any documentation required for the conduct of the research and the  
8826 handling of the controlled substance, prescription drug, or prescription device.

8827 (67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs  
8828 and devices to the general public.

8829 (68) (a) "Self-administered hormonal contraceptive" means a self-administered

8830 hormonal contraceptive that is approved by the United States Food and Drug Administration to  
8831 prevent pregnancy.

8832 (b) "Self-administered hormonal contraceptive" includes an oral hormonal  
8833 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

8834 (c) "Self-administered hormonal contraceptive" does not include any drug intended to  
8835 induce an abortion, as that term is defined in Section [76-7-301](#).

8836 (69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance  
8837 with this chapter.

8838 (70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of  
8839 the pharmacy during a given day or shift.

8840 (71) "Supportive personnel" means unlicensed individuals who:

8841 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed  
8842 pharmacy technician in nonjudgmental duties not included in the definition of the practice of  
8843 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as  
8844 those duties may be further defined by division rule adopted in collaboration with the board;  
8845 and

8846 (b) are supervised by a pharmacist in accordance with rules adopted by the division in  
8847 collaboration with the board.

8848 (72) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)  
8849 and [58-17b-501](#).

8850 (73) "Unprofessional conduct" means the same as that term is defined in Sections  
8851 [58-1-501](#) and [58-17b-502](#) and may be further defined by rule.

8852 (74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that  
8853 dispenses drugs intended for use by animals or for sale to veterinarians for the administration  
8854 for animals.

8855 Section 136. Section **58-17b-302** is amended to read:

8856 **58-17b-302. License required -- License classifications for pharmacy facilities.**

8857 (1) A license is required to act as a pharmacy, except:

8858 (a) as specifically exempted from licensure under Section [58-1-307](#);

8859 (b) for the operation of a medical cannabis pharmacy under [~~Title 26, Chapter 61a,~~

8860 ~~Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical

8861 Cannabis; and

8862 (c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing  
8863 Practice.

8864 (2) The division shall issue a pharmacy license to a facility that qualifies under this  
8865 chapter in the classification of a:

8866 (a) class A pharmacy;

8867 (b) class B pharmacy;

8868 (c) class C pharmacy;

8869 (d) class D pharmacy;

8870 (e) class E pharmacy; or

8871 (f) dispensing medical practitioner clinic pharmacy.

8872 (3) (a) Each place of business shall require a separate license.

8873 (b) If multiple pharmacies exist at the same address, a separate license shall be required  
8874 for each pharmacy.

8875 (4) (a) The division may further define or supplement the classifications of pharmacies.

8876 (b) The division may impose restrictions upon classifications to protect the public  
8877 health, safety, and welfare.

8878 (5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by  
8879 rule.

8880 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,  
8881 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities  
8882 of the pharmacy, regardless of the form of the business organization.

8883 Section 137. Section **58-17b-309** is amended to read:

8884 **58-17b-309. Exemptions from licensure.**

8885 In addition to the exemptions from licensure in Section [58-1-307](#), the following  
8886 individuals may engage in the acts or practices described in this section without being licensed  
8887 under this chapter:

8888 (1) a person selling or providing contact lenses in accordance with Section [58-16a-801](#);

8889 (2) an animal shelter that:

8890 (a) under the indirect supervision of a veterinarian, stores, handles, or administers a  
8891 drug used for euthanising an animal; and

8892 (b) under the indirect supervision of a veterinarian who is under contract with the  
8893 animal shelter, stores, handles, or administers a rabies vaccine;

8894 (3) an overdose outreach provider, as defined in Section ~~[26-55-102]~~ 26B-4-501, that  
8895 obtains, stores, or furnishes an opiate antagonist in accordance with ~~[Title 26, Chapter 55,~~  
8896 ~~Opiate Overdose Response Act]~~ Title 26B, Chapter 4, Part 5, Treatment Access; and

8897 (4) a dispensing practitioner, as defined in Section 58-88-201, dispensing a drug under  
8898 Chapter 88, Part 2, Dispensing Practice.

8899 Section 138. Section ~~58-17b-309.7~~ is amended to read:

8900 **58-17b-309.7. Opioid treatment program.**

8901 (1) As used in this section:

8902 (a) "Covered provider" means an individual who is licensed to engage in:

8903 (i) the practice of advanced practice registered nursing as defined in Section  
8904 58-31b-102;

8905 (ii) the practice of registered nursing as defined in Section 58-31b-102; or

8906 (iii) practice as a physician assistant as defined in Section 58-70a-102.

8907 (b) "Opioid treatment program" means a program or practitioner that is:

8908 (i) engaged in dispensing an opiate medication assisted treatment for opioid use  
8909 disorder;

8910 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

8911 (iii) licensed by the Office of Licensing within the Department of Health and Human  
8912 Services created in Section ~~[62A-2-103]~~ 26B-2-103; and

8913 (iv) certified by the federal Substance Abuse and Mental Health Services  
8914 Administration in accordance with 42 C.F.R. 8.11.

8915 (2) A covered provider may dispense opiate medication assisted treatment at an opioid  
8916 treatment program if the covered provider:

8917 (a) is operating under the direction of a pharmacist;

8918 (b) dispenses the opiate medication assisted treatment under the direction of a  
8919 pharmacist; and

8920 (c) acts in accordance with division rule made under Subsection (3).

8921 (3) The division shall, in consultation with practitioners who work in an opioid  
8922 treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative



8923 Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate  
8924 medication assisted treatment to a patient in an opioid treatment program under this section.

8925 Section 139. Section **58-17b-501** is amended to read:

8926 **58-17b-501. Unlawful conduct.**

8927 "Unlawful conduct" includes:

8928 (1) knowingly preventing or refusing to permit an authorized agent of the division to  
8929 conduct an inspection pursuant to Section [58-17b-103](#);

8930 (2) failing to deliver the license, permit, or certificate to the division upon demand, if it  
8931 has been revoked, suspended, or refused;

8932 (3) (a) using the title "pharmacist," "druggist," "pharmacy intern," "pharmacy  
8933 technician," or a term having similar meaning, except by a person licensed as a pharmacist,  
8934 pharmacy intern, or pharmacy technician; or

8935 (b) conducting or transacting business under a name that contains, as part of that name,  
8936 the words "drugstore," "pharmacy," "drugs," "medicine store," "medicines," "drug shop,"  
8937 "apothecary," "prescriptions," or a term having a similar meaning, or in any manner  
8938 advertising, otherwise describing, or referring to the place of the conducted business or  
8939 profession, unless the place is a pharmacy issued a license by the division, except an  
8940 establishment selling nonprescription drugs and supplies may display signs bearing the words  
8941 "packaged drugs," "drug sundries," or "nonprescription drugs," and is not considered to be a  
8942 pharmacy or drugstore by reason of the display;

8943 (4) buying, selling, causing to be sold, or offering for sale, a drug or device that bears,  
8944 or the package bears or originally did bear, the inscription "sample," "not for resale," "for  
8945 investigational or experimental use only," or other similar words, except when a cost is  
8946 incurred in the bona fide acquisition of an investigational or experimental drug;

8947 (5) using to a person's own advantages or revealing to anyone other than the division,  
8948 board, and its authorized representatives, or to the courts, when relevant to a judicial or  
8949 administrative proceeding under this chapter, information acquired under authority of this  
8950 chapter or concerning a method of process that is a trade secret;

8951 (6) procuring or attempting to procure a drug or to have someone else procure or  
8952 attempt to procure a drug:

8953 (a) by fraud, deceit, misrepresentation, or subterfuge;

- 8954 (b) by forgery or alteration of a prescription or a written order;
- 8955 (c) by concealment of a material fact;
- 8956 (d) by use of a false statement in a prescription, chart, order, or report; or
- 8957 (e) by theft;
- 8958 (7) filling, refilling, or advertising the filling or refilling of prescriptions for a
- 8959 consumer or patient residing in this state if the person is not licensed:
- 8960 (a) under this chapter; or
- 8961 (b) in the state from which he is dispensing;
- 8962 (8) requiring an employed pharmacist, pharmacy intern, pharmacy technician, or
- 8963 authorized supportive personnel to engage in conduct in violation of this chapter;
- 8964 (9) being in possession of a prescription drug for an unlawful purpose;
- 8965 (10) dispensing a prescription drug to a person who does not have a prescription from a
- 8966 practitioner, except as permitted under[:] Title 26B, Chapter 4, Part 5, Treatment Access;
- 8967 [~~(a) Title 26, Chapter 55, Opiate Overdose Response Act; or~~]
- 8968 [~~(b) Title 26, Chapter 64, Family Planning Access Act;~~]
- 8969 (11) dispensing a prescription drug to a person who the person dispensing the drug
- 8970 knows or should know is attempting to obtain drugs by fraud or misrepresentation;
- 8971 (12) selling, dispensing, distributing, or otherwise trafficking in prescription drugs
- 8972 when not licensed to do so or when not exempted from licensure; and
- 8973 (13) a person using a prescription drug or controlled substance that was not lawfully
- 8974 prescribed for the person by a practitioner.

8975 Section 140. Section **58-17b-502** is amended to read:

8976 **58-17b-502. Unprofessional conduct.**

8977 (1) "Unprofessional conduct" includes:

8978 (a) willfully deceiving or attempting to deceive the division, the board, or their agents

8979 as to any relevant matter regarding compliance under this chapter;

8980 (b) except as provided in Subsection (2):

8981 (i) paying or offering rebates to practitioners or any other health care providers, or

8982 receiving or soliciting rebates from practitioners or any other health care provider; or

8983 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,

8984 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care

8985 provider, for the purpose of obtaining referrals;

8986 (c) misbranding or adulteration of any drug or device or the sale, distribution, or  
8987 dispensing of any outdated, misbranded, or adulterated drug or device;

8988 (d) engaging in the sale or purchase of drugs or devices that are samples or packages  
8989 bearing the inscription "sample" or "not for resale" or similar words or phrases;

8990 (e) except as provided in Section 58-17b-503, accepting back and redistributing any  
8991 unused drug, or a part of it, after it has left the premises of a pharmacy;

8992 (f) an act in violation of this chapter committed by a person for any form of  
8993 compensation if the act is incidental to the person's professional activities, including the  
8994 activities of a pharmacist, pharmacy intern, or pharmacy technician;

8995 (g) violating:

8996 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

8997 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

8998 (iii) rules or regulations adopted under either act;

8999 (h) requiring or permitting pharmacy interns or technicians to engage in activities  
9000 outside the scope of practice for their respective license classifications, as defined in this  
9001 chapter and division rules made in collaboration with the board, or beyond their scope of  
9002 training and ability;

9003 (i) administering:

9004 (i) without appropriate training, as defined by rule;

9005 (ii) without a physician's order, when one is required by law; and

9006 (iii) in conflict with a practitioner's written guidelines or written protocol for  
9007 administering;

9008 (j) disclosing confidential patient information in violation of the provisions of the  
9009 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.  
9010 1936, as amended, or other applicable law;

9011 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as  
9012 the pharmacist-in-charge;

9013 (l) failing to report to the division any adverse action taken by another licensing  
9014 jurisdiction, government agency, law enforcement agency, or court for conduct that in  
9015 substance would be considered unprofessional conduct under this section;

9016 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage  
9017 form which is regularly and commonly available from a manufacturer in quantities and  
9018 strengths prescribed by a practitioner;

9019 (n) failing to act in accordance with [~~Title 26, Chapter 64, Family Planning Access~~  
9020 ~~Act~~] Title 26B, Chapter 4, Part 5, Treatment Access, when dispensing a self-administered  
9021 hormonal contraceptive under a standing order;

9022 (o) violating the requirements of [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~]  
9023 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

9024 (p) falsely making an entry in, or altering, a medical record with the intent to conceal:

9025 (i) a wrongful or negligent act or omission of an individual licensed under this chapter  
9026 or an individual under the direction or control of an individual licensed under this chapter; or

9027 (ii) conduct described in Subsections (1)(a) through (o) or Subsection [58-1-501\(1\)](#).

9028 (2) Subsection (1)(b) does not apply to:

9029 (a) giving or receiving a price discount based on purchase volume;

9030 (b) passing along a pharmaceutical manufacturer's rebate; or

9031 (c) providing compensation for services to a veterinarian.

9032 (3) "Unprofessional conduct" does not include, in accordance with [~~Title 26, Chapter~~  
9033 ~~61a, Utah Medical Cannabis Act~~] Title 26B, Chapter 4, Part 2, Cannabinoid Research and  
9034 Medical Cannabis:

9035 (a) when registered as a pharmacy medical provider, as that term is defined in Section  
9036 [~~26-61a-102~~] [26B-4-201](#), providing pharmacy medical provider services in a medical cannabis  
9037 pharmacy; or

9038 (b) when acting as a state central patient portal medical provider, as that term is defined  
9039 in Section [~~26-61a-102~~] [26B-4-201](#), providing state central patient portal medical provider  
9040 services.

9041 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in  
9042 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
9043 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

9044 Section 141. Section **58-17b-503** is amended to read:

9045 **58-17b-503. Exception to unprofessional conduct.**

9046 (1) For purposes of this section:

9047 (a) "Licensed intermediate care facility for people with an intellectual disability" means  
9048 an intermediate care facility for people with an intellectual disability that is licensed as a  
9049 nursing care facility or a small health care facility under [~~Title 26, Chapter 21, Health Care~~  
9050 ~~Facility Licensing and Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility  
9051 Licensing and Inspection.

9052 (b) "Nursing care facility" means the same as that term is defined in Section [~~26-21-2~~]  
9053 26B-2-201.

9054 (c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package  
9055 with identification that indicates the lot number and expiration date for the drug.

9056 (2) A pharmacist may accept and redistribute an unused drug, or part of it, after it has  
9057 left the premises of the pharmacy:

9058 (a) in accordance with Part 9, Charitable Prescription Drug Recycling Act;

9059 (b) if:

9060 (i) the drug was prescribed to a patient in a nursing care facility, licensed intermediate  
9061 care facility for people with an intellectual disability, or state prison facility, county jail, or state  
9062 hospital;

9063 (ii) the drug was stored under the supervision of a licensed health care provider  
9064 according to manufacturer recommendations;

9065 (iii) the drug is in a unit pack or in the manufacturer's sealed container;

9066 (iv) the drug was returned to the original dispensing pharmacy;

9067 (v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy  
9068 intern; and

9069 (vi) accepting back and redistributing of the drug complies with federal Food and Drug  
9070 Administration and Drug Enforcement Administration regulations; or

9071 (c) if:

9072 (i) the pharmacy has attempted to deliver the drug to a patient or a patient's agent via  
9073 the United States Postal Service, a licensed common carrier, or supportive personnel;

9074 (ii) the drug is returned to the pharmacy by the same person or carrier that attempted to  
9075 deliver the drug; and

9076 (iii) in accordance with United States Food and Drug Administration regulations and  
9077 rules established by the division, a pharmacist at the pharmacy determines that the drug has not

9078 been adversely affected by the drug's attempted delivery and return.

9079 Section 142. Section **58-17b-507** is amended to read:

9080 **58-17b-507. Opiate antagonist -- Immunity from liability -- Exclusion from**  
9081 **unlawful or unprofessional conduct.**

9082 (1) As used in this section:

9083 (a) "Opiate antagonist" means the same as that term is defined in Section [~~26-55-102~~]  
9084 [26B-4-501](#).

9085 (b) "Opiate-related drug overdose event" means the same as that term is defined in  
9086 Section [~~26-55-102~~] [26B-4-501](#).

9087 (2) A person licensed under this chapter that dispenses an opiate antagonist to an  
9088 individual with a prescription for an opiate antagonist, to an overdose outreach provider with a  
9089 prescription for an opiate antagonist, or pursuant to a standing prescription drug order issued in  
9090 accordance with Subsection [~~26-55-105(2)~~] [26B-4-510\(2\)](#) is not liable for any civil damages  
9091 resulting from the outcomes of the eventual administration of the opiate antagonist to an  
9092 individual who another individual believes is experiencing an opiate-related drug overdose  
9093 event.

9094 (3) The provisions of this section and [~~Title 26, Chapter 55, Opiate Overdose Response~~  
9095 ~~Act~~] [Title 26B, Chapter 4, Part 5, Treatment Access](#), do not establish a duty or standard of care  
9096 in the prescribing, dispensing, or administration of an opiate antagonist.

9097 (4) It is not unprofessional conduct or unlawful conduct for a licensee under this  
9098 chapter to dispense an opiate antagonist to a person, including a person described in  
9099 Subsections [~~26-55-107(1)(a)(i)(A)~~] [26B-4-512\(1\)\(a\)\(i\)\(A\)](#) through (1)(a)(i)(F), on behalf of an  
9100 individual if the person obtaining the opiate antagonist has a prescription for the opiate  
9101 antagonist from a licensed prescriber or the opiate antagonist is dispensed pursuant to a  
9102 standing prescription drug order issued in accordance with Subsection [~~26-55-105(2)~~]  
9103 [26B-4-510\(2\)](#).

9104 (5) It is not unprofessional conduct or unlawful conduct for a licensee under this  
9105 chapter to dispense an opiate antagonist to an overdose outreach provider if the overdose  
9106 outreach provider has a prescription for the opiate antagonist from a licensed prescriber issued  
9107 pursuant to Subsection [~~26-55-104(2)(a)(iii)~~] [26B-4-509\(2\)\(a\)\(iii\)](#).

9108 Section 143. Section **58-17b-602** is amended to read:

9109           **58-17b-602. Prescription orders -- Information required -- Alteration -- Labels --**  
9110 **Signatures -- Dispensing in pharmacies.**

9111           (1) Except as provided in Section 58-1-501.3, the minimum information that shall be  
9112 included in a prescription order, and that may be defined by rule, is:

9113           (a) the prescriber's name, address, and telephone number, and, if the order is for a  
9114 controlled substance, the patient's age and the prescriber's DEA number;

9115           (b) the patient's name and address or, in the case of an animal, the name of the owner  
9116 and species of the animal;

9117           (c) the date of issuance;

9118           (d) the name of the medication or device prescribed and dispensing instructions, if  
9119 necessary;

9120           (e) the directions, if appropriate, for the use of the prescription by the patient or animal  
9121 and any refill, special labeling, or other instructions;

9122           (f) the prescriber's signature if the prescription order is written;

9123           (g) if the order is an electronically transmitted prescription order, the prescribing  
9124 practitioner's electronic signature; and

9125           (h) if the order is a hard copy prescription order generated from electronic media, the  
9126 prescribing practitioner's electronic or manual signature.

9127           (2) The requirement of Subsection (1)(a) does not apply to prescription orders  
9128 dispensed for inpatients by hospital pharmacies if the prescriber is a current member of the  
9129 hospital staff and the prescription order is on file in the patient's medical record.

9130           (3) Unless it is for a Schedule II controlled substance, a prescription order may be  
9131 dispensed by a pharmacist or pharmacy intern upon an oral prescription of a practitioner only if  
9132 the oral prescription is promptly reduced to writing.

9133           (4) (a) Except as provided under Subsection (4)(b), a pharmacist or pharmacy intern  
9134 may not dispense or compound any prescription of a practitioner if the prescription shows  
9135 evidence of alteration, erasure, or addition by any person other than the person writing the  
9136 prescription.

9137           (b) A pharmacist or pharmacy intern dispensing or compounding a prescription may  
9138 alter or make additions to the prescription after receiving permission of the prescriber and may  
9139 make entries or additions on the prescription required by law or necessitated in the

9140 compounding and dispensing procedures.

9141 (5) (a) Each drug dispensed shall have a label securely affixed to the container

9142 indicating the following minimum information:

9143 (i) the name, address, and telephone number of the pharmacy;

9144 (ii) the serial number of the prescription as assigned by the dispensing pharmacy;

9145 (iii) the filling date of the prescription or its last dispensing date;

9146 (iv) the name of the patient, or in the case of an animal, the name of the owner and  
9147 species of the animal;

9148 (v) the name of the prescriber;

9149 (vi) the directions for use and cautionary statements, if any, which are contained in the  
9150 prescription order or are needed;

9151 (vii) except as provided in Subsection (7), the trade, generic, or chemical name,  
9152 amount dispensed and the strength of dosage form, but if multiple ingredient products with  
9153 established proprietary or nonproprietary names are prescribed, those products' names may be  
9154 used; and

9155 (viii) the beyond use date.

9156 (b) The requirements described in Subsections (5)(a)(i) through (vi) do not apply to a  
9157 label on the container of a drug that a health care provider administers to a patient at:

9158 (i) a pharmaceutical administration facility; or

9159 (ii) a hospital licensed under [~~Title 26, Chapter 21, Health Care Facility Licensing and  
9160 Inspection Act~~] Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

9161 (6) A hospital pharmacy that dispenses a prescription drug that is packaged in a  
9162 multidose container to a hospital patient may provide the drug in the multidose container to the  
9163 patient when the patient is discharged from the hospital if:

9164 (a) the pharmacy receives a discharge order for the patient; and

9165 (b) the pharmacy labels the drug with the:

9166 (i) patient's name;

9167 (ii) drug's name and strength;

9168 (iii) directions for use of the drug, if applicable; and

9169 (iv) pharmacy's name and phone number.

9170 (7) If the prescriber specifically indicates the name of the prescription product should



9171 not appear on the label, then any of the trade, generic, chemical, established proprietary, and  
9172 established nonproprietary names and the strength of dosage form may not be included.

9173 (8) Prescribers are encouraged to include on prescription labels the information  
9174 described in Section [58-17b-602.5](#) in accordance with the provisions of that section.

9175 (9) A pharmacy may only deliver a prescription drug to a patient or a patient's agent:

9176 (a) in person at the pharmacy; or

9177 (b) via the United States Postal Service, a licensed common carrier, or supportive  
9178 personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

9179 (i) delivered to the patient or patient's agent; or

9180 (ii) returned to the pharmacy.

9181 Section 144. Section **58-17b-606** is amended to read:

9182 **58-17b-606. Restrictive drug formulary prohibited.**

9183 (1) As used in this section:

9184 (a) "Generic form" means a prescription drug that is available in generic form and has  
9185 an A rating in the United States Pharmacopeia and Drug Index.

9186 (b) "Legend drug" has the same meaning as prescription drug.

9187 (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for  
9188 cosmetic purposes, that are prohibited by the Department of Health and Human Services from  
9189 dispensation, but are approved by the Federal Food and Drug Administration.

9190 (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in  
9191 his professional judgment and within the lawful scope of his practice, he considers appropriate  
9192 for the diagnosis and treatment of his patient.

9193 (3) Except as provided in Subsection (4), the Department of Health and Human  
9194 Services may not maintain a restrictive drug formulary that restricts a physician's ability to treat  
9195 a patient with a legend drug that has been approved and designated as safe and effective by the  
9196 Federal Food and Drug Administration, except for drugs for cosmetic purposes.

9197 (4) When a multisource legend drug is available in the generic form, the Department of  
9198 Health and Human Services may only reimburse for the generic form of the drug unless the  
9199 treating physician demonstrates to the Department of Health and Human Services a medical  
9200 necessity for dispensing the nongeneric, brand-name legend drug.

9201 (5) The Department of Health and Human Services pharmacists may override the

9202 generic mandate provisions of Subsection (4) if a financial benefit will accrue to the state.

9203 (6) This section does not affect the state's ability to exercise the exclusion options  
9204 available under the Federal Omnibus Budget Reconciliation Act of 1990.

9205 Section 145. Section **58-17b-620** is amended to read:

9206 **58-17b-620. Prescriptions issued within the public health system.**

9207 (1) As used in this section:

9208 (a) "Department of Health and Human Services" means the Department of Health and  
9209 Human Services created in Section [26B-1-201](#).

9210 (b) "Health department" means either the Department of Health and Human Services or  
9211 a local health department.

9212 (c) "Local health departments" mean the local health departments created in Title 26A,  
9213 Chapter 1, Local Health Departments.

9214 (2) When it is necessary to treat a reportable disease or non-emergency condition that  
9215 has a direct impact on public health, a health department may implement the prescription  
9216 procedure described in Subsection (3) for a prescription drug that is not a controlled substance  
9217 for use in:

9218 (a) a clinic; or

9219 (b) a remote or temporary off-site location, including a triage facility established in the  
9220 community, that provides:

9221 (i) treatment for sexually transmitted infections;

9222 (ii) fluoride treatment;

9223 (iii) travel immunization;

9224 (iv) preventative treatment for an individual with latent tuberculosis infection;

9225 (v) preventative treatment for an individual at risk for an infectious disease that has a  
9226 direct impact on public health when the treatment is indicated to prevent the spread of disease  
9227 or to mitigate the seriousness of infection in the exposed individual; or

9228 (vi) other treatment as defined by the Department of Health and Human Services by  
9229 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9230 (3) In a circumstance described in Subsection (2), an individual with prescriptive  
9231 authority may write a prescription for each contact, as defined in Section ~~[26-6-2]~~ [26B-7-201](#),  
9232 of a patient of the individual with prescriptive authority without a face-to-face exam, if:

9233 (a) the individual with prescriptive authority is treating the patient for a reportable  
9234 disease or non-emergency condition having a direct impact on public health; and

9235 (b) the contact's condition is the same as the patient of the individual with prescriptive  
9236 authority.

9237 (4) The following prescription procedure shall be carried out in accordance with the  
9238 requirements of Subsection (5) and may be used only in the circumstances described under  
9239 Subsections (2) and (3):

9240 (a) a physician writes and signs a prescription for a prescription drug, other than a  
9241 controlled substance, without the name and address of the patient and without the date the  
9242 prescription is provided to the patient; and

9243 (b) the physician authorizes a registered nurse employed by the health department to  
9244 complete the prescription written under this Subsection (4) by inserting the patient's name and  
9245 address, and the date the prescription is provided to the patient, in accordance with the  
9246 physician's standing written orders and a written health department protocol approved by the  
9247 physician and the medical director of the state Department of Health and Human Services.

9248 (5) A physician assumes responsibility for all prescriptions issued under this section in  
9249 the physician's name.

9250 (6) (a) All prescription forms to be used by a physician and health department in  
9251 accordance with this section shall be serially numbered according to a numbering system  
9252 assigned to that health department.

9253 (b) All prescriptions issued shall contain all information required under this chapter  
9254 and rules adopted under this chapter.

9255 (7) Notwithstanding Sections [58-17b-302](#) and [58-17b-309](#), a nurse who is employed by  
9256 a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug  
9257 to treat a sexually transmitted infection if the drug is:

9258 (a) a repackaged drug as defined in Section [58-17b-802](#);

9259 (b) dispensed under a prescription authorized by this section;

9260 (c) provided at a location that is described in Subsection (2)(a) or (b) and operated by  
9261 the health department;

9262 (d) provided in accordance with a dispensing standard that is issued by a physician who  
9263 is employed by the health department; and

9264 (e) if applicable, in accordance with requirements established by the division in  
9265 collaboration with the board under Subsection (8).

9266 (8) The division may make rules in collaboration with the board and in accordance  
9267 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific  
9268 requirements regarding the dispensing of a drug under Subsection (7).

9269 Section 146. **Coordinating S.B. 207 with H.B. 72 -- Superseding amendment.**

9270 If this S.B. 207 and H.B. 72, Medical Cannabis Governance Revisions, both pass and  
9271 become law, it is the intent of the Legislature that the amendments to Section 58-17b-302 in  
9272 H.B. 72 supersede the amendments to Section 58-17b-302 in this bill when the Office of  
9273 Legislative Research and General Counsel prepares the Utah Code database for publication on  
9274 July 1, 2023.

9275 Section 147. **Revisor instructions.**

9276 The Legislature intends that the Office of Legislative Research and General Counsel, in  
9277 preparing the Utah Code database for publication, not enroll this bill if any of the following  
9278 bills do not pass:

9279 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,  
9280 and Recovery Services;

9281 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and  
9282 Data;

9283 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and  
9284 Repeals; or

9285 (d) S.B. 41, Health and Human Services Recodification - Prevention, Supports,  
9286 Substance Use and Mental Health.