

Senator Daniel McCay proposes the following substitute bill:

BOARDS AND COMMISSIONS MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies boards and commissions.

Highlighted Provisions:

This bill:

► repeals on May 1, 2024, the following boards, commissions, and entities and provisions related to the following boards, commissions, and entities:

- Air Quality Policy Advisory Board;
- Alcoholic Beverage Services Advisory Board;
- Board of State Parks;
- Criminal Code Evaluation Task Force;
- Decision and Action Committee;
- Deep Technology Talent Advisory Council;
- Heritage Trees Advisory Committee;
- Interpreter Certification Board;
- Labor Relations Board;
- Local Food Advisory Council;
- Mental Health Protections for First Responders Workgroup;
- Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board;



- 26 • Sex Offense Management Board;
- 27 • State Instruction Materials Commission;
- 28 • Technology Initiative Advisory Board;
- 29 • Transportation Advisory Committee;
- 30 • the advisory board for motor vehicle business regulation;
- 31 • the advisory council to the Division of Services for the Blind and Visually
- 32 Impaired; and
- 33 • the committee to review requests for the Charter School Revolving Account;
- 34 ▶ as of October 1, 2024:
- 35 • renames the Physical Therapy Licensing Board as the Physical Therapies
- 36 Licensing Board and modifies the board to include the duties of the Board of
- 37 Occupational Therapy;
- 38 • renames the Board of Nursing as the Board of Nursing and Certified Nurse
- 39 Midwives and modifies the board to include the duties of the Certified Nurse
- 40 Midwife Board;
- 41 • renames the Architects Licensing Board to the Architects and Landscape
- 42 Architects Licensing Board and modifies the board to include the duties of the
- 43 Landscape Architects Board;
- 44 • renames the Plumbers Licensing Board as the Electricians and Plumbers
- 45 Licensing Board and modifies the board to include the duties of the Electricians
- 46 Licensing Board;
- 47 • modifies the membership of the Construction Services Commission;
- 48 • renames the Board of Massage Therapy as the Board of Massage Therapy and
- 49 Acupuncture and modifies the board to include the duties of the Acupuncture
- 50 Licensing Board; and
- 51 • renames the Physicians Licensing Board as the Medical Licensing Board and
- 52 modifies the board to include the duties of the Osteopathic Physician and
- 53 Surgeon's Licensing Board and the Physician Assistant Licensing Board;
- 54 ▶ repeals on October 1, 2024, the following boards:
- 55 • Board of Occupational Therapy;
- 56 • Certified Nurse Midwife Board;

- 57 • Landscape Architects Board;
- 58 • Electricians Licensing Board;
- 59 • Acupuncture Licensing Board;
- 60 • Osteopathic Physician and Surgeon's Licensing Board;
- 61 • Physician Assistant Licensing Board;
- 62 • Utah Motor Vehicle Franchise Advisory Board;
- 63 • Utah Powersport Vehicle Franchise Advisory Board;
- 64 • Board of Bank Advisors; and
- 65 • Board of Credit Union Advisors; and
- 66 ▶ repeals on July 1, 2026, the following:
- 67 • Cannabis Research Review Board; and
- 68 • Title 53, Chapter 2c, COVID-19 Health and Economic Response Act.

69 **Money Appropriated in this Bill:**

70 None

71 **Other Special Clauses:**

72 This bill provides a special effective date.

73 This bill provides a coordination clause.

74 **Utah Code Sections Affected:**

75 AMENDS:

- 76 [4-35-102](#), as last amended by Laws of Utah 2020, Chapter 326
- 77 [4-35-105](#), as last amended by Laws of Utah 2020, Chapter 326
- 78 [7-1-203](#), as last amended by Laws of Utah 2020, Chapter 352
- 79 [13-14-102](#), as last amended by Laws of Utah 2020, Chapter 367
- 80 [13-14-104](#), as last amended by Laws of Utah 2015, Chapter 268
- 81 [13-14-106](#), as last amended by Laws of Utah 2008, Chapter 382
- 82 [13-14-107](#), as last amended by Laws of Utah 2008, Chapter 382
- 83 [13-14-201](#), as last amended by Laws of Utah 2023, Chapter 240
- 84 [13-14-202](#), as last amended by Laws of Utah 2005, Chapter 249
- 85 [13-14-203](#), as last amended by Laws of Utah 2005, Chapter 249
- 86 [13-14-301](#), as last amended by Laws of Utah 2009, Chapter 318
- 87 [13-14-302](#), as last amended by Laws of Utah 2015, Chapter 268

- 88 [13-14-303](#), as last amended by Laws of Utah 2005, Chapter 249
- 89 [13-14-304](#), as last amended by Laws of Utah 2015, Chapter 268
- 90 [13-14-305](#), as last amended by Laws of Utah 2005, Chapter 249
- 91 [13-14-306](#), as last amended by Laws of Utah 2015, Chapter 268
- 92 [13-32a-102](#), as last amended by Laws of Utah 2022, Chapter 201
- 93 [13-35-102](#), as last amended by Laws of Utah 2018, Chapter 166
- 94 [13-35-104](#), as last amended by Laws of Utah 2008, Chapter 382
- 95 [13-35-106](#), as last amended by Laws of Utah 2008, Chapter 382
- 96 [13-35-107](#), as last amended by Laws of Utah 2008, Chapter 382
- 97 [13-35-201](#), as last amended by Laws of Utah 2005, Chapter 268
- 98 [13-35-202](#), as last amended by Laws of Utah 2005, Chapter 268
- 99 [13-35-203](#), as last amended by Laws of Utah 2005, Chapter 268
- 100 [13-35-301](#), as last amended by Laws of Utah 2005, Chapter 268
- 101 [13-35-302](#), as last amended by Laws of Utah 2016, Chapter 414
- 102 [13-35-303](#), as last amended by Laws of Utah 2005, Chapter 268
- 103 [13-35-305](#), as last amended by Laws of Utah 2005, Chapter 268
- 104 [13-35-306](#), as last amended by Laws of Utah 2005, Chapter 268
- 105 [15A-1-204](#), as last amended by Laws of Utah 2023, Chapter 209
- 106 [15A-1-206](#), as enacted by Laws of Utah 2011, Chapter 14
- 107 [26B-1-239](#), as enacted by Laws of Utah 2023, Chapter 2
- 108 [26B-1-421](#), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
- 109 and amended by Laws of Utah 2023, Chapter 305
- 110 [26B-3-303](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 111 [26B-4-219](#), as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
- 112 and amended by Laws of Utah 2023, Chapter 307 and last amended by
- 113 Coordination Clause, Laws of Utah 2023, Chapter 307
- 114 [26B-4-506](#), as renumbered and amended by Laws of Utah 2023, Chapter 307
- 115 [26B-4-513](#), as renumbered and amended by Laws of Utah 2023, Chapter 307
- 116 [34-20-2](#), as last amended by Laws of Utah 2016, Chapter 370
- 117 [34-20-8](#), as last amended by Laws of Utah 2016, Chapter 348
- 118 [34-20-9](#), as last amended by Laws of Utah 1987, Chapter 161

119 [34A-1-202](#), as last amended by Laws of Utah 2013, Chapter 413
120 [35A-13-602](#), as last amended by Laws of Utah 2019, Chapter 89
121 [35A-13-604](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
122 [35A-13-605](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
123 [35A-13-606](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
124 [35A-13-608](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
125 [35A-13-609](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
126 [41-3-102](#), as last amended by Laws of Utah 2023, Chapter 63
127 [41-3-105](#), as last amended by Laws of Utah 2022, Chapter 259
128 [41-3-107](#), as renumbered and amended by Laws of Utah 1992, Chapter 234
129 [41-3-109](#), as last amended by Laws of Utah 2008, Chapter 382
130 [41-22-12](#), as last amended by Laws of Utah 2015, Chapter 412
131 [53B-6-105.7](#), as last amended by Laws of Utah 2019, Chapter 444
132 [53B-6-105.9](#), as last amended by Laws of Utah 2020, Chapter 365
133 [53B-26-301](#), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
134 [53B-26-302](#), as enacted by Laws of Utah 2020, Chapter 361
135 [53E-4-403](#), as last amended by Laws of Utah 2022, Chapter 377
136 [53E-4-405](#), as renumbered and amended by Laws of Utah 2018, Chapter 1
137 [53E-4-407](#), as last amended by Laws of Utah 2019, Chapter 186
138 [53E-4-408](#), as last amended by Laws of Utah 2020, Chapter 408
139 [53F-2-403](#), as last amended by Laws of Utah 2021, Chapter 303
140 [53F-9-203](#), as last amended by Laws of Utah 2020, Chapter 154
141 [53G-10-206](#), as enacted by Laws of Utah 2023, Chapter 294
142 [53G-10-402](#), as last amended by Laws of Utah 2020, Chapters 354, 408
143 [58-3a-102](#), as last amended by Laws of Utah 2011, Chapter 14
144 [58-3a-201](#), as enacted by Laws of Utah 1996, Chapter 260
145 [58-17b-102](#), as last amended by Laws of Utah 2023, Chapters 223, 328
146 [58-17b-605](#), as last amended by Laws of Utah 2020, Chapter 372
147 [58-17b-610.8](#), as last amended by Laws of Utah 2022, Chapter 465
148 [58-17b-625](#), as last amended by Laws of Utah 2023, Chapter 223
149 [58-17b-1005](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

- 150 [58-24b-102](#), as last amended by Laws of Utah 2014, Chapter 354
- 151 [58-24b-201](#), as enacted by Laws of Utah 2009, Chapter 220
- 152 [58-24c-104](#), as enacted by Laws of Utah 2017, Chapter 164
- 153 [58-31b-102](#), as last amended by Laws of Utah 2023, Chapters 223, 329
- 154 [58-31b-201](#), as last amended by Laws of Utah 2018, Chapter 318
- 155 [58-31e-103](#), as enacted by Laws of Utah 2017, Chapter 26
- 156 [58-37f-304](#), as last amended by Laws of Utah 2020, Chapter 147
- 157 [58-38a-201](#), as last amended by Laws of Utah 2022, Chapter 415
- 158 [58-42a-102](#), as last amended by Laws of Utah 2015, Chapter 432
- 159 [58-44a-102](#), as last amended by Laws of Utah 2012, Chapter 285
- 160 [58-47b-102](#), as last amended by Laws of Utah 2023, Chapter 225
- 161 [58-47b-201](#), as last amended by Laws of Utah 1998, Chapter 159
- 162 [58-53-102](#), as renumbered and amended by Laws of Utah 1998, Chapter 191
- 163 [58-54-201](#), as renumbered and amended by Laws of Utah 2011, Chapter 61
- 164 [58-55-102](#), as last amended by Laws of Utah 2023, Chapter 223
- 165 [58-55-103](#), as last amended by Laws of Utah 2020, Chapter 339
- 166 [58-55-201](#), as last amended by Laws of Utah 2022, Chapters 32, 413
- 167 [58-55-302](#), as last amended by Laws of Utah 2023, Chapter 223
- 168 [58-67-102](#), as last amended by Laws of Utah 2023, Chapter 2
- 169 [58-67-201](#), as last amended by Laws of Utah 2022, Chapter 284
- 170 [58-68-102](#), as last amended by Laws of Utah 2023, Chapter 2
- 171 [58-70a-102](#), as last amended by Laws of Utah 2023, Chapter 329
- 172 [58-70b-101](#), as enacted by Laws of Utah 2022, Chapter 284
- 173 [58-71-102](#), as last amended by Laws of Utah 2023, Chapters 249, 311
- 174 [58-72-102](#), as last amended by Laws of Utah 2019, Chapter 485
- 175 [58-88-205](#), as enacted by Laws of Utah 2022, Chapter 353
- 176 [63I-1-204](#), as last amended by Laws of Utah 2023, Chapters 79, 210
- 177 [63I-1-207](#), as last amended by Laws of Utah 2023, Chapter 29
- 178 [63I-1-213](#), as last amended by Laws of Utah 2022, Chapters 244, 413
- 179 [63I-1-219](#), as last amended by Laws of Utah 2022, Chapter 194
- 180 [63I-1-234](#), as last amended by Laws of Utah 2020, Chapters 154, 332

181 **63I-1-235**, as last amended by Laws of Utah 2023, Chapters 27, 52
182 **63I-1-236**, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475
183 **63I-1-241**, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335
184 **63I-1-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 30,
185 52, 133, 161, 367, and 494
186 **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)**, as last amended by Laws of Utah 2023,
187 Chapters 30, 52, 133, 161, 310, 367, and 494
188 **63I-1-253 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023,
189 Chapters 30, 52, 133, 161, 187, 310, 367, and 494
190 **63I-1-258**, as last amended by Laws of Utah 2023, Chapter 303
191 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,
192 212, 218, 249, 270, 448, 489, and 534
193 **63I-1-265**, as enacted by Laws of Utah 2020, Chapter 154
194 **63I-1-279**, as last amended by Laws of Utah 2023, Chapter 211
195 **63I-2-204**, as last amended by Laws of Utah 2023, Chapters 33, 273
196 **63I-2-209**, as last amended by Laws of Utah 2023, Chapter 33
197 **63I-2-213**, as last amended by Laws of Utah 2023, Chapter 33
198 **63I-2-226 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,
199 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter
200 329
201 **63I-2-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,
202 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023,
203 Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter
204 329
205 **63I-2-234**, as last amended by Laws of Utah 2023, Chapter 364
206 **63I-2-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7,
207 21, 33, 142, 167, 168, 380, 383, and 467
208 **63I-2-253 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7, 21,
209 33, 142, 167, 168, 310, 380, 383, and 467
210 **63I-2-258**, as last amended by Laws of Utah 2020, Chapter 354
211 **63I-2-263**, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530

- 212 [65A-8-302](#), as last amended by Laws of Utah 2009, Chapter 344
- 213 [65A-8-304](#), as renumbered and amended by Laws of Utah 2007, Chapter 136
- 214 [76-7-314](#), as last amended by Laws of Utah 2023, Chapters 301, 330
- 215 [76-7-328](#), as enacted by Laws of Utah 2004, Chapter 272
- 216 [79-2-201](#), as last amended by Laws of Utah 2023, Chapters 34, 205
- 217 [79-4-102](#), as last amended by Laws of Utah 2021, Chapter 280

218 ENACTS:

- 219 [63C-1-103](#), Utah Code Annotated 1953
- 220 [63I-2-207](#), Utah Code Annotated 1953

221 REPEALS:

- 222 [4-2-601](#), as enacted by Laws of Utah 2018, Chapter 51
- 223 [4-2-602](#), as last amended by Laws of Utah 2022, Chapter 67
- 224 [4-2-603](#), as enacted by Laws of Utah 2018, Chapter 51
- 225 [4-2-604](#), as enacted by Laws of Utah 2018, Chapter 51
- 226 [4-35-103](#), as last amended by Laws of Utah 2020, Chapter 326
- 227 [13-32a-112](#), as last amended by Laws of Utah 2022, Chapter 201
- 228 [19-2a-102](#), as last amended by Laws of Utah 2021, Chapter 69
- 229 [32B-2-210](#), as last amended by Laws of Utah 2022, Chapter 447
- 230 [34-20-3](#), as last amended by Laws of Utah 2020, Chapters 352, 373
- 231 [34-20-4](#), as last amended by Laws of Utah 1997, Chapter 375
- 232 [34-20-5](#), as last amended by Laws of Utah 2011, Chapter 297
- 233 [34-20-6](#), as enacted by Laws of Utah 1969, Chapter 85
- 234 [34-20-10](#), as last amended by Laws of Utah 2008, Chapter 382
- 235 [34-20-11](#), as last amended by Laws of Utah 1997, Chapter 296
- 236 [34-20-12](#), as enacted by Laws of Utah 1969, Chapter 85
- 237 [34A-2-107.3](#), as enacted by Laws of Utah 2021, Chapter 82
- 238 [35A-13-404](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
- 239 [35A-13-603](#), as last amended by Laws of Utah 2020, Chapter 365
- 240 [36-29-108](#), as last amended by Laws of Utah 2023, Chapter 112
- 241 [41-3-106](#), as last amended by Laws of Utah 2010, Chapters 286, 324
- 242 [53B-6-105.5](#), as last amended by Laws of Utah 2020, Chapter 365

- 243 [53B-26-303](#), as last amended by Laws of Utah 2021, Chapter 282
- 244 [53E-4-402](#), as last amended by Laws of Utah 2019, Chapter 186
- 245 [53E-4-404](#), as last amended by Laws of Utah 2019, Chapter 186
- 246 [63M-7-801](#), as enacted by Laws of Utah 2023, Chapter 155
- 247 [63M-7-802](#), as enacted by Laws of Utah 2023, Chapter 155
- 248 [63M-7-803](#), as enacted by Laws of Utah 2023, Chapter 155
- 249 [65A-8-306](#), as last amended by Laws of Utah 2010, Chapter 286
- 250 [79-4-301](#), as last amended by Laws of Utah 2021, Chapter 280
- 251 [79-4-302](#), as last amended by Laws of Utah 2021, Chapter 280
- 252 [79-4-303](#), as renumbered and amended by Laws of Utah 2009, Chapter 344
- 253 [79-4-304](#), as last amended by Laws of Utah 2022, Chapter 140
- 254 [79-4-305](#), as renumbered and amended by Laws of Utah 2009, Chapter 344
- 255 [79-4-502](#), as last amended by Laws of Utah 2021, Chapter 280

Utah Code Sections Affected By Coordination Clause:

- 256 [58-17b-605](#), as last amended by Laws of Utah 2020, Chapter 372

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

Section 1. Section **4-35-102** is amended to read:

4-35-102. Definitions.

As used in this chapter:

~~[(1) "Committee" means the Decision and Action Committee created by this chapter.]~~

~~[(2)]~~ (1) "Department" means the Department of Agriculture and Food.

~~[(3)]~~ (2) "Fund" means the Plant Pest Fund created by Section [4-35-106](#).

~~[(4)]~~ (3) "Plant pest" means a biological agent that the commissioner determines to be a threat to agriculture in the state as described in Subsection [4-2-103\(1\)\(k\)\(i\)](#).

Section 2. Section **4-35-105** is amended to read:

4-35-105. Commissioner to act upon declaration of a plant pest emergency.

(1) The commissioner initiates operations to control a plant pest in the designated area or upon declaration of an infestation emergency.

(2) The commissioner ~~[and the members of the committee]~~ may suspend or terminate control operations upon a determination that the operations will not significantly reduce the

274 plant pest population in the designated emergency area.

275 Section 3. Section 7-1-203 is amended to read:

276 **7-1-203. Board of Financial Institutions.**

277 (1) There is created a Board of Financial Institutions consisting of the commissioner
278 and the following five members, who shall be qualified by training and experience in their
279 respective fields and shall be appointed by the governor with the advice and consent of the
280 Senate:

281 (a) one representative from the commercial banking business;

282 (b) one representative from the consumer lending, money services business, or escrow
283 agency business;

284 (c) one representative from the industrial bank business;

285 (d) one representative from the credit union business; and

286 (e) one representative of the general public who, as a result of education, training,
287 experience, or interest, is well qualified to consider economic and financial issues and data as
288 they may affect the public interest in the soundness of the financial systems of this state.

289 (2) The commissioner shall act as chair.

290 (3) (a) A member of the board shall be a resident of this state.

291 ~~[(b) No more than three members of the board may be from the same political party.]~~

292 ~~[(c)]~~ (b) No more than two members of the board may be connected with the same
293 financial institution or its holding company.

294 ~~[(d)]~~ (c) A member may not participate in any matter involving an institution with
295 which the member has a conflict of interest.

296 (4) (a) Except as required by Subsection (4)(b), the terms of office shall be four years
297 each expiring on July 1.

298 (b) The governor shall, at the time of appointment or reappointment, adjust the length
299 of terms to ensure that the terms of board members are staggered so that approximately half of
300 the board is appointed every two years.

301 (c) A member serves until the member's successor is appointed and qualified.

302 (d) When a vacancy occurs in the membership for any reason, the governor shall
303 appoint a replacement for the unexpired term.

304 (5) (a) The board shall meet at least quarterly on a date the board sets.

305 (b) The commissioner or any two members of the board may call additional meetings.

306 (c) Four members constitute a quorum for the transaction of business.

307 (d) Actions of the board require a vote of a majority of those present when a quorum is
308 present.

309 (e) A meeting of the board and records of the board's proceedings are subject to Title
310 52, Chapter 4, Open and Public Meetings Act, except for discussion of confidential
311 information pertaining to a particular financial institution.

312 (6) (a) A member of the board shall, by sworn or written statement filed with the
313 commissioner, disclose any position of employment or ownership interest that the member has
314 with respect to any institution subject to the jurisdiction of the department.

315 (b) The member shall:

316 (i) file the statement required by this Subsection (6) when first appointed to the board;
317 and

318 (ii) subsequently file amendments to the statement if there is any material change in the
319 matters covered by the statement.

320 (7) A member may not receive compensation or benefits for the member's service, but
321 may receive per diem and travel expenses in accordance with:

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

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

324 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
325 63A-3-107.

326 (8) The board shall:

327 (a) advise the commissioner with respect to:

328 ~~[(a)]~~ (i) the exercise of the commissioner's duties, powers, and responsibilities under
329 this title; and

330 ~~[(b)]~~ (ii) the organization and performance of the department and its employees[-];

331 (b) advise the governor and the commissioner on problems relating to financial
332 institutions and foster the interest and cooperation of financial institutions in the improvement
333 of their services to the people of the state; and

334 ~~[(9)]~~ (c) ~~[The board shall]~~ recommend annually to the governor and the Legislature a
335 budget for the requirements of the department in carrying out its duties, functions, and

336 responsibilities under this title.

337 Section 4. Section ~~13-14-102~~ is amended to read:

338 **13-14-102. Definitions.**

339 As used in this chapter:

340 [~~(1)~~ "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory
341 Board created in Section ~~13-14-103~~.]

342 [~~(2)~~] (1) "Affected municipality" means an incorporated city or town:

343 (a) that is located in the notice area; and

344 (b) (i) within which a franchisor is proposing a new or relocated dealership that is
345 within the relevant market area of an existing dealership of the same line-make owned by
346 another franchisee; or

347 (ii) within which an existing dealership is located and a franchisor is proposing a new
348 or relocated dealership within the relevant market area of that existing dealership of the same
349 line-make.

350 [~~(3)~~] (2) "Affiliate" has the meaning set forth in Section ~~16-10a-102~~.

351 [~~(4)~~] (3) "Aftermarket product" means any product or service not included in the
352 franchisor's suggested retail price of the new motor vehicle, as that price appears on the label
353 required by 15 U.S.C. Sec. 1232(f).

354 [~~(5)~~] (4) "Dealership" means a site or location in this state:

355 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and

356 (b) that is identified as a new motor vehicle dealer's principal place of business for
357 licensing purposes under Section ~~41-3-204~~.

358 [~~(6)~~] (5) "Department" means the Department of Commerce.

359 [~~(7)~~] (6) "Do-not-drive order" means an order issued by a franchisor that instructs an
360 individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

361 [~~(8)~~] (7) "Executive director" means the executive director of the Department of
362 Commerce.

363 [~~(9)~~] (8) (a) "Franchise" or "franchise agreement" means a written agreement, or in the
364 absence of a written agreement, then a course of dealing or a practice for a definite or indefinite
365 period, in which:

366 (i) a person grants to another person a license to use a trade name, trademark, service

367 mark, or related characteristic; and

368 (ii) a community of interest exists in the marketing of new motor vehicles, new motor
369 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or
370 retail.

371 (b) "Franchise" or "franchise agreement" includes a sales and service agreement.

372 ~~[(10)]~~ (9) "Franchisee" means a person with whom a franchisor has agreed or
373 permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles
374 manufactured, produced, represented, or distributed by the franchisor.

375 ~~[(11)]~~ (10) "Franchisor" means a person who has, in writing or in practice, agreed with
376 or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured,
377 produced, assembled, represented, or distributed by the franchisor, and includes:

378 (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

379 (b) an intermediate distributor; and

380 (c) an agent, officer, or field or area representative of the franchisor.

381 ~~[(12)]~~ (11) "Lead" means the referral by a franchisor to a franchisee of a potential
382 customer whose contact information was obtained from a franchisor's program, process, or
383 system designed to generate referrals for the purchase or lease of a new motor vehicle, or for
384 service work related to the franchisor's vehicles.

385 ~~[(13)]~~ (12) "Line-make" means:

386 (a) for other than a recreational vehicle, the motor vehicles that are offered for sale,
387 lease, or distribution under a common name, trademark, service mark, or brand name of the
388 franchisor; or

389 (b) for a recreational vehicle, a specific series of recreational vehicle product that:

390 (i) is identified by a common series trade name or trademark;

391 (ii) is targeted to a particular market segment, as determined by decor, features,
392 equipment, size, weight, and price range;

393 (iii) has a length and floor plan that distinguish the recreational vehicle from other
394 recreational vehicles with substantially the same decor, features, equipment, size, weight, and
395 price;

396 (iv) belongs to a single, distinct classification of recreational vehicle product type
397 having a substantial degree of commonality in the construction of the chassis, frame, and body;

398 and

399 (v) a franchise agreement authorizes a dealer to sell.

400 [~~(14)~~] (13) "Mile" means 5,280 feet.

401 [~~(15)~~] (14) "Motor home" means a self-propelled vehicle, primarily designed as a

402 temporary dwelling for travel, recreational, or vacation use.

403 [~~(16)~~] (15) (a) "Motor vehicle" means:

404 (i) except as provided in Subsection [~~(16)(b)~~] (15)(b), a trailer;

405 (ii) a travel trailer;

406 (iii) except as provided in Subsection [~~(16)(b)~~] (15)(b), a motor vehicle as defined in

407 Section 41-3-102;

408 (iv) a semitrailer as defined in Section 41-1a-102; and

409 (v) a recreational vehicle.

410 (b) "Motor vehicle" does not include:

411 (i) a motorcycle as defined in Section 41-1a-102;

412 (ii) an off-highway vehicle as defined in Section 41-3-102;

413 (iii) a small trailer;

414 (iv) a trailer that:

415 (A) is not designed for human habitation; and

416 (B) has a gross vehicle weight rating of less than 26,000 pounds;

417 (v) a mobile home as defined in Section 41-1a-102;

418 (vi) a trailer of 750 pounds or less unladen weight; and

419 (vii) a farm tractor or other machine or tool used in the production, harvesting, or care

420 of a farm product.

421 [~~(17)~~] (16) "New motor vehicle" means a motor vehicle that:

422 (a) has never been titled or registered; and

423 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven

424 less than 7,500 miles.

425 [~~(18)~~] (17) "New motor vehicle dealer" is a person who is licensed under Subsection

426 41-3-202(1) to sell new motor vehicles.

427 [~~(19)~~] (18) "Notice" or "notify" includes both traditional written communications and

428 all reliable forms of electronic communication unless expressly prohibited by statute or rule.

429 [~~(20)~~] (19) "Notice area" means the geographic area that is:

430 (a) within a radius of at least six miles and no more than 10 miles from the site of an
431 existing dealership; and

432 (b) located within a county with a population of at least 225,000.

433 [~~(21)~~] (20) "Primary market area" means:

434 (a) for an existing dealership, the geographic area established by the franchisor that the
435 existing dealership is intended to serve; or

436 (b) for a new or relocated dealership, the geographic area proposed by the franchisor
437 that the new or relocated dealership is intended to serve.

438 [~~(22)~~] (21) "Recall" means a determination by a franchisor or the National Highway
439 Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a
440 federal safety or emissions standard.

441 [~~(23)~~] (22) "Recall repair" means any diagnostic work, labor, or part necessary to
442 resolve an issue that is the basis of a recall.

443 [~~(24)~~] (23) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,
444 primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is
445 either self-propelled or pulled by another vehicle.

446 (b) "Recreational vehicle" includes:

447 (i) a travel trailer;

448 (ii) a camping trailer;

449 (iii) a motor home;

450 (iv) a fifth wheel trailer; and

451 (v) a van.

452 [~~(25)~~] (24) (a) "Relevant market area," except with respect to recreational vehicles,
453 means:

454 (i) as applied to an existing dealership that is located in a county with a population of
455 less than 225,000:

456 (A) the county in which the existing dealership is located; and

457 (B) the area within a 15-mile radius of the existing dealership; or

458 (ii) as applied to an existing dealership that is located in a county with a population of
459 225,000 or more, the area within a 10-mile radius of the existing dealership.

460 (b) "Relevant market area," with respect to recreational vehicles, means:

461 (i) the county in which the dealership is to be established or relocated; and

462 (ii) the area within a 35-mile radius from the site of the existing dealership.

463 ~~[(26)]~~ (25) "Sale, transfer, or assignment" means any disposition of a franchise or an
464 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,
465 exchange, lease, or license.

466 ~~[(27)]~~ (26) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
467 includes any reliable form of communication.

468 ~~[(28)]~~ (27) "Site-control agreement" means an agreement, however denominated and
469 regardless of the agreement's form or of the parties to the agreement, that has the effect of:

470 (a) controlling in any way the use and development of the premises upon which a
471 franchisee's business operations are located;

472 (b) requiring a franchisee to establish or maintain an exclusive dealership facility on
473 the premises upon which the franchisee's business operations are located; or

474 (c) restricting the ability of the franchisee or, if the franchisee leases the dealership
475 premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of
476 some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease,
477 right of first refusal to purchase or lease, option to purchase or lease, or any similar
478 arrangement.

479 ~~[(29)]~~ (28) "Small trailer" means the same as that term is defined in Section [41-3-102](#).

480 ~~[(30)]~~ (29) "Stop-sale order" means an order issued by a franchisor that prohibits a
481 franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make,
482 which then or thereafter is in the franchisee's inventory, due to a recall.

483 ~~[(31)]~~ (30) "Trailer" means the same as that term is defined in Section [41-3-102](#).

484 ~~[(32)]~~ (31) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
485 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
486 vacation use that does not require a special highway movement permit when drawn by a
487 self-propelled motor vehicle.

488 ~~[(33)]~~ (32) "Used motor vehicle" means a motor vehicle that:

489 (a) has been titled and registered to a purchaser other than a franchisee; or

490 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven

491 7,500 or more miles.

492 ~~[(34)]~~ (33) "Value of a used motor vehicle" means the average trade-in value for a used
493 motor vehicle of the same year, make, and model as reported in a recognized, independent
494 third-party used motor vehicle guide.

495 ~~[(35)]~~ (34) "Written," "write," "in writing," or other variations of those terms shall
496 include all reliable forms of electronic communication.

497 Section 5. Section **13-14-104** is amended to read:

498 **13-14-104. Powers and duties of the executive director.**

499 ~~[(1)(a) Except as provided in Subsection 13-14-106(3), the advisory board shall make
500 recommendations to the executive director on the administration and enforcement of this
501 chapter, including adjudicative and rulemaking proceedings.]~~

502 ~~[(b) The executive director shall:]~~

503 ~~[(i) consider the advisory board's recommendations; and]~~

504 ~~[(ii) issue any rules or final decisions by the department.]~~

505 ~~[(2)]~~ (1) The executive director~~[-in consultation with the advisory board;]~~ shall:

506 (a) administer and enforce this chapter; and

507 (b) make rules for the administration of this chapter in accordance with Title 63G,
508 Chapter 3, Utah Administrative Rulemaking Act.

509 ~~[(3)]~~ (2) (a) An adjudicative proceeding under this chapter shall be conducted in
510 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

511 (b) In an adjudicative proceeding under this chapter, any order issued by the executive
512 director~~[:]~~

513 ~~[(i)]~~ shall comply with Section 63G-4-208, whether the proceeding is a formal or an
514 informal adjudicative proceeding under ~~[Title 63G, Chapter 4, Administrative Procedures Act;~~
515 ~~and]~~ Title 63G, Chapter 4, Administrative Procedures Act.

516 ~~[(ii) if the order modifies or rejects a finding of fact in a recommendation from the
517 advisory board, shall be made on the basis of information learned from the executive
518 director's:]~~

519 ~~[(A) personal attendance at the hearing; or]~~

520 ~~[(B) review of the record developed at the hearing.]~~

521 ~~[(4)]~~ (3) The executive director's decision under this section shall be made available to

522 the public.

523 Section 6. Section **13-14-106** is amended to read:

524 **13-14-106. Administrative proceedings commenced by the agency.**

525 (1) Except as provided in Subsection (3), after a hearing [~~and after receipt of the~~
526 ~~advisory board's recommendation~~], if the executive director finds that a person has violated this
527 chapter or any rule made under this chapter, the executive director may:

528 (a) issue a cease and desist order; and

529 (b) assess an administrative fine.

530 (2) (a) In determining the amount and appropriateness of an administrative fine under
531 Subsection (1), the executive director shall consider:

532 (i) the gravity of the violation;

533 (ii) any history of previous violations; and

534 (iii) any attempt made by the person to retaliate against another person for seeking
535 relief under this chapter or other federal or state law relating to the motor vehicle industry.

536 (b) In addition to any other action permitted under Subsection (1), the department may
537 file an action with a court seeking to enforce the executive director's order and pursue the
538 executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a
539 person violates an order of the executive director.

540 (3) (a) In addition to the grounds for issuing an order on an emergency basis listed in
541 Subsection [63G-4-502\(1\)](#), the executive director may issue an order on an emergency basis if
542 the executive director determines that irreparable damage is likely to occur if immediate action
543 is not taken.

544 (b) In issuing an emergency order under Subsection (3)(a) the executive director shall
545 comply with the requirements of Subsections [63G-4-502\(2\)](#) and (3).

546 Section 7. Section **13-14-107** is amended to read:

547 **13-14-107. Administrative proceedings -- Request for agency action.**

548 (1) (a) A person may commence an adjudicative proceeding in accordance with this
549 chapter and Title 63G, Chapter 4, Administrative Procedures Act to:

550 (i) remedy a violation of this chapter;

551 (ii) obtain approval of an act regulated by this chapter; or

552 (iii) obtain any determination that this chapter specifically authorizes that person to

553 request.

554 (b) A person shall commence an adjudicative proceeding by filing a request for agency
555 action in accordance with Section 63G-4-201.

556 (2) ~~[After receipt of the advisory board's recommendation, the]~~ The executive director
557 shall apportion in a fair and equitable manner between the parties any costs of the adjudicative
558 proceeding, including reasonable attorney fees.

559 Section 8. Section 13-14-201 is amended to read:

560 **13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.**

561 (1) A franchisor may not in this state:

562 (a) except as provided in Subsection (3), require a franchisee to order or accept
563 delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise
564 required by law that is not voluntarily ordered by the franchisee;

565 (b) require a franchisee to:

566 (i) participate monetarily in any advertising campaign; or

567 (ii) contest, or purchase any promotional materials, display devices, or display
568 decorations or materials;

569 (c) require a franchisee to change the capital structure of the franchisee's dealership or
570 the means by or through which the franchisee finances the operation of the franchisee's
571 dealership, if the dealership at all times meets reasonable capital standards determined by and
572 applied in a nondiscriminatory manner by the franchisor;

573 (d) require a franchisee to refrain from participating in the management of, investment
574 in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

575 (i) maintains a reasonable line of credit for each make or line of vehicles; and

576 (ii) complies with reasonable capital and facilities requirements of the franchisor;

577 (e) require a franchisee to prospectively agree to a release, assignment, novation,
578 waiver, or estoppel that would:

579 (i) relieve a franchisor from any liability, including notice and hearing rights imposed
580 on the franchisor by this chapter; or

581 (ii) require any controversy between the franchisee and a franchisor to be referred to a
582 third party if the decision by the third party would be binding;

583 (f) require a franchisee to change the location of the principal place of business of the

584 franchisee's dealership or make any substantial alterations to the dealership premises, if the
585 change or alterations would be unreasonable or cause the franchisee to lose control of the
586 premises or impose any other unreasonable requirement related to the facilities or premises;

587 (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an
588 advertising association;

589 (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the
590 franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to
591 cancel a franchise agreement or other contractual agreement or understanding existing between
592 the franchisor and franchisee;

593 (i) adopt, change, establish, enforce, modify, or implement a plan or system for the
594 allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to the
595 franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable,
596 including a plan or system that imposes a vehicle sales objective, goal, or quota on a
597 franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance,
598 without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles
599 in a timely manner from the franchisor on commercially reasonable terms;

600 (j) increase the price of any new motor vehicle that the franchisee has ordered from the
601 franchisor and for which there exists at the time of the order a bona fide sale to a retail
602 purchaser if the order was made prior to the franchisee's receipt of an official written price
603 increase notification;

604 (k) fail to indemnify and hold harmless the franchisor's franchisee against any
605 judgment for damages or settlement approved in writing by the franchisor:

606 (i) including court costs and attorney fees arising out of actions, claims, or proceedings
607 including those based on:

608 (A) strict liability;

609 (B) negligence;

610 (C) misrepresentation;

611 (D) express or implied warranty;

612 (E) revocation as described in Section [70A-2-608](#); or

613 (F) rejection as described in Section [70A-2-602](#); and

614 (ii) to the extent the judgment or settlement relates to alleged defective or negligent

615 actions by the franchisor;

616 (l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest
617 the establishment or relocation of a same line-make franchisee in the relevant market area of
618 the affected franchisee;

619 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of
620 new motor vehicles of each make, series, and model needed by the franchisee to achieve a
621 percentage of total new vehicle sales of each make, series, and model equitably related to the
622 total new vehicle production or importation being achieved nationally at the time of the order
623 by each make, series, and model covered under the franchise agreement;

624 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
625 dealer facility or facilities, including by:

626 (i) requiring or otherwise coercing a franchisee to exclude or remove from the
627 franchisee's facility operations the selling or servicing of a line-make of vehicles for which the
628 franchisee has a franchise agreement to utilize the facilities; or

629 (ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or
630 line-make in an existing facility owned or occupied by the franchisee that includes the selling
631 or servicing of another franchise or line-make at the facility provided that the franchisee gives
632 the franchisor written notice of the franchise co-location;

633 (o) fail to include in any franchise agreement or other agreement governing a
634 franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise
635 the following language or language to the effect that: "If any provision in this agreement
636 contravenes the laws or regulations of any state or other jurisdiction where this agreement is to
637 be performed, or provided for by such laws or regulations, the provision is considered to be
638 modified to conform to such laws or regulations, and all other terms and provisions shall
639 remain in full force.";

640 (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to
641 purchasers who acquire the vehicle in this state except through a franchisee with whom the
642 franchisor has established a written franchise agreement, if the franchisor's trade name,
643 trademark, service mark, or related characteristic is an integral element in the distribution, sale,
644 offer for sale, or lease;

645 (q) engage in the distribution or sale of a recreational vehicle that is manufactured,

646 rented, sold, or offered for sale in this state without being constructed in accordance with the
647 standards set by the American National Standards Institute for recreational vehicles and
648 evidenced by a seal or plate attached to the vehicle;

649 (r) except as provided in Subsection (2), authorize or permit a person to perform
650 warranty service repairs on motor vehicles, except warranty service repairs:

651 (i) by a franchisee with whom the franchisor has entered into a franchise agreement for
652 the sale and service of the franchisor's motor vehicles; or

653 (ii) on owned motor vehicles by a person or government entity who has purchased new
654 motor vehicles pursuant to a franchisor's fleet discount program;

655 (s) fail to provide a franchisee with a written franchise agreement;

656 (t) (i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other
657 provisions of this chapter:

658 (A) unreasonably fail or refuse to offer to its same line-make franchised dealers all
659 models manufactured for that line-make; or

660 (B) unreasonably require a dealer to:

661 (I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or

662 (II) purchase unreasonable advertising displays or other materials as a prerequisite to
663 receiving a model or series of vehicles; and

664 (ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a
665 line-make between motor home and travel trailer products;

666 (u) except as provided in Subsection (6), directly or indirectly:

667 (i) own an interest in a new motor vehicle dealer or dealership;

668 (ii) operate or control a new motor vehicle dealer or dealership;

669 (iii) act in the capacity of a new motor vehicle dealer, as defined in Section [13-14-102](#);

670 or

671 (iv) operate a motor vehicle service facility;

672 (v) fail to timely pay for all reimbursements to a franchisee for incentives and other
673 payments made by the franchisor;

674 (w) directly or indirectly influence or direct potential customers to franchisees in an
675 inequitable manner, including:

676 (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of

677 the franchisee's products or services in an amount exceeding the actual cost of the referral;
678 (ii) giving a customer referral to a franchisee on the condition that the franchisee agree
679 to sell the vehicle at a price fixed by the franchisor; or
680 (iii) advising a potential customer as to the amount that the potential customer should
681 pay for a particular product;
682 (x) fail to provide comparable delivery terms to each franchisee for a product of the
683 franchisor, including the time of delivery after the placement of an order by the franchisee;
684 (y) if a franchisor provides personnel training to the franchisor's franchisees,
685 unreasonably fail to make that training available to each franchisee on proportionally equal
686 terms;
687 (z) condition a franchisee's eligibility to participate in a sales incentive program on the
688 requirement that a franchisee use the financing services of the franchisor or a subsidiary or
689 affiliate of the franchisor for inventory financing;
690 (aa) make available for public disclosure, except with the franchisee's permission or
691 under subpoena or in any administrative or judicial proceeding in which the franchisee or the
692 franchisor is a party, any confidential financial information regarding a franchisee, including:
693 (i) monthly financial statements provided by the franchisee;
694 (ii) the profitability of a franchisee; or
695 (iii) the status of a franchisee's inventory of products;
696 (bb) use any performance standard, incentive program, or similar method to measure
697 the performance of franchisees unless the standard or program:
698 (i) is designed and administered in a fair, reasonable, and equitable manner;
699 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;
700 and
701 (iii) is, upon request by a franchisee, disclosed and explained in writing to the
702 franchisee, including:
703 (A) how the standard or program is designed;
704 (B) how the standard or program will be administered; and
705 (C) the types of data that will be collected and used in the application of the standard or
706 program;
707 (cc) other than sales to the federal government, directly or indirectly, sell, lease, offer

708 to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor,
709 except through a franchised new motor vehicle dealer;

710 (dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable
711 operating requirements, except that this Subsection (1)(dd) may not be construed to limit the
712 right of a financing subsidiary to engage in business practices in accordance with the usage of
713 trade in retail and wholesale motor vehicle financing;

714 (ee) condition the franchisor's participation in co-op advertising for a product category
715 on the franchisee's participation in any program related to another product category or on the
716 franchisee's achievement of any level of sales in a product category other than that which is the
717 subject of the co-op advertising;

718 (ff) except as provided in Subsections (7) through (9), discriminate against a franchisee
719 in the state in favor of another franchisee of the same line-make in the state:

720 (i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual
721 price, including the price for vehicle transportation, than the actual price at which the same
722 model similarly equipped is offered to or is made available by the franchisor to another
723 franchisee in the state during a similar time period;

724 (ii) except as provided in Subsection (8), by using a promotional program or device or
725 an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor
726 vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle
727 to one franchisee in the state at a higher price, including the price for vehicle transportation,
728 than the price at which the same model similarly equipped is offered or is made available by
729 the franchisor to another franchisee in the state during a similar time period;

730 (iii) except as provided in Subsection (9), by failing to provide or direct a lead in a fair,
731 equitable, and timely manner; or

732 (iv) if the franchisee complies with any reasonable requirement concerning the sale of
733 new motor vehicles, by using or considering the performance of any of its franchisees located
734 in this state relating to the sale of the franchisor's new motor vehicles in determining the:

735 (A) dealer's eligibility to purchase program, certified, or other used motor vehicles
736 from the franchisor;

737 (B) volume, type, or model of program, certified, or other used motor vehicles the
738 dealer is eligible to purchase from the franchisor;

739 (C) price of any program, certified, or other used motor vehicles that the dealer is
740 eligible to purchase from the franchisor; or

741 (D) availability or amount of any discount, credit, rebate, or sales incentive the dealer
742 is eligible to receive from the manufacturer for the purchase of any program, certified, or other
743 motor vehicle offered for sale by the franchisor;

744 (gg) (i) take control over funds owned or under the control of a franchisee based on the
745 findings of a warranty audit, sales incentive audit, or recall repair audit, unless the following
746 conditions are satisfied:

747 (A) the franchisor fully identifies in writing the basis for the franchisor's claim or
748 charge back arising from the audit, including notifying the franchisee that the franchisee has 20
749 days from the day on which the franchisee receives the franchisor's claim or charge back to
750 assert a protest in writing to the franchisor identifying the basis for the protest;

751 (B) the franchisee's protest shall inform the franchisor that the protest shall be
752 submitted to a mediator in the state who is identified by name and address in the franchisee's
753 notice to the franchisor;

754 (C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no
755 later than 30 days after the day on which the franchisor receives the franchisee's protest of a
756 claim or charge back;

757 (D) if mediation does not lead to a resolution of the protest, the protest shall be set for
758 binding arbitration in the same venue in which the mediation occurred;

759 (E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

760 (I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

761 (II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be
762 held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

763 (F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair
764 audits, and sales incentive audits;

765 (G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably
766 believes that the amount of the claim or charge back is related to a fraudulent act by the
767 franchisee; and

768 (H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall
769 be shared equally by the franchisor and the franchisee; or

- 770 (ii) require a franchisee to execute a written waiver of the requirements of Subsection
771 (1)(gg)(i);
- 772 (hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product
773 manufactured by the franchisor, or obtained by the franchisor for resale from a third-party
774 supplier and the franchisor or its affiliate derives a financial benefit from the franchisee's sale
775 or purchase of the aftermarket product as a condition to obtaining preferential status from the
776 franchisor;
- 777 (ii) through an affiliate, take any action that would otherwise be prohibited under this
778 chapter;
- 779 (jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the
780 cost of a warranty repair for which the franchisor pays the franchisee;
- 781 (kk) except as provided by the audit provisions of this chapter, take an action designed
782 to recover a cost related to a recall, including:
- 783 (i) imposing a fee, surcharge, or other charge on a franchisee;
784 (ii) reducing the compensation the franchisor owes to a franchisee;
785 (iii) removing the franchisee from an incentive program; or
786 (iv) reducing the amount the franchisor owes to a franchisee under an incentive
787 program;
- 788 (ll) directly or indirectly condition any of the following actions on the willingness of a
789 franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter
790 into a site-control agreement:
- 791 (i) the awarding of a franchise to a prospective new franchisee;
792 (ii) the addition of a line-make or franchise to an existing franchisee;
793 (iii) the renewal of an existing franchisee's franchise;
794 (iv) the approval of the relocation of an existing franchisee's dealership facility, unless
795 the franchisor pays, and the franchisee voluntarily accepts, additional specified cash
796 consideration to facilitate the relocation; or
797 (v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor
798 pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the
799 sale or transfer;
- 800 (mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or

801 accessories that:

802 (i) were specified for and sold to the franchisee under an automated ordering system
803 required by the franchisor; and

804 (ii) (A) are in good, resalable condition; and

805 (B) (I) the franchisee received within the previous 12 months; or

806 (II) are listed in the current parts catalog;

807 (nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's
808 right, by threatening:

809 (i) to impose a detriment upon the franchisee's business; or

810 (ii) to withhold any entitlement, benefit, or service:

811 (A) to which the franchisee is entitled under a franchise agreement, contract, statute,
812 rule, regulation, or law; or

813 (B) that has been granted to more than one other franchisee of the franchisor in the
814 state;

815 (oo) coerce a franchisee to establish, or provide by agreement, program, or incentive
816 provision that a franchisee must establish, a price at which the franchisee is required to sell a
817 product or service that is:

818 (i) sold in connection with the franchisee's sale of a motor vehicle; and

819 (ii) (A) in the case of a product, not manufactured, provided, or distributed by the
820 franchisor or an affiliate; or

821 (B) in the case of a service, not provided by the franchisor or an affiliate;

822 (pp) except as necessary to comply with a health or safety law, or to comply with a
823 technology requirement compliance with which is necessary to sell or service a motor vehicle
824 that the franchisee is authorized or licensed by the franchisor to sell or service, coerce or
825 require a franchisee, through a penalty or other detriment to the franchisee's business, to:

826 (i) construct a new dealer facility or materially alter or remodel an existing dealer
827 facility before the date that is 10 years after the date the construction of the new dealer facility
828 at that location was completed, if the construction substantially complied with the franchisor's
829 brand image standards or plans that the franchisor provided or approved; or

830 (ii) materially alter or remodel an existing dealer facility before the date that is 10 years
831 after the date the previous alteration or remodeling at that location was completed, if the

832 previous alteration or remodeling substantially complied with the franchisor's brand image
833 standards or plans that the franchisor provided or approved;

834 (qq) notwithstanding the terms of a franchise agreement providing otherwise and
835 subject to Subsection (14):

836 (i) coerce or require a franchisee, including by agreement, program, or incentive
837 provision, to purchase a good or service, relating to a facility construction, alteration, or
838 remodel, from a vendor that a franchisor or its affiliate selects, identifies, or designates, without
839 allowing the franchisee, after consultation with the franchisor, to obtain a like good or service
840 of substantially similar quality from a vendor that the franchisee chooses; or

841 (ii) coerce or require a franchisee, including by agreement, program, or incentive
842 provision, to lease a sign or other franchisor image element from the franchisor or an affiliate
843 without providing the franchisee the right to purchase a sign or other franchisor image element
844 of like kind and quality from a vendor that the franchisee chooses;

845 (rr) when providing a new motor vehicle to a franchisee for offer or sale to the public,
846 fail to provide to the franchisee a written disclosure that may be provided to a potential buyer
847 of the new motor vehicle of each accessory or function of the vehicle that may be initiated,
848 updated, changed, or maintained by the franchisor or affiliate through over the air or remote
849 means, and the charge to the customer at the time of sale for such initiation, update, change, or
850 maintenance; or

851 (ss) fail to provide reasonable compensation to a franchisee for assistance requested by
852 a customer whose vehicle was subjected to an over the air or remote change, repair, or update
853 to any part, system, accessory, or function by the franchisor or affiliate and performed at the
854 franchisee's dealership in order to satisfy the customer.

855 (2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to
856 perform warranty service repairs on motor vehicles if the warranty services ~~[is]~~ are for a
857 franchisor of recreational vehicles.

858 (3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee
859 carry a reasonable inventory of:

- 860 (a) new motor vehicle models offered for sale by the franchisor; and
- 861 (b) parts to service the repair of the new motor vehicles.

862 (4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee

863 maintain separate sales personnel or display space.

864 (5) Upon the written request of any franchisee, a franchisor shall disclose in writing to
865 the franchisee the basis on which new motor vehicles, parts, and accessories are allocated,
866 scheduled, and delivered among the franchisor's dealers of the same line-make.

867 (6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a
868 period not to exceed 12 months if:

869 (i) (A) the person from whom the franchisor acquired the interest in or control of the
870 new motor vehicle dealership was a franchised new motor vehicle dealer; and

871 (B) the franchisor's interest in the new motor vehicle dealership is for sale at a
872 reasonable price and on reasonable terms and conditions; or

873 (ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose
874 of broadening the diversity of its dealer body and facilitating the ownership of a new motor
875 vehicle dealership by a person who:

876 (A) is part of a group that has been historically underrepresented in the franchisor's
877 dealer body;

878 (B) would not otherwise be able to purchase a new motor vehicle dealership;

879 (C) has made a significant investment in the new motor vehicle dealership which is
880 subject to loss;

881 (D) has an ownership interest in the new motor vehicle dealership; and

882 (E) operates the new motor vehicle dealership under a plan to acquire full ownership of
883 the dealership within a reasonable period of time and under reasonable terms and conditions.

884 (b) [~~After receipt of the advisory board's recommendation, the~~] The executive director
885 may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an
886 additional period not to exceed 12 months.

887 (c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in
888 this state prior to May 1, 2000, may continue to engage in that activity, but may not expand that
889 activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle
890 service facilities after May 1, 2000.

891 (d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new
892 motor vehicle dealership trading in a line-make of motor vehicle if:

893 (i) as to that line-make of motor vehicle, there are no more than four franchised new

894 motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

895 (ii) the franchisor does not own directly or indirectly, more than a 45% interest in the
896 dealership;

897 (iii) at the time the franchisor first acquires ownership or assumes operation or control
898 of the dealership, the distance between the dealership thus owned, operated, or controlled and
899 the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less
900 than 150 miles;

901 (iv) all the franchisor's franchise agreements confer rights on the franchisee to develop
902 and operate as many dealership facilities as the franchisee and franchisor shall agree are
903 appropriate within a defined geographic territory or area; and

904 (v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within
905 the state own and operate two or more dealership facilities in the geographic area covered by
906 the franchise agreement.

907 (7) Subsection (1)(ff) does not apply to recreational vehicles.

908 (8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is
909 functionally available to all competing franchisees of the same line-make in the state on
910 substantially comparable terms.

911 (9) Subsection (1)(ff)(iii) may not be construed to:

912 (a) permit provision of or access to customer information that is otherwise protected
913 from disclosure by law or by contract between a franchisor and a franchisee; or

914 (b) require a franchisor to disregard the preference volunteered by a potential customer
915 in providing or directing a lead.

916 (10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business
917 practices in accordance with the usage of trade in which the affiliate is engaged.

918 (11) (a) Subsection (1)(mm) does not apply to parts or accessories that the franchisee
919 ordered and purchased outside of an automated parts ordering system required by the
920 franchisor.

921 (b) In determining whether parts or accessories in a franchisee's inventory were
922 specified and sold under an automated ordering system required by the franchisor, the parts and
923 accessories in the franchisee's inventory are presumed to be the most recent parts and
924 accessories that the franchisor sold to the franchisee.

925 (12) (a) Subsection (1)(nn) does not apply to a good faith settlement of a dispute,
926 including a dispute relating to contract negotiations, in which the franchisee gives a waiver in
927 exchange for fair consideration in the form of a benefit conferred on the franchisee.

928 (b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver
929 has been obtained in violation of Subsection (1)(nn).

930 (13) (a) As used in Subsection (1)(pp):

931 (i) "Materially alter":

932 (A) means to make a material architectural, structural, or aesthetic alteration; and

933 (B) does not include routine maintenance, such as interior painting, reasonably
934 necessary to keep a dealership facility in attractive condition.

935 (ii) "Penalty or other detriment" does not include a payment under an agreement,
936 incentive, or program that is offered to but declined or not accepted by a franchisee, even if a
937 similar payment is made to another franchisee in the state that chooses to participate in the
938 agreement, incentive, or program.

939 (b) Subsection (1)(pp) does not apply to:

940 (i) a program that provides a lump sum payment to assist a franchisee to make a facility
941 improvement or to pay for a sign or a franchisor image element, if the payment is not
942 dependent on the franchisee selling or purchasing a specific number of new vehicles;

943 (ii) a program that is in effect on May 8, 2012, with more than one franchisee in the
944 state or to a renewal or modification of the program;

945 (iii) a program that provides reimbursement to a franchisee on reasonable, written
946 terms for a substantial portion of the franchisee's cost of making a facility improvement or
947 installing signage or a franchisor image element; or

948 (iv) a written agreement between a franchisor and franchisee, in effect before May 8,
949 2012, under which a franchisee agrees to construct a new dealer facility.

950 (14) (a) Subsection (1)(qq)(i) does not apply to:

951 (i) signage purchased by a franchisee in which the franchisor has an intellectual
952 property right; or

953 (ii) a good used in a facility construction, alteration, or remodel that is:

954 (A) a moveable interior display that contains material subject to a franchisor's
955 intellectual property right; or

956 (B) specifically eligible for reimbursement of over one-half its cost pursuant to a
957 franchisor or distributor program or incentive granted to the franchisee on reasonable, written
958 terms.

959 (b) Subsection (1)(qq)(ii) may not be construed to allow a franchisee to:

960 (i) impair or eliminate a franchisor's intellectual property right; or

961 (ii) erect or maintain a sign that does not conform to the franchisor's reasonable
962 fabrication specifications and intellectual property usage guidelines.

963 (15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that
964 the information in a written disclosure described in Subsection (1)(rr) is available on a website
965 or by other digital means.

966 Section 9. Section **13-14-202** is amended to read:

967 **13-14-202. Sale or transfer of ownership.**

968 (1) (a) The franchisor shall give effect to the change in a franchise agreement as a
969 result of an event listed in Subsection (1)(b):

970 (i) subject to Subsection [13-14-305\(2\)\(b\)](#); and

971 (ii) unless exempted under Subsection (2).

972 (b) The franchisor shall give effect to the change in a franchise agreement pursuant to
973 Subsection (1)(a) for the:

974 (i) sale of a dealership;

975 (ii) contract for sale of a dealership;

976 (iii) transfer of ownership of a franchisee's dealership by:

977 (A) sale;

978 (B) transfer of the business; or

979 (C) stock transfer; or

980 (iv) change in the executive management of the franchisee's dealership.

981 (2) A franchisor is exempted from the requirements of Subsection (1) if:

982 (a) the transferee is denied, or would be denied, a new motor vehicle franchisee's
983 license pursuant to Title 41, Chapter 3, Motor Vehicle Business Regulation Act; or

984 (b) the proposed sale or transfer of the business or change of executive management
985 will be substantially detrimental to the distribution of franchisor's new motor vehicles or to

986 competition in the relevant market area, provided that the franchisor has given written notice to

987 the franchisee within 60 days following receipt by the franchisor of the following:

988 (i) a copy of the proposed contract of sale or transfer executed by the franchisee and the
989 proposed transferee;

990 (ii) a completed copy of the franchisor's written application for approval of the change
991 in ownership or executive management, if any, including the information customarily required
992 by the franchisor; and

993 (iii) (A) a written description of the business experience of the executive management
994 of the transferee in the case of a proposed sale or transfer of the franchisee's business; or

995 (B) a written description of the business experience of the person involved in the
996 proposed change of the franchisee's executive management in the case of a proposed change of
997 executive management.

998 (3) For purposes of this section, the refusal by the franchisor to accept a proposed
999 transferee is presumed to be unreasonable and undertaken without good cause if the proposed
1000 franchisee:

1001 (a) is of good moral character; and

1002 (b) otherwise meets the written, reasonable, and uniformly applied standards or
1003 qualifications, if any, of the franchisor relating to the business experience of executive
1004 management and financial capacity to operate and maintain the dealership required by the
1005 franchisor of its franchisees.

1006 (4) (a) If after receipt of the written notice from the franchisor described in Subsection
1007 (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of
1008 the business or change of executive management, the franchisee may file an application for a
1009 hearing before the ~~[advisory board]~~ executive director up to 60 days from the date of receipt of
1010 the notice.

1011 (b) After a hearing ~~[and the executive director's receipt of the advisory board's~~
1012 ~~recommendation]~~, the executive director shall determine, and enter an order providing that:

1013 (i) the proposed transferee or change in executive management:

1014 (A) shall be approved; or

1015 (B) may not be approved for specified reasons; or

1016 (ii) a proposed transferee or change in executive management is approved if specific
1017 conditions are timely satisfied.

1018 (c) (i) The franchisee shall have the burden of proof with respect to all issues raised by
1019 the franchisee's application for a hearing as provided in this section.

1020 (ii) During the pendency of the hearing, the franchise agreement shall continue in effect
1021 in accordance with its terms.

1022 (d) The [~~advisory board and the~~] executive director shall expedite, upon written
1023 request, any determination sought under this section.

1024 Section 10. Section **13-14-203** is amended to read:

1025 **13-14-203. Succession to franchise.**

1026 (1) (a) A successor, including a family member of a deceased or incapacitated
1027 franchisee, who is designated by the franchisee may succeed the franchisee in the ownership
1028 and operation of the dealership under the existing franchise agreement if:

1029 (i) the designated successor gives the franchisor written notice of an intent to succeed
1030 to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180
1031 days after the franchisee's death or incapacity;

1032 (ii) the designated successor agrees to be bound by all of the terms and conditions of
1033 the franchise agreement; and

1034 (iii) the designated successor meets the criteria generally applied by the franchisor in
1035 qualifying franchisees.

1036 (b) A franchisor may refuse to honor the existing franchise agreement with the
1037 designated successor only for good cause.

1038 (2) The franchisor may request in writing from a designated successor the personal and
1039 financial data that is reasonably necessary to determine whether the existing franchise
1040 agreement should be honored. The designated successor shall supply the personal and financial
1041 data promptly upon the request.

1042 (3) (a) If a franchisor believes that good cause exists for refusing to honor the requested
1043 succession, the franchisor shall serve upon the designated successor notice of its refusal to
1044 approve the succession, within 60 days after the later of:

1045 (i) receipt of the notice of the designated successor's intent to succeed the franchisee in
1046 the ownership and operation of the dealership; or

1047 (ii) receipt of the requested personal and financial data.

1048 (b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of

1049 the designated successor and the franchise agreement is considered amended to reflect the
1050 approval of the succession the day following the last day the franchisor can serve notice under
1051 Subsection (3)(a).

1052 (4) The notice of the franchisor provided in Subsection (3) shall:

1053 (a) state the specific grounds for the refusal to approve the succession; and

1054 (b) that discontinuance of the franchise agreement shall take effect not less than 180
1055 days after the date the notice of refusal is served unless the proposed successor files an
1056 application for hearing under Subsection (6).

1057 (5) (a) This section does not prevent a franchisee from designating a person as the
1058 successor by written instrument filed with the franchisor.

1059 (b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs
1060 the succession rights to the management and operation of the dealership subject to the
1061 designated successor satisfying the franchisor's qualification requirements as described in this
1062 section.

1063 (6) (a) If a franchisor serves a notice of refusal to a designated successor pursuant to
1064 Subsection (3), the designated successor may, within the 180-day period provided in
1065 Subsection (4), file with the [~~advisory board~~] executive director an application for a hearing
1066 and a determination by the executive director regarding whether good cause exists for the
1067 refusal.

1068 (b) If application for a hearing is timely filed, the franchisor shall continue to honor the
1069 franchise agreement until after:

1070 (i) the requested hearing has been concluded;

1071 (ii) a decision is rendered by the executive director; and

1072 (iii) the applicable appeal period has expired following a decision by the executive
1073 director.

1074 Section 11. Section **13-14-301** is amended to read:

1075 **13-14-301. Termination or noncontinuance of franchise.**

1076 (1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to
1077 continue a franchise agreement or the rights to sell and service a line-make pursuant to a
1078 franchise agreement, whether through termination or noncontinuance of the franchise,
1079 termination or noncontinuance of a line-make, or otherwise, unless:

1080 (a) the franchisee has received written notice from the franchisor 60 days before the
1081 effective date of termination or noncontinuance setting forth the specific grounds for
1082 termination or noncontinuance that are relied on by the franchisor as establishing good cause
1083 for the termination or noncontinuance;

1084 (b) the franchisor has good cause for termination or noncontinuance; and

1085 (c) the franchisor is willing and able to comply with Section 13-14-307.

1086 (2) A franchisor may terminate a franchise, without complying with Subsection (1):

1087 (a) if the franchisee's license as a new motor vehicle dealer is revoked under Title 41,
1088 Chapter 3, Motor Vehicle Business Regulation Act; or

1089 (b) upon a mutual written agreement of the franchisor and franchisee.

1090 (3) (a) At any time before the effective date of termination or noncontinuance of the
1091 franchise, the franchisee may apply to the [~~advisory board~~] executive director for a hearing on
1092 the merits, and following notice to all parties concerned, the hearing shall be promptly held as
1093 provided in Section 13-14-304.

1094 (b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may
1095 not become effective until:

1096 (i) final determination of the issue by the executive director; and

1097 (ii) the applicable appeal period has lapsed.

1098 (4) A franchisee may voluntarily terminate its franchise if the franchisee provides
1099 written notice to the franchisor at least 30 days prior to the termination.

1100 Section 12. Section 13-14-302 is amended to read:

1101 **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

1102 (1) Except as provided in Subsection [~~(6)~~] (7), a franchisor shall provide the notice and
1103 documentation required under Subsection [~~(2)~~] (3) if the franchisor seeks to:

1104 (a) enter into a franchise agreement establishing a motor vehicle dealership within a
1105 relevant market area where the same line-make is represented by another franchisee; or

1106 (b) relocate an existing motor vehicle franchisee.

1107 (2) In determining whether a new or relocated dealership is within a relevant market
1108 area where the same line-make is represented by an existing dealership, the relevant market
1109 area is measured from the closest property boundary line of the existing dealership to the
1110 closest property boundary line of the new or relocated dealership.

1111 (3) (a) If a franchisor seeks to take an action listed in Subsection (1), before taking the
1112 action, the franchisor shall, in writing, notify the [~~advisory board~~] executive director, the clerk
1113 of each affected municipality, and each franchisee in that line-make in the relevant market area.

1114 (b) The notice required by Subsection (3)(a) shall:

1115 (i) specify the intended action described under Subsection (1);

1116 (ii) specify the good cause on which it intends to rely for the action; and

1117 (iii) be delivered by registered or certified mail or by any form of reliable delivery
1118 through which receipt is verifiable.

1119 (4) (a) Except as provided in Subsection (4)(c), the franchisor shall provide to the
1120 [~~advisory board~~] executive director, each affected municipality, and each franchisee in that
1121 line-make in the relevant market area the following documents relating to the notice described
1122 under Subsection (3):

1123 (i) (A) any aggregate economic data and all existing reports, analyses, or opinions
1124 based on the aggregate economic data that were relied on by the franchisor in reaching the
1125 decision to proceed with the action described in the notice; and

1126 (B) the aggregate economic data under Subsection (4)(a)(i)(A) includes:

1127 (I) motor vehicle registration data;

1128 (II) market penetration data; and

1129 (III) demographic data;

1130 (ii) written documentation that the franchisor has in the franchisor's possession that it
1131 intends to rely on in establishing good cause under Section [13-14-306](#) relating to the notice;

1132 (iii) a statement that describes in reasonable detail how the establishment of a new
1133 franchisee or the relocation of an existing franchisee will affect the amount of business
1134 transacted by other franchisees of the same line-make in the relevant market area, as compared
1135 to business available to the franchisees; and

1136 (iv) a statement that describes in reasonable detail how the establishment of a new
1137 franchisee or the relocation of an existing franchisee will be beneficial or injurious to the
1138 public welfare or public interest.

1139 (b) The franchisor shall provide the documents described under Subsection (4)(a) with
1140 the notice required under Subsection (3).

1141 (c) The franchisor is not required to disclose any documents under Subsection (4)(a) if:

- 1142 (i) the documents would be privileged under the Utah Rules of Evidence;
- 1143 (ii) the documents contain confidential proprietary information;
- 1144 (iii) the documents are subject to federal or state privacy laws;
- 1145 (iv) the documents are correspondence between the franchisor and existing franchisees
- 1146 in that line-make in the relevant market area; or
- 1147 (v) the franchisor reasonably believes that disclosure of the documents would violate:
- 1148 (A) the privacy of another franchisee; or
- 1149 (B) Section 13-14-201.
- 1150 (5) (a) Within 30 days of receiving notice required by Subsection (3), any franchisee
- 1151 that is required to receive notice under Subsection (3) may protest to the [~~advisory board~~
- 1152 executive director the establishment or relocation of the dealership.
- 1153 (b) No later than 10 days after the day on which a protest is filed, the department shall
- 1154 inform the franchisor that:
- 1155 (i) a timely protest has been filed;
- 1156 (ii) a hearing is required;
- 1157 (iii) the franchisor may not establish or relocate the proposed dealership until the
- 1158 [~~advisory board~~] executive director has held a hearing; and
- 1159 (iv) the franchisor may not establish or relocate a proposed dealership if the executive
- 1160 director determines that there is not good cause for permitting the establishment or relocation
- 1161 of the dealership.
- 1162 (6) If multiple protests are filed under Subsection (5), hearings may be consolidated to
- 1163 expedite the disposition of the issue.
- 1164 (7) Subsections (1) through (6) do not apply to a relocation of an existing or successor
- 1165 dealer to a location that is:
- 1166 (a) within the same county and less than two miles from the existing location of the
- 1167 existing or successor franchisee's dealership; or
- 1168 (b) further away from a dealership of a franchisee of the same line-make.
- 1169 (8) For purposes of this section:
- 1170 (a) relocation of an existing franchisee's dealership in excess of two miles from the
- 1171 dealership's existing location is considered the establishment of an additional franchise in the
- 1172 line-make of the relocating franchise;

1173 (b) the reopening in a relevant market area of a dealership that has not been in
1174 operation for one year or more is considered the establishment of an additional motor vehicle
1175 dealership; and

1176 (c) (i) except as provided in Subsection (8)(c)(ii), the establishment of a temporary
1177 additional place of business by a recreational vehicle franchisee is considered the establishment
1178 of an additional motor vehicle dealership; and

1179 (ii) the establishment of a temporary additional place of business by a recreational
1180 vehicle franchisee is not considered the establishment of an additional motor vehicle dealership
1181 if the recreational vehicle franchisee is participating in a trade show where three or more
1182 recreational vehicle dealers are participating.

1183 Section 13. Section **13-14-303** is amended to read:

1184 **13-14-303. Effect of terminating a franchise.**

1185 If under Section **13-14-301** the executive director permits a franchisor to terminate or
1186 not continue a franchise and prohibits the franchisor from entering into a franchise for the sale
1187 of new motor vehicles of a line-make in a relevant market area, the franchisor may not enter
1188 into a franchise for the sale of new motor vehicles of that line-make in the specified relevant
1189 market area unless the executive director determines[~~after a recommendation by the advisory~~
1190 ~~board,~~] that there has been a change of circumstances so that the relevant market area at the
1191 time of the establishment of the new franchise agreement can reasonably be expected to
1192 support the new franchisee.

1193 Section 14. Section **13-14-304** is amended to read:

1194 **13-14-304. Hearing regarding termination, relocation, or establishment of**
1195 **franchises.**

1196 (1) (a) Within 10 days after the day on which the [~~advisory board~~] executive director
1197 receives an application from a franchisee under Subsection **13-14-301**(3) challenging a
1198 franchisor's right to terminate or not continue a franchise, or an application under Section
1199 **13-14-302** challenging the establishment or relocation of a franchise, the executive director
1200 shall:

1201 (i) enter an order designating the time and place for the hearing; and

1202 (ii) send a copy of the order by certified or registered mail, with return receipt
1203 requested, or by any form of reliable delivery through which receipt is verifiable to:

- 1204 (A) the applicant;
- 1205 (B) the franchisor; and
- 1206 (C) if the application involves the establishment of a new franchise or the relocation of
1207 an existing dealership, each affected municipality and to each franchisee in the relevant market
1208 area engaged in the business of offering to sell or lease the same line-make.
- 1209 (b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the
1210 franchisee at the place where the franchisee's business is conducted.
- 1211 (2) An affected municipality and any other person who can establish an interest in the
1212 application may intervene as a party to the hearing, whether or not that person receives notice.
- 1213 (3) Any person, including an affected municipality, may appear and testify on the
1214 question of the public interest in the termination or noncontinuation of a franchise or in the
1215 establishment of an additional franchise.
- 1216 (4) (a) (i) Any hearing ordered under Subsection (1) shall be conducted no later than 90
1217 days after the day on which the application for hearing is filed.
- 1218 (ii) A final decision on the challenge shall be made by the executive director no later
1219 than 20 days after the day on which the hearing ends.
- 1220 (b) Failure to comply with the time requirements of Subsection (4)(a) is considered a
1221 determination that the franchisor acted with good cause or, in the case of a protest of a
1222 proposed establishment or relocation of a dealer, that good cause exists for permitting the
1223 proposed additional or relocated new motor vehicle dealer, unless:
- 1224 (i) the delay is caused by acts of the franchisor or the additional or relocating
1225 franchisee; or
- 1226 (ii) the delay is waived by the parties.
- 1227 (5) The franchisor has the burden of proof to establish by a preponderance of the
1228 evidence that under the provisions of this chapter it should be granted permission to:
- 1229 (a) terminate or not continue the franchise;
- 1230 (b) enter into a franchise agreement establishing an additional franchise; or
- 1231 (c) relocate the dealership of an existing franchisee.
- 1232 (6) Any party to the hearing may appeal the executive director's final decision in
1233 accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor,
1234 an existing franchisee of the same line-make whose relevant market area includes the site of the

1235 proposed dealership, or an affected municipality.

1236 Section 15. Section **13-14-305** is amended to read:

1237 **13-14-305. Evidence to be considered in determining cause to terminate or**
1238 **discontinue.**

1239 (1) In determining whether a franchisor has established good cause for terminating or
1240 not continuing a franchise agreement, [~~the advisory board and~~] the executive director shall
1241 consider:

1242 (a) the amount of business transacted by the franchisee, as compared to business
1243 available to the franchisee;

1244 (b) the investment necessarily made and obligations incurred by the franchisee in the
1245 performance of the franchisee's part of the franchise agreement;

1246 (c) the permanency of the investment;

1247 (d) whether it is injurious or beneficial to the public welfare or public interest for the
1248 business of the franchisee to be disrupted;

1249 (e) whether the franchisee has adequate motor vehicle sales and service facilities,
1250 equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of
1251 the consumer for the new motor vehicles handled by the franchisee and has been and is
1252 rendering adequate services to the public;

1253 (f) whether the franchisee refuses to honor warranties of the franchisor under which the
1254 warranty service work is to be performed pursuant to the franchise agreement, if the franchisor
1255 reimburses the franchisee for the warranty service work;

1256 (g) failure by the franchisee to substantially comply with those requirements of the
1257 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

1258 (i) reasonable;

1259 (ii) material; and

1260 (iii) not in violation of this chapter;

1261 (h) evidence of bad faith by the franchisee in complying with those terms of the
1262 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

1263 (i) reasonable;

1264 (ii) material; and

1265 (iii) not in violation of this chapter;

- 1266 (i) prior misrepresentation by the franchisee in applying for the franchise;
1267 (j) transfer of any ownership or interest in the franchise without first obtaining
1268 approval from the franchisor or the executive director [~~after receipt of the advisory board's~~
1269 ~~recommendation~~]; and
1270 (k) any other factor [~~the advisory board or~~] the executive director [~~consider~~] considers
1271 relevant.

1272 (2) Notwithstanding any franchise agreement, the following do not constitute good
1273 cause, as used in this chapter for the termination or noncontinuation of a franchise:

1274 (a) the sole fact that the franchisor desires greater market penetration or more sales or
1275 leases of new motor vehicles;

1276 (b) the change of ownership of the franchisee's dealership or the change of executive
1277 management of the franchisee's dealership unless the franchisor proves that the change of
1278 ownership or executive management will be substantially detrimental to the distribution of the
1279 franchisor's motor vehicles; or

1280 (c) the fact that the franchisee has justifiably refused or declined to participate in any
1281 conduct covered by Section [13-14-201](#).

1282 (3) For purposes of Subsection (2), "substantially detrimental" includes the failure of
1283 any proposed transferee to meet the objective criteria applied by the franchisor in qualifying
1284 franchisees at the time of application.

1285 Section 16. Section **13-14-306** is amended to read:

1286 **13-14-306. Evidence to be considered in determining cause to relocate or**
1287 **establish a new franchised dealership.**

1288 In determining whether a franchisor has established good cause for relocating an
1289 existing franchisee or establishing a new franchised dealership for the same line-make in a
1290 given relevant market area, [~~the advisory board and~~] the executive director shall consider:

1291 (1) the amount of business transacted by other franchisees of the same line-make in
1292 that relevant market area, as compared to business available to the franchisees;

1293 (2) the investment necessarily made and obligations incurred by other franchisees of
1294 the same line-make in that relevant market area in the performance of their part of their
1295 franchisee agreements;

1296 (3) the permanency of the existing and proposed investment;

- 1297 (4) whether it is injurious or beneficial to the public welfare or public interest for an
1298 additional franchise to be established, including:
- 1299 (a) the impact on any affected municipality;
 - 1300 (b) population growth trends in any affected municipality;
 - 1301 (c) the number of dealerships in the primary market area of the new or relocated
1302 dealership compared to the number of dealerships in each primary market area adjacent to the
1303 new or relocated dealership's primary market area; and
 - 1304 (d) how the new or relocated dealership would impact the distance and time that an
1305 individual in the new or relocated dealership's primary market area would have to travel to
1306 access a dealership in the same line-make as the new or relocated dealership[-];
 - 1307 (5) whether the franchisees of the same line-make in that relevant market area are
1308 providing adequate service to consumers for the motor vehicles of the line-make, which shall
1309 include the adequacy of:
 - 1310 (a) the motor vehicle sale and service facilities;
 - 1311 (b) equipment;
 - 1312 (c) supply of vehicle parts; and
 - 1313 (d) qualified service personnel; and
 - 1314 (6) whether the relocation or establishment would cause any material negative
1315 economic effect on a dealer of the same line-make in the relevant market area.

1316 Section 17. Section **13-32a-102** is amended to read:

1317 **13-32a-102. Definitions.**

1318 As used in this chapter:

- 1319 (1) "Account" means the Pawnbroker, Secondhand Merchandise, and Catalytic
1320 Converter Operations Restricted Account created in Section [13-32a-113](#).
- 1321 (2) "Antique item" means an item:
 - 1322 (a) that is generally older than 25 years;
 - 1323 (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
 - 1324 (c) that is furniture or other decorative objects produced in a previous time period, as
1325 distinguished from new items of a similar nature; and
 - 1326 (d) obtained from auctions, estate sales, other antique shops, and individuals.
- 1327 (3) "Antique shop" means a business operating at an established location that deals

1328 primarily in the purchase, exchange, or sale of antique items.

1329 (4) "Automated recycling kiosk" means an interactive machine that:

1330 (a) is installed inside a commercial site used for the selling of goods and services to
1331 consumers;

1332 (b) is monitored remotely by a live representative during the hours of operation;

1333 (c) only engages in secondhand merchandise transactions involving wireless
1334 communication devices; and

1335 (d) has the following technological functions:

1336 (i) verifies the seller's identity by a live representative using the individual's
1337 identification;

1338 (ii) generates a ticket; and

1339 (iii) electronically transmits the secondhand merchandise transaction information to the
1340 central database.

1341 (5) "Automated recycling kiosk operator" means a person whose sole business activity
1342 is the operation of one or more automated recycling kiosks.

1343 [~~(6) "Board" means the Pawnshop, Secondhand Merchandise, and Catalytic Converter~~
1344 ~~Advisory Board created by this chapter.]~~

1345 [~~(7)~~ (6) "Catalytic converter" means the same as that term is defined in Section
1346 76-6-1402.

1347 [~~(8)~~ (7) (a) "Catalytic converter purchase" means a purchase from an individual of a
1348 used catalytic converter that is no longer affixed to a vehicle.

1349 (b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

1350 (i) from a business regularly engaged in automobile repair, crushing, dismantling,
1351 recycling, or salvage;

1352 (ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor
1353 Vehicle Business Regulation Act;

1354 (iii) from another catalytic converter purchaser; or

1355 (iv) that has never been affixed to a vehicle.

1356 [~~(9)~~ (8) "Catalytic converter purchaser" means a person who purchases a used catalytic
1357 converter in a catalytic converter purchase.

1358 [~~(10)~~ (9) "Central database" or "database" means the electronic database created and

1359 operated under Section [13-32a-105](#).

1360 ~~[(11)]~~ [\(10\)](#) "Children's product" means a used item that is for the exclusive use of
1361 children, or for the care of children, including clothing and toys.

1362 ~~[(12)]~~ [\(11\)](#) "Children's product resale business" means a business operating at a
1363 commercial location and primarily selling children's products.

1364 ~~[(13)]~~ [\(12\)](#) "Coin" means a piece of currency, usually metallic and usually in the shape
1365 of a disc that is:

1366 (a) stamped metal, and issued by a government as monetary currency; or

1367 (b) (i) worth more than its current value as currency; and

1368 (ii) worth more than its metal content value.

1369 ~~[(14)]~~ [\(13\)](#) "Coin dealer" means a person whose sole business activity is the selling and
1370 purchasing of numismatic items and precious metals.

1371 ~~[(15)]~~ [\(14\)](#) "Collectible paper money" means paper currency that is no longer in
1372 circulation and is sold and purchased for the paper currency's collectible value.

1373 ~~[(16)]~~ [\(15\)](#) (a) "Commercial grade precious metals" or "precious metals" means ingots,
1374 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the
1375 refiner or fabricator indicating their fineness and include:

1376 (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals;

1377 or

1378 (ii) .925 fine sterling silver ingots, art bars, and medallions.

1379 (b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

1380 ~~[(17)]~~ [\(16\)](#) "Consignment shop" means a business, operating at an established location:

1381 (a) that deals primarily in the offering for sale property owned by a third party; and

1382 (b) where the owner of the property only receives consideration upon the sale of the
1383 property by the business.

1384 ~~[(18)]~~ [\(17\)](#) "Division" means the Division of Consumer Protection created in Chapter
1385 1, Department of Commerce.

1386 ~~[(19)]~~ [\(18\)](#) "Exonumia" means a privately issued token for trade that is sold and
1387 purchased for the token's collectible value.

1388 ~~[(20)]~~ [\(19\)](#) "Gift card" means a record that:

1389 (a) is usable at:

- 1390 (i) a single merchant; or
1391 (ii) a specified group of merchants;
1392 (b) is prefunded before the record is used; and
1393 (c) can be used for the purchase of goods or services.
1394 [~~(21)~~] (20) "Identification" means any of the following non-expired forms of
1395 identification issued by a state government, the United States government, or a federally
1396 recognized Indian tribe, if the identification includes a unique number, photograph of the
1397 bearer, and date of birth:
1398 (a) a United States Passport or United States Passport Card;
1399 (b) a state-issued driver license;
1400 (c) a state-issued identification card;
1401 (d) a state-issued concealed carry permit;
1402 (e) a United States military identification;
1403 (f) a United States resident alien card;
1404 (g) an identification of a federally recognized Indian tribe; or
1405 (h) notwithstanding Section 53-3-207, a Utah driving privilege card.
1406 [~~(22)~~] (21) "IMEI number" means an International Mobile Equipment Identity number.
1407 [~~(23)~~] (22) "Indicia of being new" means property that:
1408 (a) is represented by the individual pawning or selling the property as new;
1409 (b) is unopened in the original packaging; or
1410 (c) possesses other distinguishing characteristics that indicate the property is new.
1411 [~~(24)~~] (23) "Local law enforcement agency" means the law enforcement agency that
1412 has direct responsibility for ensuring compliance with central database reporting requirements
1413 for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is
1414 located.
1415 [~~(25)~~] (24) "Numismatic item" means a coin, collectible paper money, or exnumia.
1416 [~~(26)~~] (25) "Original victim" means a victim who is not a party to the pawn or sale
1417 transaction or catalytic converter purchase and includes:
1418 (a) an authorized representative designated in writing by the original victim; and
1419 (b) an insurer who has indemnified the original victim for the loss of the described
1420 property.

1421 [~~(27)~~] (26) "Pawn or secondhand business" means a business operated by a pawnbroker
1422 or secondhand merchandise dealer, or the owner or operator of the business.

1423 [~~(28)~~] (27) "Pawn transaction" means:

1424 (a) an extension of credit in which an individual delivers property to a pawnbroker for
1425 an advance of money and retains the right to redeem the property for the redemption price
1426 within a fixed period of time;

1427 (b) a loan of money on one or more deposits of personal property;

1428 (c) the purchase, exchange, or possession of personal property on condition of selling
1429 the same property back again to the pledgor or depositor; or

1430 (d) a loan or advance of money on personal property by the pawnbroker taking chattel
1431 mortgage security on the personal property, taking or receiving the personal property into the
1432 pawnbroker's possession, and selling the unredeemed pledges.

1433 [~~(29)~~] (28) "Pawnbroker" means a person whose business:

1434 (a) engages in a pawn transaction; or

1435 (b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of
1436 whether the person or business enters into pawn transactions or secondhand merchandise
1437 transactions.

1438 [~~(30)~~] (29) "Pawnshop" means the physical location or premises where a pawnbroker
1439 conducts business.

1440 [~~(31)~~] (30) "Pledgor" means an individual who conducts a pawn transaction with a
1441 pawnshop.

1442 [~~(32)~~] (31) "Property" means an article of tangible personal property, numismatic item,
1443 precious metal, gift card, transaction card, or other physical or digital card or certificate
1444 evidencing store credit, and includes a wireless communication device.

1445 [~~(33)~~] (32) "Retail media item" means recorded music, a movie, or a video game that is
1446 produced and distributed in hard copy format for retail sale.

1447 [~~(34)~~] (33) "Scrap jewelry" means an item purchased solely:

1448 (a) for its gold, silver, or platinum content; and

1449 (b) for the purpose of reuse of the metal content.

1450 [~~(35)~~] (34) (a) "Secondhand merchandise dealer" means a person whose business:

1451 (i) engages in a secondhand merchandise transaction; and

- 1452 (ii) does not engage in a pawn transaction.
- 1453 (b) "Secondhand merchandise dealer" includes a coin dealer and an automated
1454 recycling kiosk operator.
- 1455 (c) "Secondhand merchandise dealer" does not include:
- 1456 (i) an antique shop when dealing in antique items;
- 1457 (ii) a person who operates an auction house, flea market, or vehicle, vessel, and
1458 outboard motor dealers as defined in Section [41-1a-102](#);
- 1459 (iii) the sale of secondhand goods at events commonly known as "garage sales," "yard
1460 sales," "estate sales," "storage unit sales," or "storage unit auctions";
- 1461 (iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:
- 1462 (A) card games;
- 1463 (B) table-top games; or
- 1464 (C) magic tricks;
- 1465 (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
1466 or charitable organizations or any school-sponsored association, and for which no
1467 compensation is paid;
- 1468 (vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;
- 1469 (vii) a person offering the person's own personal property for sale, purchase,
1470 consignment, or trade via the Internet;
- 1471 (viii) a person offering the personal property of others for sale, purchase, consignment,
1472 or trade via the Internet, when that person does not have, and is not required to have, a local
1473 business or occupational license or other authorization for this activity;
- 1474 (ix) an owner or operator of a retail business that:
- 1475 (A) receives used merchandise as a trade-in for similar new merchandise ; or
- 1476 (B) receives used retail media items as a trade-in for similar new or used retail media
1477 items;
- 1478 (x) an owner or operator of a business that contracts with other persons to offer those
1479 persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;
- 1480 (xi) any dealer as defined in Section [76-6-1402](#), that concerns scrap metal and
1481 secondary metals;
- 1482 (xii) the purchase of items in bulk that are:

- 1483 (A) sold at wholesale in bulk packaging;
- 1484 (B) sold by a person licensed to conduct business in Utah; and
- 1485 (C) regularly sold in bulk quantities as a recognized form of sale;
- 1486 (xiii) the owner or operator of a children's product resale business;
- 1487 (xiv) a consignment shop when dealing in consigned property; or
- 1488 (xv) a catalytic converter purchaser.

1489 ~~[(36)]~~ (35) "Secondhand merchandise transaction" means the purchase or exchange of
 1490 used or secondhand property.

1491 ~~[(37)]~~ (36) "Ticket" means a document upon which information is entered when a
 1492 pawn transaction or secondhand merchandise transaction is made.

1493 ~~[(38)]~~ (37) "Transaction card" means a card, code, or other means of access to a value
 1494 with the retail business issued to a person that allows the person to obtain, purchase, or receive
 1495 any of the following:

- 1496 (a) goods;
- 1497 (b) services;
- 1498 (c) money; or
- 1499 (d) anything else of value.

1500 ~~[(39)]~~ (38) "Wireless communication device" means a cellular telephone or a portable
 1501 electronic device designed to receive and transmit a text message, email, video, or voice
 1502 communication.

1503 Section 18. Section **13-35-102** is amended to read:

1504 **13-35-102. Definitions.**

1505 As used in this chapter:

1506 ~~[(1) "Advisory board" or "board" means the Utah Powersport Vehicle Franchise
 1507 Advisory Board created in Section 13-35-103.]~~

1508 ~~[(2)]~~ (1) "Dealership" means a site or location in this state:

- 1509 (a) at which a franchisee conducts the business of a new powersport vehicle dealer; and
 - 1510 (b) that is identified as a new powersport vehicle dealer's principal place of business
- 1511 for registration purposes under Section **13-35-105**.

1512 ~~[(3)]~~ (2) "Department" means the Department of Commerce.

1513 ~~[(4)]~~ (3) "Executive director" means the executive director of the Department of

1514 Commerce.

1515 ~~[(5)]~~ (4) "Franchise" or "franchise agreement" means a written agreement, for a definite
1516 or indefinite period, in which:

1517 (a) a person grants to another person a license to use a trade name, trademark, service
1518 mark, or related characteristic; and

1519 (b) a community of interest exists in the marketing of new powersport vehicles, new
1520 powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at
1521 wholesale or retail.

1522 ~~[(6)]~~ (5) "Franchisee" means a person with whom a franchisor has agreed or permitted,
1523 in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles
1524 manufactured, produced, represented, or distributed by the franchisor.

1525 ~~[(7)]~~ (6) (a) "Franchisor" means a person who has, in writing or in practice, agreed with
1526 or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles
1527 manufactured, produced, represented, or distributed by the franchisor, and includes:

1528 (i) the manufacturer or distributor of the new powersport vehicles;

1529 (ii) an intermediate distributor;

1530 (iii) an agent, officer, or field or area representative of the franchisor; and

1531 (iv) a person who is affiliated with a manufacturer or a representative or who directly
1532 or indirectly through an intermediary is controlled by, or is under common control with the
1533 manufacturer.

1534 (b) For purposes of Subsection ~~[(7)(a)(iv)]~~ (6)(a)(iv), a person is controlled by a
1535 manufacturer if the manufacturer has the authority directly or indirectly by law or by an
1536 agreement of the parties, to direct or influence the management and policies of the person.

1537 ~~[(8)]~~ (7) "Lead" means the referral by a franchisor to a franchisee of an actual or
1538 potential customer for the purchase or lease of a new powersport vehicle, or for service work
1539 related to the franchisor's vehicles.

1540 ~~[(9)]~~ (8) "Line-make" means the powersport vehicles that are offered for sale, lease, or
1541 distribution under a common name, trademark, service mark, or brand name of the franchisor,
1542 or manufacturer of the powersport vehicle.

1543 ~~[(10)]~~ (9) "New powersport vehicle dealer" means a person who is engaged in the
1544 business of buying, selling, offering for sale, or exchanging new powersport vehicles either

1545 outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has
1546 established a place of business for the sale, lease, trade, or display of powersport vehicles.

1547 ~~[(11)]~~ (10) "Notice" or "notify" includes both traditional written communications and
1548 all reliable forms of electronic communication unless expressly prohibited by statute or rule.

1549 ~~[(12)]~~ (11) (a) "Powersport vehicle" means:

1550 (i) an all-terrain type I, type II, or type III vehicle "ATV" defined in Section 41-22-2;

1551 (ii) a snowmobile as defined in Section 41-22-2;

1552 (iii) a motorcycle as defined in Section 41-1a-102;

1553 (iv) a personal watercraft as defined in Section 73-18-2;

1554 (v) except as provided in Subsection ~~[(12)(b)]~~ (11)(b), a motor-driven cycle as defined
1555 in Section 41-6a-102; or

1556 (vi) a moped as defined in Section 41-6a-102.

1557 (b) "Powersport vehicle" does not include:

1558 (i) an electric assisted bicycle defined in Section 41-6a-102;

1559 (ii) a motor assisted scooter as defined in Section 41-6a-102; or

1560 (iii) an electric personal assistive mobility device as defined in Section 41-6a-102.

1561 ~~[(13)]~~ (12) "Relevant market area" means:

1562 (a) for a powersport dealership in a county that has a population of less than 225,000:

1563 (i) the county in which the powersport dealership exists or is to be established or
1564 relocated; and

1565 (ii) in addition to the county described in Subsection ~~[(13)(a)(i)]~~ (12)(a)(i), the area
1566 within a 15-mile radius from the site of the existing, new, or relocated dealership; or

1567 (b) for a powersport dealership in a county that has a population of 225,000 or more,
1568 the area within a 10-mile radius from the site of the existing, new, or relocated dealership.

1569 ~~[(14)]~~ (13) "Sale, transfer, or assignment" means any disposition of a franchise or an
1570 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,
1571 exchange, lease, or license.

1572 ~~[(15)]~~ (14) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
1573 includes any reliable form of communication.

1574 ~~[(16)]~~ (15) "Written," "write," "in writing," or other variations of those terms shall
1575 include all reliable forms of electronic communication.

1576 Section 19. Section **13-35-104** is amended to read:

1577 **13-35-104. Powers and duties of the executive director.**

1578 [~~(1) (a) Except as provided in Subsection **13-35-106**(3), the advisory board shall make~~
1579 ~~recommendations to the executive director on the administration and enforcement of this~~
1580 ~~chapter, including adjudicative and rulemaking proceedings.]~~

1581 [~~(b) The executive director shall:]~~

1582 [~~(i) consider the advisory board's recommendations; and]~~

1583 [~~(ii) issue any final decision by the department.]~~

1584 [~~(2)] (1) The executive director[~~, in consultation with the advisory board,~~] shall:~~

1585 (a) administer and enforce this chapter; and

1586 (b) make rules for the administration of this chapter in accordance with Title 63G,
1587 Chapter 3, Utah Administrative Rulemaking Act.

1588 [~~(3)] (2) (a) An adjudicative proceeding under this chapter shall be conducted in~~

1589 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1590 (b) In an adjudicative proceeding under this chapter, any order issued by the executive

1591 director[~~;~~]

1592 [~~(i)] shall comply with Section **63G-4-208**, whether the proceeding is a formal or an~~

1593 informal adjudicative proceeding under [~~Title 63G, Chapter 4, Administrative Procedures Act;~~

1594 ~~and] Title 63G, Chapter 4, Administrative Procedures Act.~~

1595 [~~(ii) if the order modifies or rejects a finding of fact in a recommendation from the~~
1596 ~~advisory board, shall be made on the basis of information learned from the executive~~
1597 ~~director's:]~~

1598 [~~(A) personal attendance at the hearing; or]~~

1599 [~~(B) review of the record developed at the hearing.]~~

1600 Section 20. Section **13-35-106** is amended to read:

1601 **13-35-106. Administrative proceedings commenced by the agency.**

1602 (1) Except as provided in Subsection (3), after a hearing [~~and after receipt of the~~
1603 ~~advisory board's recommendation], if the executive director finds that a person has violated this~~
1604 chapter or any rule made under this chapter, the executive director may:

1605 (a) issue a cease and desist order; and

1606 (b) assess an administrative fine.

1607 (2) (a) In determining the amount and appropriateness of an administrative fine under
1608 Subsection (1), the executive director shall consider:

- 1609 (i) the gravity of the violation;
1610 (ii) any history of previous violations; and
1611 (iii) any attempt made by the person to retaliate against another person for seeking
1612 relief under this chapter or other federal or state law relating to the motor vehicle industry.

1613 (b) In addition to any other action permitted under Subsection (1), the department may
1614 file an action with a court seeking to enforce the executive director's order and pursue the
1615 executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a
1616 person violates an order of the executive director.

1617 (3) (a) In addition to the grounds for issuing an order on an emergency basis listed in
1618 Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if
1619 the executive director determines that irreparable damage is likely to occur if immediate action
1620 is not taken.

1621 (b) In issuing an emergency order under Subsection (3)(a), the executive director shall
1622 comply with the requirements of Subsections 63G-4-502(2) and (3).

1623 Section 21. Section 13-35-107 is amended to read:

1624 **13-35-107. Administrative proceedings -- Request for agency action.**

1625 (1) (a) A person may commence an adjudicative proceeding in accordance with this
1626 chapter and with Title 63G, Chapter 4, Administrative Procedures Act, to:

- 1627 (i) remedy a violation of this chapter;
1628 (ii) obtain approval of an act regulated by this chapter; or
1629 (iii) obtain any determination that this chapter specifically authorizes that person to
1630 request.

1631 (b) A person shall commence an adjudicative proceeding by filing a request for agency
1632 action in accordance with Section 63G-4-201.

1633 (2) [~~After receipt of the advisory board's recommendation, the~~] The executive director
1634 shall apportion in a fair and equitable manner between the parties any costs of the adjudicative
1635 proceeding, including reasonable attorney fees.

1636 Section 22. Section 13-35-201 is amended to read:

1637 **13-35-201. Prohibited acts by franchisors -- Disclosures.**

- 1638 (1) A franchisor in this state may not:
- 1639 (a) except as provided in Subsection (2), require a franchisee to order or accept
- 1640 delivery of any new powersport vehicle, part, accessory, equipment, or other item not otherwise
- 1641 required by law that is not voluntarily ordered by the franchisee;
- 1642 (b) require a franchisee to:
- 1643 (i) participate monetarily in any advertising campaign or contest; or
- 1644 (ii) purchase any promotional materials, display devices, or display decorations or
- 1645 materials;
- 1646 (c) require a franchisee to change the capital structure of the franchisee's dealership or
- 1647 the means by or through which the franchisee finances the operation of the franchisee's
- 1648 dealership, if the dealership at all times meets reasonable capital standards determined by and
- 1649 applied in a nondiscriminatory manner by the franchisor;
- 1650 (d) require a franchisee to refrain from participating in the management of, investment
- 1651 in, or acquisition of any other line of new powersport vehicles or related products, if the
- 1652 franchisee:
- 1653 (i) maintains a reasonable line of credit for each make or line of powersport vehicles;
- 1654 and
- 1655 (ii) complies with reasonable capital and facilities requirements of the franchisor;
- 1656 (e) require a franchisee to prospectively agree to a release, assignment, novation,
- 1657 waiver, or estoppel that would:
- 1658 (i) relieve a franchisor from any liability, including notice and hearing rights imposed
- 1659 on the franchisor by this chapter; or
- 1660 (ii) require any controversy between the franchisee and a franchisor to be referred to a
- 1661 third party if the decision by the third party would be binding;
- 1662 (f) require a franchisee to change the location of the principal place of business of the
- 1663 franchisee's dealership or make any substantial alterations to the dealership premises, if the
- 1664 change or alterations would be unreasonable;
- 1665 (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an
- 1666 advertising association;
- 1667 (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the
- 1668 franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to

1669 cancel a franchise agreement or other contractual agreement or understanding existing between
1670 the franchisor and franchisee;

1671 (i) adopt, change, establish, modify, or implement a plan or system for the allocation,
1672 scheduling, or delivery of new powersport vehicles, parts, or accessories to its franchisees so
1673 that the plan or system is not fair, reasonable, and equitable;

1674 (j) increase the price of any new powersport vehicle that the franchisee has ordered
1675 from the franchisor and for which there exists at the time of the order a bona fide sale to a retail
1676 purchaser if the order was made prior to the franchisee's receipt of an official written price
1677 increase notification;

1678 (k) fail to indemnify and hold harmless its franchisee against any judgment for
1679 damages or settlement approved in writing by the franchisor:

1680 (i) including court costs and attorneys' fees arising out of actions, claims, or
1681 proceedings including those based on:

1682 (A) strict liability;

1683 (B) negligence;

1684 (C) misrepresentation;

1685 (D) express or implied warranty;

1686 (E) revocation as described in Section [70A-2-608](#); or

1687 (F) rejection as described in Section [70A-2-602](#); and

1688 (ii) to the extent the judgment or settlement relates to alleged defective or negligent
1689 actions by the franchisor;

1690 (l) threaten or coerce a franchisee to waive or forbear its right to protest the
1691 establishment or relocation of a same line-make franchisee in the relevant market area of the
1692 affected franchisee;

1693 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of
1694 new powersport vehicles of each make, series, and model needed by the franchisee to achieve a
1695 percentage of total new vehicle sales of each make, series, and model equitably related to the
1696 total new vehicle production or importation being achieved nationally at the time of the order
1697 by each make, series, and model covered under the franchise agreement;

1698 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
1699 facilities;

1700 (o) fail to include in any franchise agreement the following language or language to the
1701 effect that: "If any provision in this agreement contravenes the laws, rules, or regulations of any
1702 state or other jurisdiction where this agreement is to be performed, or provided for by such
1703 laws or regulations, the provision is considered to be modified to conform to such laws, rules,
1704 or regulations, and all other terms and provisions shall remain in full force.";

1705 (p) engage in the distribution, sale, offer for sale, or lease of a new powersport vehicle
1706 to purchasers who acquire the vehicle in this state except through a franchisee with whom the
1707 franchisor has established a written franchise agreement, if the franchisor's trade name,
1708 trademark, service mark, or related characteristic is an integral element in the distribution, sale,
1709 offer for sale, or lease;

1710 (q) except as provided in Subsection (2), authorize or permit a person to perform
1711 warranty service repairs on powersport vehicles, except warranty service repairs:

1712 (i) by a franchisee with whom the franchisor has entered into a franchise agreement for
1713 the sale and service of the franchisor's powersport vehicles; or

1714 (ii) on owned powersport vehicles by a person or government entity who has purchased
1715 new powersport vehicles pursuant to a franchisor's or manufacturer's fleet discount program;

1716 (r) fail to provide a franchisee with a written franchise agreement;

1717 (s) notwithstanding any other provisions of this chapter, unreasonably fail or refuse to
1718 offer to its same line-make franchised dealers all models manufactured for that line-make, or
1719 unreasonably require a dealer to pay any extra fee, remodel, renovate, recondition the dealer's
1720 existing facilities, or purchase unreasonable advertising displays or other materials as a
1721 prerequisite to receiving a model or series of vehicles;

1722 (t) except as provided in Subsection (5), directly or indirectly:

1723 (i) own an interest in a new powersport vehicle dealer or dealership;

1724 (ii) operate or control a new powersport vehicle dealer or dealership;

1725 (iii) act in the capacity of a new powersport vehicle dealer, as defined in Section
1726 [13-35-102](#); or

1727 (iv) operate a powersport vehicle service facility;

1728 (u) fail to timely pay for all reimbursements to a franchisee for incentives and other
1729 payments made by the franchisor;

1730 (v) directly or indirectly influence or direct potential customers to franchisees in an

1731 inequitable manner, including:

1732 (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of
1733 the franchisee's products or services in an amount exceeding the actual cost of the referral;

1734 (ii) giving a customer referral to a franchisee on the condition that the franchisee agree
1735 to sell the vehicle at a price fixed by the franchisor; or

1736 (iii) advising a potential customer as to the amount that the potential customer should
1737 pay for a particular product;

1738 (w) fail to provide comparable delivery terms to each franchisee for a product of the
1739 franchisor, including the time of delivery after the placement of an order by the franchisee;

1740 (x) if personnel training is provided by the franchisor to its franchisees, unreasonably
1741 fail to make that training available to each franchisee on proportionally equal terms;

1742 (y) condition a franchisee's eligibility to participate in a sales incentive program on the
1743 requirement that a franchisee use the financing services of the franchisor or a subsidiary or
1744 affiliate of the franchisor for inventory financing;

1745 (z) make available for public disclosure, except with the franchisee's permission or
1746 under subpoena or in any administrative or judicial proceeding in which the franchisee or the
1747 franchisor is a party, any confidential financial information regarding a franchisee, including:

1748 (i) monthly financial statements provided by the franchisee;

1749 (ii) the profitability of a franchisee; or

1750 (iii) the status of a franchisee's inventory of products;

1751 (aa) use any performance standard, incentive program, or similar method to measure
1752 the performance of franchisees unless the standard or program:

1753 (i) is designed and administered in a fair, reasonable, and equitable manner;

1754 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;

1755 and

1756 (iii) is, upon request by a franchisee, disclosed and explained in writing to the
1757 franchisee, including:

1758 (A) how the standard or program is designed;

1759 (B) how the standard or program will be administered; and

1760 (C) the types of data that will be collected and used in the application of the standard or
1761 program;

1762 (bb) other than sales to the federal government, directly or indirectly, sell, lease, offer
1763 to sell, or offer to lease, a new powersport vehicle or any powersport vehicle owned by the
1764 franchisor, except through a franchised new powersport vehicle dealer;

1765 (cc) compel a franchisee, through a finance subsidiary, to agree to unreasonable
1766 operating requirements, except that this Subsection (1)(cc) may not be construed to limit the
1767 right of a financing subsidiary to engage in business practices in accordance with the usage of
1768 trade in retail and wholesale powersport vehicle financing;

1769 (dd) condition the franchisor's participation in co-op advertising for a product category
1770 on the franchisee's participation in any program related to another product category or on the
1771 franchisee's achievement of any level of sales in a product category other than that which is the
1772 subject of the co-op advertising;

1773 (ee) discriminate against a franchisee in the state in favor of another franchisee of the
1774 same line-make in the state by:

1775 (i) selling or offering to sell a new powersport vehicle to one franchisee at a higher
1776 actual price, including the price for vehicle transportation, than the actual price at which the
1777 same model similarly equipped is offered to or is made available by the franchisor to another
1778 franchisee in the state during a similar time period;

1779 (ii) except as provided in Subsection (6), using a promotional program or device or an
1780 incentive, payment, or other benefit, whether paid at the time of the sale of the new powersport
1781 vehicle to the franchisee or later, that results in the sale of or offer to sell a new powersport
1782 vehicle to one franchisee in the state at a higher price, including the price for vehicle
1783 transportation, than the price at which the same model similarly equipped is offered or is made
1784 available by the franchisor to another franchisee in the state during a similar time period; or

1785 (iii) except as provided in Subsection (7), failing to provide or direct a lead in a fair,
1786 equitable, and timely manner; or

1787 (ff) through an affiliate, take any action that would otherwise be prohibited under this
1788 chapter.

1789 (2) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee
1790 carry a reasonable inventory of:

1791 (a) new powersport vehicle models offered for sale by the franchisor; and

1792 (b) parts to service the repair of the new powersport vehicles.

- 1793 (3) Subsection (1)(d) does not prevent a franchisor from:
- 1794 (a) requiring that a franchisee maintain separate sales personnel or display space; or
- 1795 (b) refusing to permit a combination of new powersport vehicle lines, if justified by
- 1796 reasonable business considerations.
- 1797 (4) Upon the written request of any franchisee, a franchisor shall disclose in writing to
- 1798 the franchisee the basis on which new powersport vehicles, parts, and accessories are allocated,
- 1799 scheduled, and delivered among the franchisor's dealers of the same line-make.
- 1800 (5) (a) A franchisor may engage in any of the activities listed in Subsection (1)(t), for a
- 1801 period not to exceed 12 months if:
- 1802 (i) (A) the person from whom the franchisor acquired the interest in or control of the
- 1803 new powersport vehicle dealership was a franchised new powersport vehicle dealer; and
- 1804 (B) the franchisor's interest in the new powersport vehicle dealership is for sale at a
- 1805 reasonable price and on reasonable terms and conditions; or
- 1806 (ii) the franchisor is engaging in the activity listed in Subsection (1)(t) for the purpose
- 1807 of broadening the diversity of its dealer body and facilitating the ownership of a new
- 1808 powersport vehicle dealership by a person who:
- 1809 (A) is part of a group that has been historically underrepresented in the franchisor's
- 1810 dealer body;
- 1811 (B) would not otherwise be able to purchase a new powersport vehicle dealership;
- 1812 (C) has made a significant investment in the new powersport vehicle dealership which
- 1813 is subject to loss;
- 1814 (D) has an ownership interest in the new powersport vehicle dealership; and
- 1815 (E) operates the new powersport vehicle dealership under a plan to acquire full
- 1816 ownership of the dealership within a reasonable period of time and under reasonable terms and
- 1817 conditions.
- 1818 (b) [~~After receipt of the advisory board's recommendation, the~~] The executive director
- 1819 may, for good cause shown, extend the time limit set forth in Subsection (5)(a) for an
- 1820 additional period not to exceed 12 months.
- 1821 (c) Notwithstanding Subsection (1)(t), a franchisor may own, operate, or control a new
- 1822 powersport vehicle dealership trading in a line-make of powersport vehicle if:
- 1823 (i) as to that line-make of powersport vehicle, there are no more than four franchised

1824 new powersport vehicle dealerships licensed and in operation within the state as of January 1,
1825 2002;

1826 (ii) the franchisor does not own directly or indirectly, more than a 45% interest in the
1827 dealership;

1828 (iii) at the time the franchisor first acquires ownership or assumes operation or control
1829 of the dealership, the distance between the dealership thus owned, operated, or controlled and
1830 the nearest unaffiliated new powersport vehicle dealership trading in the same line-make is not
1831 less than 150 miles;

1832 (iv) all the franchisor's franchise agreements confer rights on the franchisee to develop
1833 and operate as many dealership facilities as the franchisee and franchisor shall agree are
1834 appropriate within a defined geographic territory or area; and

1835 (v) as of January 1, 2002, no fewer than half of the franchisees of the line-make within
1836 the state own and operate two or more dealership facilities in the geographic area covered by
1837 the franchise agreement.

1838 (6) Subsection (1)(ee)(ii) does not prohibit a promotional or incentive program that is
1839 functionally available to all franchisees of the same line-make in the state on substantially
1840 comparable terms.

1841 (7) Subsection (1)(ee)(iii) may not be construed to:

1842 (a) permit provision of or access to customer information that is otherwise protected
1843 from disclosure by law or by contract between franchisor and a franchisee; or

1844 (b) require a franchisor to disregard the preference of a potential customer in providing
1845 or directing a lead, provided that the franchisor does not direct the customer to such a
1846 preference.

1847 (8) Subsection (1)(ff) does not limit the right of an affiliate to engage in business
1848 practices in accordance with the usage of trade in which the affiliate is engaged.

1849 Section 23. Section **13-35-202** is amended to read:

1850 **13-35-202. Sale or transfer of ownership.**

1851 (1) (a) The franchisor shall give effect to the change in a franchise agreement as a
1852 result of an event listed in Subsection (1)(b):

1853 (i) subject to Subsection **13-35-305(2)(b)**; and

1854 (ii) unless exempted under Subsection (2).

1855 (b) The franchisor shall give effect to the change in a franchise agreement pursuant to
1856 Subsection (1)(a) for the:

1857 (i) sale of a dealership;

1858 (ii) contract for sale of a dealership;

1859 (iii) transfer of ownership of a franchisee's dealership by sale, transfer of the business,
1860 or by stock transfer; or

1861 (iv) change in the executive management of the franchisee's dealership.

1862 (2) A franchisor is exempted from the requirements of Subsection (1) if:

1863 (a) the transferee is denied, or would be denied, a new powersport vehicle franchisee's
1864 registration pursuant to Section 13-35-105; or

1865 (b) the proposed sale or transfer of the business or change of executive management
1866 will be substantially detrimental to the distribution of the franchisor's new powersport vehicles
1867 or to competition in the relevant market area, provided that the franchisor has given written
1868 notice to the franchisee within 60 days following receipt by the franchisor of the following:

1869 (i) a copy of the proposed contract of sale or transfer executed by the franchisee and the
1870 proposed transferee;

1871 (ii) a completed copy of the franchisor's written application for approval of the change
1872 in ownership or executive management, if any, including the information customarily required
1873 by the franchisor; and

1874 (iii) (A) a written description of the business experience of the executive management
1875 of the transferee in the case of a proposed sale or transfer of the franchisee's business; or

1876 (B) a written description of the business experience of the person involved in the
1877 proposed change of the franchisee's executive management in the case of a proposed change of
1878 executive management.

1879 (3) For purposes of this section, the refusal by the franchisor to accept a proposed
1880 transferee is presumed to be unreasonable and undertaken without good cause if the proposed
1881 franchisee:

1882 (a) is of good moral character; and

1883 (b) otherwise meets the written, reasonable, and uniformly applied standards or
1884 qualifications, if any, of the franchisor relating to the business experience of executive
1885 management and financial capacity to operate and maintain the dealership required by the

1886 franchisor of its franchisees.

1887 (4) (a) If after receipt of the written notice from the franchisor described in Subsection
1888 (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of
1889 the business or change of executive management, the franchisee may file an application for a
1890 hearing before the ~~[board]~~ executive director up to 60 days from the date of receipt of the
1891 notice.

1892 (b) After a hearing, ~~[and the executive director's receipt of the advisory board's~~
1893 ~~recommendation,]~~ the executive director shall determine, and enter an order providing that:

1894 (i) the proposed transferee or change in executive management:

1895 (A) shall be approved; or

1896 (B) may not be approved for specified reasons; or

1897 (ii) a proposed transferee or change in executive management is approved if specific
1898 conditions are timely satisfied.

1899 (c) (i) The franchisee shall have the burden of proof with respect to all issues raised by
1900 the franchisee's application for a hearing as provided in this section.

1901 (ii) During the pendency of the hearing, the franchise agreement shall continue in effect
1902 in accordance with its terms.

1903 (d) The ~~[advisory board and the]~~ executive director shall expedite, upon written
1904 request, any determination sought under this section.

1905 Section 24. Section **13-35-203** is amended to read:

1906 **13-35-203. Succession to franchise.**

1907 (1) (a) A successor, including a family member of a deceased or incapacitated
1908 franchisee, who is designated by the franchisee may succeed the franchisee in the ownership
1909 and operation of the dealership under the existing franchise agreement if:

1910 (i) the designated successor gives the franchisor written notice of an intent to succeed
1911 to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180
1912 days after the franchisee's death or incapacity;

1913 (ii) the designated successor agrees to be bound by all of the terms and conditions of
1914 the franchise agreement; and

1915 (iii) the designated successor meets the criteria generally applied by the franchisor in
1916 qualifying franchisees.

- 1917 (b) A franchisor may refuse to honor the existing franchise agreement with the
1918 designated successor only for good cause.
- 1919 (2) (a) The franchisor may request in writing from a designated successor the personal
1920 and financial data that is reasonably necessary to determine whether the existing franchise
1921 agreement should be honored.
- 1922 (b) The designated successor shall supply the personal and financial data promptly
1923 upon the request.
- 1924 (3) (a) If a franchisor believes that good cause exists for refusing to honor the requested
1925 succession, the franchisor shall serve upon the designated successor notice of its refusal to
1926 approve the succession, within 60 days after the later of:
- 1927 (i) receipt of the notice of the designated successor's intent to succeed the franchisee in
1928 the ownership and operation of the dealership; or
- 1929 (ii) the receipt of the requested personal and financial data.
- 1930 (b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of
1931 the designated successor and the franchise agreement is considered amended to reflect the
1932 approval of the succession the day following the last day the franchisor can serve notice under
1933 Subsection (3)(a).
- 1934 (4) The notice of the franchisor provided in Subsection (3) shall state:
- 1935 (a) the specific grounds for the refusal to approve the succession; and
- 1936 (b) that discontinuance of the franchise agreement shall take effect not less than 180
1937 days after the date the notice of refusal is served unless the proposed successor files an
1938 application for hearing under Subsection (6).
- 1939 (5) (a) This section does not prevent a franchisee from designating a person as the
1940 successor by written instrument filed with the franchisor.
- 1941 (b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs
1942 the succession rights to the management and operation of the dealership subject to the
1943 designated successor satisfying the franchisor's qualification requirements as described in this
1944 section.
- 1945 (6) (a) If a franchisor serves a notice of refusal to a designated successor pursuant to
1946 Subsection (3), the designated successor may, within the 180-day period provided in
1947 Subsection (4), file with the ~~[advisory board]~~ executive director an application for a hearing

1948 and a determination by the executive director regarding whether good cause exists for the
1949 refusal.

1950 (b) If application for a hearing is timely filed, the franchisor shall continue to honor the
1951 franchise agreement until after:

1952 (i) the requested hearing has been concluded;

1953 (ii) a decision is rendered by the executive director; and

1954 (iii) the applicable appeal period has expired following a decision by the executive
1955 director.

1956 Section 25. Section **13-35-301** is amended to read:

1957 **13-35-301. Termination or noncontinuance of franchise.**

1958 (1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to
1959 continue a franchise agreement unless:

1960 (a) the franchisee has received written notice from the franchisor 60 days before the
1961 effective date of termination or noncontinuance setting forth the specific grounds for
1962 termination or noncontinuance that are relied on by the franchisor as establishing good cause
1963 for the termination or noncontinuance;

1964 (b) the franchisor has good cause for termination or noncontinuance; and

1965 (c) the franchisor is willing and able to comply with Section [13-35-105](#).

1966 (2) A franchisor may terminate a franchise, without complying with Subsection (1):

1967 (a) if for a particular line-make the franchisor or manufacturer discontinues that
1968 line-make;

1969 (b) if the franchisee's registration as a new powersport vehicle dealer is revoked under
1970 Section [13-35-105](#); or

1971 (c) upon a mutual written agreement of the franchisor and franchisee.

1972 (3) (a) At any time before the effective date of termination or noncontinuance of the
1973 franchise, the franchisee may apply to the [~~advisory board~~] executive director for a hearing on
1974 the merits, and following notice to all parties concerned, the hearing shall be promptly held as
1975 provided in Section [13-35-304](#).

1976 (b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may
1977 not become effective until:

1978 (i) final determination of the issue by the executive director; and

- 1979 (ii) the applicable appeal period has lapsed.
- 1980 Section 26. Section **13-35-302** is amended to read:
- 1981 **13-35-302. Issuance of additional franchises -- Relocation of existing franchisees.**
- 1982 (1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection
- 1983 (1)(b) if the franchisor seeks to:
- 1984 (i) enter into a franchise establishing a powersport vehicle dealership within a relevant
- 1985 market area where the same line-make is represented by another franchisee; or
- 1986 (ii) relocate an existing powersport vehicle dealership.
- 1987 (b) (i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking
- 1988 the action, the franchisor shall in writing notify the [~~advisory board~~] executive director and
- 1989 each franchisee in that line-make in the relevant market area that the franchisor intends to take
- 1990 an action described in Subsection (1)(a).
- 1991 (ii) The notice required by Subsection (1)(b)(i) shall:
- 1992 (A) specify the good cause on which it intends to rely for the action; and
- 1993 (B) be delivered by registered or certified mail or by any form of reliable delivery
- 1994 through which receipt is verifiable.
- 1995 (c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee
- 1996 that is required to receive notice under Subsection (1)(b) may protest to the [~~advisory board~~]
- 1997 executive director the establishing or relocating of the dealership. When a protest is filed, the
- 1998 department shall inform the franchisor that:
- 1999 (i) a timely protest has been filed;
- 2000 (ii) a hearing is required;
- 2001 (iii) the franchisor may not establish or relocate the proposed dealership until the
- 2002 [~~advisory board~~] executive director has held a hearing; and
- 2003 (iv) the franchisor may not establish or relocate a proposed dealership if the executive
- 2004 director determines that there is not good cause for permitting the establishment or relocation
- 2005 of the dealership.
- 2006 (d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated
- 2007 to expedite the disposition of the issue.
- 2008 (2) Subsection (1) does not apply to the relocation of a franchisee's dealership:
- 2009 (a) less than two miles from the existing location of the franchisee's dealership; or

2010 (b) farther away from all powersport dealerships that are:
2011 (i) of the same line-make as the franchisee's dealership; and
2012 (ii) in the franchisee's existing dealership's relevant market area.
2013 (3) For purposes of this section:
2014 (a) relocation of an existing franchisee's dealership in excess of one mile from its
2015 existing location is considered the establishment of an additional franchise in the line-make of
2016 the relocating franchise;
2017 (b) the reopening in a relevant market area of a dealership that has not been in
2018 operation for one year or more is considered the establishment of an additional powersport
2019 vehicle dealership; and

2020 (c) (i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary
2021 additional place of business by a powersport vehicle franchisee is considered the establishment
2022 of an additional powersport vehicle dealership; and
2023 (ii) the establishment of a temporary additional place of business by a powersport
2024 vehicle franchisee is not considered the establishment of an additional powersport vehicle
2025 dealership if the powersport vehicle franchisee is participating in a trade show where three or
2026 more powersport vehicle dealers are participating.

2027 Section 27. Section **13-35-303** is amended to read:

2028 **13-35-303. Effect of terminating a franchise.**

2029 If under Section **13-35-301** the executive director permits a franchisor to terminate or
2030 not continue a franchise and prohibits the franchisor from entering into a franchise for the sale
2031 of new powersport vehicles of a line-make in a relevant market area, the franchisor may not
2032 enter into a franchise for the sale of new powersport vehicles of that line-make in the specified
2033 relevant market area unless the executive director determines~~[, after a recommendation by the~~
2034 ~~advisory board,]~~ that there has been a change of circumstances so that the relevant market area
2035 at the time of the establishment of the new franchise agreement can reasonably be expected to
2036 support the new franchisee.

2037 Section 28. Section **13-35-305** is amended to read:

2038 **13-35-305. Evidence to be considered in determining cause to terminate or**
2039 **discontinue.**

2040 (1) In determining whether a franchisor has established good cause for terminating or

2041 not continuing a franchise agreement, [~~the advisory board and~~] the executive director shall
2042 consider:

2043 (a) the amount of business transacted by the franchisee, as compared to business
2044 available to the franchisee;

2045 (b) the investment necessarily made and obligations incurred by the franchisee in the
2046 performance of the franchisee's part of the franchise agreement;

2047 (c) the permanency of the investment;

2048 (d) whether it is injurious or beneficial to the public welfare or public interest for the
2049 business of the franchisee to be disrupted;

2050 (e) whether the franchisee has adequate powersport vehicle sales and service facilities,
2051 equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of
2052 the consumer for the new powersport vehicles handled by the franchisee and has been and is
2053 rendering adequate services to the public;

2054 (f) whether the franchisee refuses to honor warranties of the franchisor under which the
2055 warranty service work is to be performed pursuant to the franchise agreement, if the franchisor
2056 reimburses the franchisee for the warranty service work;

2057 (g) failure by the franchisee to substantially comply with those requirements of the
2058 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

2059 (i) reasonable;

2060 (ii) material; and

2061 (iii) not in violation of this chapter;

2062 (h) evidence of bad faith by the franchisee in complying with those terms of the

2063 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

2064 (i) reasonable;

2065 (ii) material; and

2066 (iii) not in violation of this chapter;

2067 (i) prior misrepresentation by the franchisee in applying for the franchise;

2068 (j) transfer of any ownership or interest in the franchise without first obtaining

2069 approval from the franchisor or the executive director [~~after receipt of the advisory board's~~
2070 ~~recommendation~~]; and

2071 (k) any other factor [~~the advisory board or~~] the executive director [~~consider~~] considers

2072 relevant.

2073 (2) Notwithstanding any franchise agreement, the following do not constitute good
2074 cause, as used in this chapter for the termination or noncontinuation of a franchise:

2075 (a) the sole fact that the franchisor desires:

2076 (i) greater market penetration; or

2077 (ii) more sales or leases of new powersport vehicles;

2078 (b) the change of ownership of the franchisee's dealership or the change of executive

2079 management of the franchisee's dealership unless the franchisor proves that the change of

2080 ownership or executive management will be substantially detrimental to the distribution of the

2081 franchisor's powersport vehicles; or

2082 (c) the fact that the franchisee has justifiably refused or declined to participate in any
2083 conduct covered by Section [13-35-201](#).

2084 (3) For purposes of Subsection (2), "substantially detrimental" includes the failure of
2085 any proposed transferee to meet the objective criteria applied by the franchisor in qualifying
2086 franchisees at the time of application.

2087 Section 29. Section **13-35-306** is amended to read:

2088 **13-35-306. Evidence to be considered in determining cause to relocate existing**
2089 **franchisee or establish a new franchised dealership.**

2090 In determining whether a franchisor has established good cause for relocating an
2091 existing franchisee or establishing a new franchised dealership for the same line-make in a
2092 given relevant market area, [~~the advisory board and~~] the executive director shall consider:

2093 (1) the amount of business transacted by other franchisees of the same line-make in
2094 that relevant market area, as compared to business available to the franchisees;

2095 (2) the investment necessarily made and obligations incurred by other franchisees of
2096 the same line-make in that relevant market area in the performance of their part of their
2097 franchisee agreements;

2098 (3) the permanency of the existing and proposed investment;

2099 (4) whether it is injurious or beneficial to the public welfare or public interest for an
2100 additional franchise to be established; and

2101 (5) whether the franchisees of the same line-make in that relevant market area are
2102 providing adequate service to consumers for the powersport vehicles of the line-make, which

2103 shall include the adequacy of:

2104 (a) the powersport vehicle sale and service facilities;

2105 (b) equipment;

2106 (c) supply of vehicle parts; and

2107 (d) qualified service personnel.

2108 Section 30. Section **15A-1-204** is amended to read:

2109 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
2110 **-- Approved codes -- Exemptions.**

2111 (1) (a) The State Construction Code is the construction codes adopted with any
2112 modifications in accordance with this section that the state and each political subdivision of the
2113 state shall follow.

2114 (b) A person shall comply with the applicable provisions of the State Construction
2115 Code when:

2116 (i) new construction is involved; and

2117 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

2118 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
2119 conservation, or reconstruction of the building; or

2120 (B) changing the character or use of the building in a manner that increases the
2121 occupancy loads, other demands, or safety risks of the building.

2122 (c) On and after July 1, 2010, the State Construction Code is the State Construction
2123 Code in effect on July 1, 2010, until in accordance with this section:

2124 (i) a new State Construction Code is adopted; or

2125 (ii) one or more provisions of the State Construction Code are amended or repealed in
2126 accordance with this section.

2127 (d) A provision of the State Construction Code may be applicable:

2128 (i) to the entire state; or

2129 (ii) within a county, city, or town.

2130 (2) (a) The Legislature shall adopt a State Construction Code by enacting legislation
2131 that adopts a nationally recognized construction code with any modifications.

2132 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect
2133 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the

2134 legislation.

2135 (c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is
2136 the State Construction Code until, in accordance with this section, the Legislature adopts a new
2137 State Construction Code by:

2138 (i) adopting a new State Construction Code in its entirety; or

2139 (ii) amending or repealing one or more provisions of the State Construction Code.

2140 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
2141 recognized construction code, the commission shall prepare a report described in Subsection
2142 (4).

2143 (b) For the provisions of a nationally recognized construction code that apply only to
2144 detached one- and two-family dwellings and townhouses not more than three stories above
2145 grade plane in height with separate means of egress and their accessory structures, the
2146 commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every
2147 second update of the nationally recognized construction code.

2148 (4) (a) In accordance with Subsection (3), on or before September 1 of the year after
2149 the year designated in the title of a nationally recognized construction code, the commission
2150 shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business
2151 and Labor Interim Committee that:

2152 (i) states whether the commission recommends the Legislature adopt the update with
2153 any modifications; and

2154 (ii) describes the costs and benefits of each recommended change in the update or in
2155 any modification.

2156 (b) After the Business and Labor Interim Committee receives the report described in
2157 Subsection (4)(a), the Business and Labor Interim Committee shall:

2158 (i) study the recommendations; and

2159 (ii) if the Business and Labor Interim Committee decides to recommend legislative
2160 action to the Legislature, prepare legislation for consideration by the Legislature in the next
2161 general session.

2162 (5) (a) (i) The commission shall, by no later than September 1 of each year in which
2163 the commission is not required to submit a report described in Subsection (4), submit, in
2164 accordance with Section 68-3-14, a written report to the Business and Labor Interim

2165 Committee recommending whether the Legislature should amend or repeal one or more
2166 provisions of the State Construction Code.

2167 (ii) As part of a recommendation described in Subsection (5)(a)(i), the commission
2168 shall describe the costs and benefits of each proposed amendment or repeal.

2169 (b) The commission may recommend legislative action related to the State
2170 Construction Code:

2171 (i) on the commission's own initiative;

2172 (ii) upon the recommendation of the division; or

2173 (iii) upon the receipt of a request by one of the following that the commission
2174 recommend legislative action related to the State Construction Code:

2175 (A) a local regulator;

2176 (B) a state regulator;

2177 (C) a state agency involved with the construction and design of a building;

2178 (D) the Construction Services Commission;

2179 [~~(E) the Electrician Licensing Board;~~]

2180 [~~(F)~~] (E) the Electricians and Plumbers Licensing Board; or

2181 [~~(G)~~] (F) a recognized construction-related association.

2182 (c) If the Business and Labor Interim Committee decides to recommend legislative
2183 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
2184 for consideration by the Legislature in the next general session.

2185 (6) (a) Notwithstanding the provisions of this section, the commission may, in
2186 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
2187 Construction Code if the commission determines that waiting for legislative action in the next
2188 general legislative session would:

2189 (i) cause an imminent peril to the public health, safety, or welfare; or

2190 (ii) place a person in violation of federal or other state law.

2191 (b) If the commission amends the State Construction Code in accordance with this
2192 Subsection (6), the commission shall file with the division:

2193 (i) the text of the amendment to the State Construction Code; and

2194 (ii) an analysis that includes the specific reasons and justifications for the commission's
2195 findings.

2196 (c) If the State Construction Code is amended under this Subsection (6), the division
2197 shall:

2198 (i) publish the amendment to the State Construction Code in accordance with Section
2199 15A-1-205; and

2200 (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the
2201 Business and Labor Interim Committee containing the amendment to the State Construction
2202 Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

2203 (d) If not formally adopted by the Legislature at the next annual general session, an
2204 amendment to the State Construction Code under this Subsection (6) is repealed on the July 1
2205 immediately following the next annual general session that follows the adoption of the
2206 amendment.

2207 (7) (a) The division, in consultation with the commission, may approve, without
2208 adopting, one or more approved codes, including a specific edition of a construction code, for
2209 use by a compliance agency.

2210 (b) If the code adopted by a compliance agency is an approved code described in
2211 Subsection (7)(a), the compliance agency may:

2212 (i) adopt an ordinance requiring removal, demolition, or repair of a building;

2213 (ii) adopt, by ordinance or rule, a dangerous building code; or

2214 (iii) adopt, by ordinance or rule, a building rehabilitation code.

2215 (8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in
2216 state law, a state executive branch entity or political subdivision of the state may not, after
2217 December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject
2218 specifically addressed by, and that is more restrictive than, the State Construction Code.

2219 (9) A state executive branch entity or political subdivision of the state may:

2220 (a) enforce a federal law or regulation;

2221 (b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or
2222 requirement applies only to a facility or construction owned or used by a state entity or a
2223 political subdivision of the state; or

2224 (c) enforce a rule, ordinance, or requirement:

2225 (i) that the state executive branch entity or political subdivision adopted or made
2226 effective before July 1, 2015; and

2227 (ii) for which the state executive branch entity or political subdivision can demonstrate,
2228 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an
2229 individual from a condition likely to cause imminent injury or death.

2230 (10) The Department of Health and Human Services or the Department of
2231 Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

2232 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
2233 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
2234 than 1,500 square feet and used solely for the type of sales described in Subsection
2235 59-12-104(20), is exempt from the requirements of the State Construction Code.

2236 (b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing,
2237 electrical, and mechanical permit may be required when that work is included in a structure
2238 described in Subsection (11)(a).

2239 (ii) Unless located in whole or in part in an agricultural protection area created under
2240 Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection
2241 Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if
2242 the structure is located on land that is:

2243 (A) within the boundaries of a city or town, and less than five contiguous acres; or

2244 (B) within a subdivision for which the county has approved a subdivision plat under
2245 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

2246 (12) (a) A remote yurt is exempt from the State Construction Code including the
2247 permit requirements of the State Construction Code.

2248 (b) Notwithstanding Subsection (12)(a), a county may by ordinance require remote
2249 yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to
2250 comply with all of the following:

2251 (i) the State Construction Code;

2252 (ii) notwithstanding Section 15A-5-104, the State Fire Code; and

2253 (iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules
2254 made under that chapter, and local health department's jurisdiction over onsite wastewater
2255 disposal.

2256 Section 31. Section 15A-1-206 is amended to read:

2257 **15A-1-206. Code amendment process.**

2258 (1) The division, in consultation with the commission, shall establish by rule the
2259 procedure under which a request that the commission recommend legislative action is to be:

2260 (a) filed with the division;

2261 (b) reviewed by the commission; and

2262 (c) addressed by the commission in the commission's report to the Business and Labor
2263 Interim Committee required by Section 15A-1-204.

2264 (2) The division shall accept a request that the commission recommend legislative
2265 action in accordance with Section 15A-1-204 from:

2266 (a) a local regulator;

2267 (b) a state regulator;

2268 (c) a state agency involved with the construction and design of a building;

2269 (d) the Construction Services Commission;

2270 [~~(e) the Electrician Licensing Board;~~]

2271 [~~(f)~~] (e) the Electricians and Plumbers Licensing Board; or

2272 [~~(g)~~] (f) a recognized construction-related association.

2273 (3) (a) If one or more requests are received in accordance with this section, the division
2274 shall hold at least one public hearing before the commission concerning the requests.

2275 (b) The commission shall conduct a public hearing under this Subsection (3) in
2276 accordance with the rules of the commission, which may provide for coordinating the public
2277 hearing with a meeting of the commission.

2278 (c) After a public hearing described in this Subsection (3), the commission shall
2279 prepare a written report of its recommendations made on the basis of the public hearing. The
2280 commission shall include the information in the written report prepared under this Subsection
2281 (3)(c) in the commission's report to the Business and Labor Interim Committee under Section
2282 15A-1-204.

2283 (4) In making rules required by this chapter, the division shall comply with Title 63G,
2284 Chapter 3, Utah Administrative Rulemaking Act.

2285 Section 32. Section 26B-1-239 is amended to read:

2286 **26B-1-239. Systematic medical evidence review of hormonal transgender**
2287 **treatments.**

2288 (1) As used in this section, "hormonal transgender treatment" means the same as that

2289 term is defined in Section 58-1-603.

2290 (2) The department, in consultation with the Division of Professional Licensing created
2291 in Section 58-1-103, the [Physicians] Medical Licensing Board created in Section 58-67-201,
2292 [~~the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201;~~] the
2293 University of Utah, and a non-profit hospital system with multiple hospitals in Utah and
2294 experience in specialty pediatric care, shall conduct a systematic medical evidence review
2295 regarding the provision of hormonal transgender treatments to minors.

2296 (3) The purpose of the systematic medical evidence review is to provide the Legislature
2297 with recommendations to consider when deciding whether to lift the moratorium described in
2298 Section 58-1-603.1.

2299 (4) The systematic medical evidence review shall:

2300 (a) analyze hormonal transgender treatments that are prescribed to a minor with gender
2301 dysphoria, including:

2302 (i) analyzing any effects and side effects of the treatment; and

2303 (ii) whether each treatment has been approved by the federal Food and Drug
2304 Administration to treat gender dysphoria;

2305 (b) review the scientific literature regarding hormonal transgender treatments in
2306 minors, including short-term and long-term impacts, literature from other countries, and rates
2307 of desistence and time to desistence where applicable;

2308 (c) review the quality of evidence cited in any scientific literature including to analyze
2309 and report on the quality of the data based on techniques such as peer review, selection bias,
2310 self-selection bias, randomization, sample size, and other applicable best research practices;

2311 (d) include high quality clinical research assessing the short-term and long-term
2312 benefits and harms of hormonal transgender treatments prescribed to minors with gender
2313 dysphoria and the short-term and long-term benefits and harms of interrupting the natural
2314 puberty and development processes of the child;

2315 (e) specify the conditions under which the department recommends that a treatment not
2316 be permitted;

2317 (f) recommend what information a minor and the minor's parent should understand
2318 before consenting to a hormonal transgender treatment;

2319 (g) recommend the best practices a health care provider should follow to provide the

2320 information described in Subsection (4)(f);

2321 (h) describe the assumptions and value determinations used to reach a
2322 recommendation; and

2323 (i) include any other information the department, in consultation with the entities
2324 described in Subsection (2), determines would assist the Legislature in enacting legislation
2325 related to the provision of hormonal transgender treatment to minors.

2326 (5) Upon the completion of the systematic medical evidence review, the department
2327 shall provide the systematic medical evidence review to the Health and Human Services
2328 Interim Committee.

2329 Section 33. Section **26B-1-421** is amended to read:

2330 **26B-1-421. Compassionate Use Board.**

2331 (1) The definitions in Section **26B-4-201** apply to this section.

2332 (2) (a) The department shall establish a Compassionate Use Board consisting of:

2333 (i) seven qualified medical providers that the executive director appoints and the
2334 Senate confirms:

2335 (A) who are knowledgeable about the medicinal use of cannabis;

2336 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
2337 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2338 (C) who are board certified by the American Board of Medical Specialties or an
2339 American Osteopathic Association Specialty Certifying Board in the specialty of neurology,
2340 pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal
2341 medicine, pediatrics, family medicine, or gastroenterology; and

2342 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
2343 executive director or the director's designee.

2344 (b) In appointing the seven qualified medical providers described in Subsection (2)(a),
2345 the executive director shall ensure that at least two have a board certification in pediatrics.

2346 (3) (a) Of the members of the Compassionate Use Board that the executive director
2347 first appoints:

2348 (i) three shall serve an initial term of two years; and

2349 (ii) the remaining members shall serve an initial term of four years.

2350 (b) After an initial term described in Subsection (3)(a) expires:

- 2351 (i) each term is four years; and
- 2352 (ii) each board member is eligible for reappointment.
- 2353 (c) A member of the Compassionate Use Board may serve until a successor is
- 2354 appointed.
- 2355 (d) Four members constitute a quorum of the Compassionate Use Board.
- 2356 (4) A member of the Compassionate Use Board may receive:
- 2357 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
- 2358 service; and
- 2359 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
- 2360 Division of Finance in accordance with Section 63A-3-107.
- 2361 (5) The Compassionate Use Board shall:
- 2362 (a) review and recommend for department approval a petition to the board regarding an
- 2363 individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection
- 2364 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
- 2365 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
- 2366 period of validity, if:
- 2367 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
- 2368 the individual's qualified medical provider is actively treating the individual for an intractable
- 2369 condition that:
- 2370 (A) substantially impairs the individual's quality of life; and
- 2371 (B) has not, in the qualified medical provider's professional opinion, adequately
- 2372 responded to conventional treatments;
- 2373 (ii) the qualified medical provider:
- 2374 (A) recommends that the individual or minor be allowed to use medical cannabis; and
- 2375 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
- 2376 describing relevant treatment history including rationale for considering the use of medical
- 2377 cannabis; and
- 2378 (iii) the Compassionate Use Board determines that:
- 2379 (A) the recommendation of the individual's qualified medical provider is justified; and
- 2380 (B) based on available information, it may be in the best interests of the individual to
- 2381 allow the use of medical cannabis;

2382 (b) when a qualified medical provider recommends that an individual described in
2383 Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be
2384 allowed to use a medical cannabis device or medical cannabis product to vaporize a medical
2385 cannabis treatment, review and approve or deny the use of the medical cannabis device or
2386 medical cannabis product;

2387 (c) unless no petitions are pending:

2388 (i) meet to receive or review compassionate use petitions at least quarterly; and

2389 (ii) if there are more petitions than the board can receive or review during the board's
2390 regular schedule, as often as necessary;

2391 (d) except as provided in Subsection (6), complete a review of each petition and
2392 recommend to the department approval or denial of the applicant for qualification for a medical
2393 cannabis card within 90 days after the day on which the board received the petition;

2394 (e) consult with the department regarding the criteria described in Subsection (6); and

2395 (f) report, before November 1 of each year, to the Health and Human Services Interim
2396 Committee:

2397 (i) the number of compassionate use recommendations the board issued during the past
2398 year; and

2399 (ii) the types of conditions for which the board recommended compassionate use.

2400 (6) The department shall make rules, in consultation with the Compassionate Use
2401 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
2402 establish a process and criteria for a petition to the board to automatically qualify for expedited
2403 final review and approval or denial by the department in cases where, in the determination of
2404 the department and the board:

2405 (a) time is of the essence;

2406 (b) engaging the full review process would be unreasonable in light of the petitioner's
2407 physical condition; and

2408 (c) sufficient factors are present regarding the petitioner's safety.

2409 (7) (a) (i) The department shall review:

2410 (A) any compassionate use for which the Compassionate Use Board recommends

2411 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
2412 discretion under this section; and

2413 (B) any expedited petitions the department receives under the process described in
2414 Subsection (6).

2415 (ii) If the department determines that the Compassionate Use Board properly exercised
2416 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
2417 petition merits approval based on the criteria established in accordance with Subsection (6), the
2418 department shall:

2419 (A) issue the relevant medical cannabis card; and

2420 (B) provide for the renewal of the medical cannabis card in accordance with the
2421 recommendation of the qualified medical provider described in Subsection (5)(a).

2422 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),
2423 the individual seeking to obtain a medical cannabis card may petition the department to review
2424 the board's decision.

2425 (ii) If the department determines that the Compassionate Use Board's recommendation
2426 for denial under Subsection (5)(d) was arbitrary or capricious:

2427 (A) the department shall notify the Compassionate Use Board of the department's
2428 determination; and

2429 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend
2430 approval under this section.

2431 (c) In reviewing the Compassionate Use Board's recommendation for approval or
2432 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
2433 presume the board properly exercised the board's discretion unless the department determines
2434 that the board's recommendation was arbitrary or capricious.

2435 (8) Any individually identifiable health information contained in a petition that the
2436 Compassionate Use Board or department receives under this section is a protected record in
2437 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

2438 (9) The Compassionate Use Board shall annually report the board's activity to:

2439 (a) the Cannabis Research Review Board; and

2440 (b) the advisory board.

2441 Section 34. Section **26B-3-303** is amended to read:

2442 **26B-3-303. DUR Board -- Responsibilities.**

2443 The board shall:

- 2444 (1) develop rules necessary to carry out its responsibilities as defined in this part;
- 2445 (2) oversee the implementation of a Medicaid retrospective and prospective DUR
- 2446 program in accordance with this part, including responsibility for approving provisions of
- 2447 contractual agreements between the Medicaid program and any other entity that will process
- 2448 and review Medicaid drug claims and profiles for the DUR program in accordance with this
- 2449 part;
- 2450 (3) develop and apply predetermined criteria and standards to be used in retrospective
- 2451 and prospective DUR, ensuring that the criteria and standards are based on the compendia, and
- 2452 that they are developed with professional input, in a consensus fashion, with provisions for
- 2453 timely revision and assessment as necessary. The DUR standards developed by the board shall
- 2454 reflect the local practices of physicians in order to monitor:
- 2455 (a) therapeutic appropriateness;
- 2456 (b) overutilization or underutilization;
- 2457 (c) therapeutic duplication;
- 2458 (d) drug-disease contraindications;
- 2459 (e) drug-drug interactions;
- 2460 (f) incorrect drug dosage or duration of drug treatment; and
- 2461 (g) clinical abuse and misuse;
- 2462 (4) develop, select, apply, and assess interventions and remedial strategies for
- 2463 physicians, pharmacists, and recipients that are educational and not punitive in nature, in order
- 2464 to improve the quality of care;
- 2465 (5) disseminate information to physicians and pharmacists to ensure that they are aware
- 2466 of the board's duties and powers;
- 2467 (6) provide written, oral, or electronic reminders of patient-specific or drug-specific
- 2468 information, designed to ensure recipient, physician, and pharmacist confidentiality, and
- 2469 suggest changes in prescribing or dispensing practices designed to improve the quality of care;
- 2470 (7) utilize face-to-face discussions between experts in drug therapy and the prescriber
- 2471 or pharmacist who has been targeted for educational intervention;
- 2472 (8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;
- 2473 (9) create an educational program using data provided through DUR to provide active
- 2474 and ongoing educational outreach programs to improve prescribing and dispensing practices,

- 2475 either directly or by contract with other governmental or private entities;
- 2476 (10) provide a timely evaluation of intervention to determine if those interventions
- 2477 have improved the quality of care;
- 2478 (11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec.
- 2479 712;
- 2480 (12) develop a working agreement with related boards or agencies, including the State
- 2481 Board of Pharmacy, [Physicians] Medical Licensing Board, and SURS staff within the
- 2482 division, in order to clarify areas of responsibility for each, where those areas may overlap;
- 2483 (13) establish a grievance process for physicians and pharmacists under this part, in
- 2484 accordance with Title 63G, Chapter 4, Administrative Procedures Act;
- 2485 (14) publish and disseminate educational information to physicians and pharmacists
- 2486 concerning the board and the DUR program, including information regarding:
- 2487 (a) identification and reduction of the frequency of patterns of fraud, abuse, gross
- 2488 overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and
- 2489 recipients;
- 2490 (b) potential or actual severe or adverse reactions to drugs;
- 2491 (c) therapeutic appropriateness;
- 2492 (d) overutilization or underutilization;
- 2493 (e) appropriate use of generics;
- 2494 (f) therapeutic duplication;
- 2495 (g) drug-disease contraindications;
- 2496 (h) drug-drug interactions;
- 2497 (i) incorrect drug dosage and duration of drug treatment;
- 2498 (j) drug allergy interactions; and
- 2499 (k) clinical abuse and misuse;
- 2500 (15) develop and publish, with the input of the State Board of Pharmacy, guidelines
- 2501 and standards to be used by pharmacists in counseling Medicaid recipients in accordance with
- 2502 this part. The guidelines shall ensure that the recipient may refuse counseling and that the
- 2503 refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling
- 2504 include:
- 2505 (a) the name and description of the medication;

- 2506 (b) administration, form, and duration of therapy;
- 2507 (c) special directions and precautions for use;
- 2508 (d) common severe side effects or interactions, and therapeutic interactions, and how to
- 2509 avoid those occurrences;
- 2510 (e) techniques for self-monitoring drug therapy;
- 2511 (f) proper storage;
- 2512 (g) prescription refill information; and
- 2513 (h) action to be taken in the event of a missed dose; and
- 2514 (16) establish procedures in cooperation with the State Board of Pharmacy for
- 2515 pharmacists to record information to be collected under this part. The recorded information
- 2516 shall include:
 - 2517 (a) the name, address, age, and gender of the recipient;
 - 2518 (b) individual history of the recipient where significant, including disease state, known
 - 2519 allergies and drug reactions, and a comprehensive list of medications and relevant devices;
 - 2520 (c) the pharmacist's comments on the individual's drug therapy;
 - 2521 (d) name of prescriber; and
 - 2522 (e) name of drug, dose, duration of therapy, and directions for use.
- 2523 Section 35. Section **26B-4-219** is amended to read:
- 2524 **26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.**
- 2525 (1) (a) A medical cannabis pharmacy:
 - 2526 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
 - 2527 Practice Act, as a pharmacy medical provider;
 - 2528 (ii) may employ a physician who has the authority to write a prescription and is
 - 2529 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
 - 2530 Osteopathic Medical Practice Act, as a pharmacy medical provider;
 - 2531 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
 - 2532 works onsite during all business hours; and
 - 2533 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
 - 2534 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
 - 2535 cannabis pharmacy.
- 2536 (b) An individual may not serve as a pharmacy medical provider unless the department

2537 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2538 (2) (a) The department shall, within 15 days after the day on which the department
2539 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
2540 medical provider, register and issue a pharmacy medical provider registration card to the
2541 prospective pharmacy medical provider if the medical cannabis pharmacy:

2542 (i) provides to the department:

2543 (A) the prospective pharmacy medical provider's name and address;

2544 (B) the name and location of the licensed medical cannabis pharmacy where the
2545 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

2546 (C) a report detailing the completion of the continuing education requirement described
2547 in Subsection (3); and

2548 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
2549 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
2550 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
2551 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2552 (ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5),
2553 the department sets in accordance with Section 63J-1-504.

2554 (b) The department may not register a recommending medical provider as a pharmacy
2555 medical provider.

2556 (3) (a) A pharmacy medical provider shall complete the continuing education described
2557 in this Subsection (3) in the following amounts:

2558 (i) as a condition precedent to registration, four hours; and

2559 (ii) as a condition precedent to renewal of the registration, four hours every two years.

2560 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

2561 (i) complete continuing education:

2562 (A) regarding the topics described in Subsection (3)(d); and

2563 (B) offered by the department under Subsection (3)(c) or an accredited or approved
2564 continuing education provider that the department recognizes as offering continuing education
2565 appropriate for the medical cannabis pharmacy practice; and

2566 (ii) make a continuing education report to the department in accordance with a process
2567 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

2568 Administrative Rulemaking Act, and in collaboration with the Division of Professional
2569 Licensing and:

2570 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
2571 Pharmacy Practice Act, the Board of Pharmacy; or

2572 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
2573 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the [Physicians]
2574 Medical Licensing Board[~~;~~ ~~and~~].

2575 [~~(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah~~
2576 ~~Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.]~~

2577 (c) The department may, in consultation with the Division of Professional Licensing,
2578 develop the continuing education described in this Subsection (3).

2579 (d) The continuing education described in this Subsection (3) may discuss:

2580 (i) the provisions of this part;

2581 (ii) general information about medical cannabis under federal and state law;

2582 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
2583 including risks and benefits;

2584 (iv) recommendations for medical cannabis as it relates to the continuing care of a
2585 patient in pain management, risk management, potential addiction, and palliative care; or

2586 (v) best practices for recommending the form and dosage of a medical cannabis
2587 product based on the qualifying condition underlying a medical cannabis recommendation.

2588 (4) (a) A pharmacy medical provider registration card expires two years after the day
2589 on which the department issues or renews the card.

2590 (b) A pharmacy medical provider may renew the provider's registration card if the
2591 provider:

2592 (i) is eligible for a pharmacy medical provider registration card under this section;

2593 (ii) certifies to the department in a renewal application that the information in
2594 Subsection (2)(a) is accurate or updates the information;

2595 (iii) submits a report detailing the completion of the continuing education requirement
2596 described in Subsection (3); and

2597 (iv) pays to the department a renewal fee in an amount that:

2598 (A) subject to Subsection [26B-1-310\(5\)](#), the department sets in accordance with

2599 Section 63J-1-504; and

2600 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2601 comparison to the original application process.

2602 (5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the
2603 person or another person dispenses medical cannabis.

2604 (b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy
2605 medical provider may advertise the following:

2606 (i) a green cross;

2607 (ii) that the person is registered as a pharmacy medical provider and dispenses medical
2608 cannabis; or

2609 (iii) a scientific study regarding medical cannabis use.

2610 (6) (a) The department may revoke a pharmacy medical provider's registration for a
2611 violation of this chapter.

2612 (b) The department may inspect patient records held by a medical cannabis pharmacy
2613 to ensure a pharmacy medical provider is practicing in accordance with this chapter and
2614 applicable rules.

2615 Section 36. Section 26B-4-506 is amended to read:

2616 **26B-4-506. Guidelines for dispensing a self-administered hormonal**
2617 **contraceptive.**

2618 (1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal
2619 contraceptive under Section 26B-4-504:

2620 (a) shall obtain a completed self-screening risk assessment questionnaire, that has been
2621 approved by the division in collaboration with the Board of Pharmacy and the [Physicians]
2622 Medical Licensing Board, from the patient before dispensing the self-administered hormonal
2623 contraceptive;

2624 (b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to
2625 dispense a self-administered hormonal contraceptive to a patient:

2626 (i) may not dispense a self-administered hormonal contraceptive to the patient; and

2627 (ii) shall refer the patient to a primary care or women's health care practitioner;

2628 (c) may not continue to dispense a self-administered hormonal contraceptive to a

2629 patient for more than 24 months after the date of the initial prescription without evidence that

2630 the patient has consulted with a primary care or women's health care practitioner during the
2631 preceding 24 months; and

2632 (d) shall provide the patient with:

2633 (i) written information regarding:

2634 (A) the importance of seeing the patient's primary care practitioner or women's health
2635 care practitioner to obtain recommended tests and screening; and

2636 (B) the effectiveness and availability of long-acting reversible contraceptives as an
2637 alternative to self-administered hormonal contraceptives; and

2638 (ii) a copy of the record of the encounter with the patient that includes:

2639 (A) the patient's completed self-assessment tool; and

2640 (B) a description of the contraceptives dispensed, or the basis for not dispensing a
2641 contraceptive.

2642 (2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient,
2643 the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

2644 (a) the appropriate administration and storage of the self-administered hormonal
2645 contraceptive;

2646 (b) potential side effects and risks of the self-administered hormonal contraceptive;

2647 (c) the need for backup contraception;

2648 (d) when to seek emergency medical attention; and

2649 (e) the risk of contracting a sexually transmitted infection or disease, and ways to
2650 reduce the risk of contraction.

2651 (3) The division, in collaboration with the Board of Pharmacy and the ~~[Physicians]~~
2652 Medical Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah
2653 Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire
2654 described in Subsection (1)(a).

2655 Section 37. Section **26B-4-513** is amended to read:

2656 **26B-4-513. Coprescription guidelines.**

2657 (1) As used in this section:

2658 (a) "Controlled substance prescriber" means the same as that term is defined in Section
2659 [58-37-6.5](#).

2660 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a

2661 prescription for an opiate.

2662 (2) The department shall, in consultation with the [Physicians] Medical Licensing
2663 Board created in Section 58-67-201, [~~the Osteopathic Physician and Surgeon's Licensing Board~~
2664 ~~created in Section 58-68-201~~], and the Division of Professional Licensing created in Section
2665 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah
2666 Administrative Rulemaking Act, scientifically based guidelines for controlled substance
2667 prescribers to coprescribe an opiate antagonist to a patient.

2668 Section 38. Section 34-20-2 is amended to read:

2669 **34-20-2. Definitions.**

2670 As used in this chapter:

2671 (1) "Affecting commerce" means in commerce, or burdening or obstructing commerce
2672 or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or
2673 obstructing commerce or the free flow of commerce within the state.

2674 (2) "Commerce" means trade, traffic, commerce, transportation, or communication
2675 within the state.

2676 (3) "Election" means a proceeding in which the employees in a collective bargaining
2677 unit cast a secret ballot for collective bargaining representatives or for any other purpose
2678 specified in this chapter and includes elections conducted by the board or by any tribunal
2679 having competent jurisdiction or whose jurisdiction was accepted by the parties.

2680 (4) (a) "Employee" includes any employee unless this chapter explicitly states
2681 otherwise, and includes an individual whose work has ceased as a consequence of, or in
2682 connection with, any current labor dispute or because of any unfair labor practice, and who has
2683 not obtained any other regular and substantially equivalent employment.

2684 (b) "Employee" does not include an individual employed as an agricultural laborer, or
2685 in the domestic service of a family or person at his home, or an individual employed by his
2686 parent or spouse.

2687 (5) "Employer" includes a person acting in the interest of an employer, directly or
2688 indirectly, but does not include:

2689 (a) the United States;

2690 (b) a state or political subdivision of a state;

2691 (c) a person subject to the federal Railway Labor Act;

- 2692 (d) a labor organization, other than when acting as an employer;
- 2693 (e) a corporation or association operating a hospital if no part of the net earnings inures
- 2694 to the benefit of any private shareholder or individual; or
- 2695 (f) anyone acting in the capacity of officer or agent of a labor organization.
- 2696 (6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C.
- 2697 Sec.105, of the federal government.
- 2698 (7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 2699 (8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 2700 (9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 2701 (10) "Labor dispute" means any controversy between an employer and the majority of
- 2702 the employer's employees in a collective bargaining unit concerning the right or process or
- 2703 details of collective bargaining or the designation of representatives.
- 2704 (11) "Labor organization" means an organization of any kind or any agency or
- 2705 employee representation committee or plan in which employees participate that exists for the
- 2706 purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,
- 2707 wages, rates of pay, hours of employment, or conditions of work.
- 2708 ~~[(12) "Labor relations board" or "board" means the board created in Section 34-20-3.]~~
- 2709 [(13)] (12) "Person" includes an individual, partnership, association, corporation, legal
- 2710 representative, trustee, trustee in bankruptcy, or receiver.
- 2711 [(14)] (13) "Representative" includes an individual or labor organization.
- 2712 [(15)] (14) "Secondary boycott" includes combining or conspiring to cause or threaten
- 2713 to cause injury to one with whom no labor dispute exists, whether by:
- 2714 (a) withholding patronage, labor, or other beneficial business intercourse;
- 2715 (b) picketing;
- 2716 (c) refusing to handle, install, use, or work on particular materials, equipment, or
- 2717 supplies; or
- 2718 (d) by any other unlawful means, in order to bring him against his will into a concerted
- 2719 plan to coerce or inflict damage upon another.
- 2720 [(16)] (15) "Unfair labor practice" means any unfair labor practice listed in Section
- 2721 34-20-8.
- 2722 Section 39. Section 34-20-8 is amended to read:

2723 **34-20-8. Unfair labor practices.**

2724 (1) It shall be an unfair labor practice for an employer, individually or in concert with
2725 others:

2726 (a) To interfere with, restrain or coerce employees in the exercise of the rights
2727 guaranteed in Section 34-20-7.

2728 (b) To dominate or interfere with the formation or administration of any labor
2729 organization or contribute financial or other support to it[; ~~provided, that subject to rules and~~
2730 ~~regulations made and published by the board pursuant to Section 34-20-6~~], provided that an
2731 employer is not prohibited from permitting employees to confer with the employer during
2732 working hours without loss of time or pay.

2733 (c) By discrimination in regard to hire or tenure of employment or any term or
2734 condition of employment to encourage or discourage membership in any labor organization;
2735 provided, that nothing in this act shall preclude an employer from making an agreement with a
2736 labor organization (not established, maintained or assisted by any action defined in this act as
2737 an unfair labor practice) to require as a condition of employment, membership therein, if such
2738 labor organization is the representative of the employees as provided in Subsection 34-20-9(1)
2739 in the appropriate collective bargaining unit covered by such agreement when made.

2740 (d) To refuse to bargain collectively with the representative of a majority of the
2741 employer's employees in any collective bargaining unit[; ~~provided, that, when two or more~~
2742 ~~labor organizations claim to represent a majority of the employees in the bargaining unit, the~~
2743 ~~employer shall be free to file with the board a petition for investigation of certification of~~
2744 ~~representatives and during the pendency of the proceedings the employer may not be~~
2745 ~~considered to have refused to bargain].~~

2746 (e) To bargain collectively with the representatives of less than a majority of the
2747 employer's employees in a collective bargaining unit.

2748 (f) To discharge or otherwise discriminate against an employee because the employee
2749 has filed charges or given testimony under this chapter.

2750 (2) It shall be an unfair labor practice for an employee individually or in concert with
2751 others:

2752 (a) To coerce or intimidate an employee in the enjoyment of the employee's legal
2753 rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family,

2754 picket the employee's domicile, or injure the person or property of the employee or the
2755 employee's family.

2756 (b) To coerce, intimidate or induce an employer to interfere with any of the employer's
2757 employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7,
2758 or to engage in any practice with regard to the employer's employees which would constitute an
2759 unfair labor practice if undertaken by the employer on the employer's own initiative.

2760 (c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an
2761 exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant
2762 of a strike unless a majority in a collective bargaining unit of the employees of an employer
2763 against whom such acts are primarily directed have voted by secret ballot to call a strike.

2764 (d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of
2765 any kind the pursuit of any lawful work or employment, or to obstruct or interfere with
2766 entrance to or egress from any place of employment, or to obstruct or interfere with free and
2767 uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel
2768 or conveyance.

2769 (e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation,
2770 force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or
2771 services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of
2772 materials, equipment or services, provided, however, that nothing herein shall prevent
2773 sympathetic strikes in support of those in similar occupations working for other employers in
2774 the same craft.

2775 (f) To take unauthorized possession of property of the employer.

2776 (3) It shall be an unfair labor practice for any person to do or cause to be done on
2777 behalf of or in the interest of employers or employees, or in connection with or to influence the
2778 outcome of any controversy as to employment relations, any act prohibited by Subsections (1)
2779 and (2) of this section.

2780 Section 40. Section 34-20-9 is amended to read:

2781 **34-20-9. Collective bargaining -- Representatives .**

2782 (1) [~~(a)~~] Representatives designated or selected for the purposes of collective
2783 bargaining by the majority of the employees in a unit appropriate for those purposes shall be
2784 the exclusive representatives of all the employees in that unit for the purposes of collective

2785 bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of
2786 employment.

2787 ~~[(b)]~~ (2) Any individual employee or group of employees may present grievances to
2788 their employer at any time.

2789 ~~[(2) The board shall decide in each case whether, in order to ensure to employees the
2790 full benefit of their right to self-organization and to collective bargaining, and otherwise to
2791 effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining
2792 shall be the employer unit, craft unit, plant unit, or subdivision of same.]~~

2793 ~~[(3) Whenever a question affecting intrastate commerce or the orderly operation of
2794 industry arises concerning the representation of employees, the board may investigate such
2795 controversy and certify to the parties in writing, the name or names of the representatives that
2796 have been designated or selected. In any such investigation, the board shall provide for an
2797 appropriate hearing upon due notice, either in conjunction with a proceeding under Section
2798 34-20-10, or otherwise, and may take a secret ballot of employees, or utilize any other suitable
2799 method to ascertain such representatives.]~~

2800 ~~[(4) (a) Whenever an order of the board made according to Section 34-20-10 is based
2801 in whole or in part upon facts certified following an investigation under Subsection (3), and
2802 there is a petition for the enforcement or review of such order, the certification and the record
2803 of the investigation shall be included in the transcript of the entire record required to be filed
2804 under Section 34-20-10.]~~

2805 ~~[(b) The decree of the court enforcing, modifying, or setting aside in whole or in part
2806 the order of the board shall be made and entered upon the pleadings, testimony, and
2807 proceedings set forth in the transcript.]~~

2808 Section 41. Section 34A-1-202 is amended to read:

2809 **34A-1-202. Divisions and office -- Creation -- Duties -- Appeals Board, councils,**
2810 **and panel.**

2811 (1) There is created within the commission the following divisions and office:

2812 (a) the Division of Industrial Accidents that shall administer the regulatory
2813 requirements of this title concerning industrial accidents and occupational disease;

2814 (b) the Division of Occupational Safety and Health that shall administer the regulatory
2815 requirements of Chapter 6, Utah Occupational Safety and Health Act;

2816 (c) the Division of Boiler and Elevator Safety that shall administer the regulatory
2817 requirements of Chapter 7, Safety;

2818 (d) the Division of Antidiscrimination and Labor that shall administer the regulatory
2819 requirements of:

2820 (i) Title 34, Labor in General, when specified by statute;

2821 (ii) Chapter 5, Utah Antidiscrimination Act;

2822 (iii) this title, when specified by statute; and

2823 (iv) Title 57, Chapter 21, Utah Fair Housing Act;

2824 (e) the Division of Adjudication that shall adjudicate claims or actions brought under
2825 this title; and

2826 (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

2827 (2) In addition to the divisions created under this section, within the commission are
2828 the following:

2829 [~~(a) the Labor Relations Board created in Section 34-20-3;~~]

2830 [~~(b)~~] (a) the Appeals Board created in Section 34A-1-205; and

2831 [~~(c)~~] (b) the following program advisory councils:

2832 (i) the workers' compensation advisory council created in Section 34A-2-107;

2833 (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and

2834 (iii) the Coal Miner Certification Panel created in Section 40-2-204.

2835 (3) In addition to the responsibilities described in this section, the commissioner may
2836 assign to a division a responsibility granted to the commission by law.

2837 Section 42. Section 35A-13-602 is amended to read:

2838 **35A-13-602. Definitions.**

2839 As used in this part:

2840 [~~(1) "Advisory board" or "board" means the Interpreter Certification Board created in~~
2841 ~~Section 35A-13-603.]~~

2842 [~~(2)~~] (1) "Assistant director" means the assistant director who administers the program
2843 called the Division of Services for the Deaf and Hard of Hearing created in Section
2844 35A-13-502.

2845 [~~(3)~~] (2) "Certified interpreter" means an individual who is certified as meeting the
2846 certification requirements of this part.

2847 ~~[(4)]~~ (3) "Interpreter services" means services that facilitate effective communication
2848 between a hearing individual and an individual who is deaf or hard of hearing through
2849 American Sign Language or a language system or code that is modeled after American Sign
2850 Language, in whole or in part, or is in any way derived from American Sign Language.

2851 Section 43. Section **35A-13-604** is amended to read:

2852 **35A-13-604. Powers and duties of the director.**

2853 ~~[(1) The board shall function as an advisory board to the director and under the~~
2854 ~~director's direction shall perform the following duties concerning the certification of~~
2855 ~~interpreters:]~~

2856 ~~[(a) make recommendations to the director regarding:]~~

2857 ~~[(i) appropriate rules;]~~

2858 ~~[(ii) policy and budgetary matters;]~~

2859 ~~[(iii) the appropriate passing score for applicant examinations; and]~~

2860 ~~[(iv) standards of supervision for individuals in training to become certified~~
2861 ~~interpreters;]~~

2862 ~~[(b) screen applicants for certification and make written recommendations to the~~
2863 ~~director regarding certification, renewal, reinstatement, and recertification actions; and]~~

2864 ~~[(c) act as the presiding officer in conducting hearings associated with adjudicative~~
2865 ~~proceedings and in issuing recommended orders as designated by the director.]]~~

2866 ~~[(2)]~~ (1) The director~~[, with the collaboration and assistance of the advisory board,]~~
2867 shall:

2868 (a) prescribe certification qualifications;

2869 (b) prescribe rules governing applications for certification;

2870 (c) provide for a fair and impartial method for the examination of applicants;

2871 (d) define unprofessional conduct, by rule, to supplement the definition under this part;

2872 and

2873 (e) establish conditions for reinstatement and renewal of certification.

2874 ~~[(3) (a) The advisory board shall designate one of its members on a permanent or~~
2875 ~~rotating basis to:]~~

2876 ~~[(i) assist the director in reviewing complaints involving the unlawful or~~
2877 ~~unprofessional conduct of a certified interpreter; and]~~

2878 ~~[(ii) advise the director when investigating complaints.]~~

2879 ~~[(b) An advisory board member who has, under Subsection (3)(a), reviewed or~~
2880 ~~investigated a complaint is disqualified from participating with the advisory board if the board~~
2881 ~~serves as a presiding officer of an administrative proceeding concerning the complaint.]~~

2882 Section 44. Section **35A-13-605** is amended to read:

2883 **35A-13-605. Certification required -- Classes of certification.**

2884 (1) Except as specifically provided in Section **35A-13-609**, an individual is required to
2885 be certified as a certified interpreter if that individual provides interpreter services and a state
2886 or federal law requires the interpreter to be certified or qualified.

2887 (2) The director shall issue a certification to an individual who qualifies under this
2888 chapter in classifications determined by the director ~~[based upon recommendations from the~~
2889 ~~advisory board].~~

2890 Section 45. Section **35A-13-606** is amended to read:

2891 **35A-13-606. Qualifications for certification.**

2892 Each applicant for certification under this part shall:

2893 (1) submit an application in a form prescribed by the director;

2894 (2) pay a fee determined by the director under Section **63J-1-504** to help offset the
2895 costs of implementing this part for the administration of examinations for certification and for
2896 the issuance of certificates;

2897 (3) be of good moral character; and

2898 (4) comply with any other qualifications for certification established by the director in
2899 accordance with ~~[Subsection **35A-13-604**(2)]~~ Section **35A-13-604**.

2900 Section 46. Section **35A-13-608** is amended to read:

2901 **35A-13-608. Continuing education.**

2902 (1) ~~[(a)]~~ As a condition for renewal of certification, each certified interpreter shall,
2903 during each three-year certification cycle or other cycle defined by rule, complete a number of
2904 hours of qualified continuing professional education, as determined by the director, in
2905 accordance with standards defined by rule.

2906 ~~[(b) The director shall determine the number of hours based upon recommendations~~
2907 ~~from the advisory board.]~~

2908 (2) If the renewal cycle is extended or shortened under Section **35A-13-607**, the

2909 continuing education hours determined for renewal under Subsection (1) shall be increased or
2910 decreased proportionately.

2911 Section 47. Section **35A-13-609** is amended to read:

2912 **35A-13-609. Exemptions from certification -- Temporary or restricted**
2913 **certification.**

2914 (1) The following individuals may engage in the practice of a certified interpreter,
2915 subject to the stated circumstances and limitations, without being certified under this chapter:

2916 (a) an individual serving in or employed by the Armed Forces of the United States, the
2917 United States Public Health Service, the United States Department of Veterans Affairs, or other
2918 federal agency and who is engaged in activities regulated under this part as a part of the
2919 individual's service or employment with that federal agency, if the individual holds a valid
2920 certificate or license to provide interpreter services issued by another state or jurisdiction
2921 recognized by the director;

2922 (b) a student engaged in providing interpreter services while in training in a recognized
2923 school approved by the director to the extent the student's activities are supervised by qualified
2924 faculty, staff, or a designee, and the services are a defined part of the training program;

2925 (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job
2926 training program approved by the director while under the supervision of a qualified individual;

2927 (d) an individual residing in another state and certified or licensed to provide
2928 interpreter services in that state, who is called in for a consultation by an individual certified to
2929 provide interpreter services in this state, and the services provided are limited to that
2930 consultation;

2931 (e) an individual who is invited by a recognized school, association, or other body
2932 approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if
2933 the individual does not establish a place of business or regularly engage in the practice of
2934 providing interpreter services in this state;

2935 (f) an individual licensed in another state or country who is in this state temporarily to
2936 attend to the needs of an athletic team or group, except that the individual may only attend to
2937 the needs of the team or group and individuals who travel with the team or group, not including
2938 spectators; or

2939 (g) an individual who is providing interpreter services for a religious entity, to the

2940 extent that the religious entity is specifically exempted from liability under federal law.

2941 (2) (a) An individual temporarily in this state who is exempted from certification under
2942 Subsection (1) shall comply with each requirement of the jurisdiction from which the
2943 individual derives authority to provide interpreter services.

2944 (b) Violation of any limitation imposed by this section is grounds for removal of
2945 exempt status, denial of certification, or another disciplinary proceeding.

2946 (3) (a) Upon the declaration of a national, state, or local emergency, the director[~~, in~~
2947 ~~collaboration with the advisory board,~~] may suspend the requirements for permanent or
2948 temporary certification of individuals who are certified or licensed in another state.

2949 (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for
2950 the duration of the emergency while engaged in providing interpreter services for which they
2951 are certified or licensed in the other state.

2952 (4) The director[~~, after consulting with the advisory board,~~] may adopt rules for the
2953 issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

2954 (a) a lack of necessary available interpretive services in any area or community of the
2955 state, if the lack of services might be reasonably considered to materially jeopardize
2956 compliance with state or federal law; or

2957 (b) a need to first observe an applicant for certification in a monitored or supervised
2958 practice of providing interpretive services before [~~a decision is made by the board~~] the director
2959 makes a decision either to grant or deny the applicant a regular certification.

2960 Section 48. Section **41-3-102** is amended to read:

2961 **41-3-102. Definitions.**

2962 As used in this chapter:

2963 (1) "Administrator" means the motor vehicle enforcement administrator.

2964 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
2965 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
2966 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
2967 other person in any 12-month period.

2968 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,
2969 either owned or consigned, to the general public.

2970 (4) "Authorized service center" means an entity that:

2971 (a) is in the business of repairing exclusively the motor vehicles of the same line-make
2972 as the motor vehicles a single direct-sale manufacturer manufactures;

2973 (b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete
2974 warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for
2975 sale, or offers for sale or exchange; and

2976 (c) conducts business primarily from an enclosed commercial repair facility that is
2977 permanently located in the state.

2978 [~~(5)~~] "~~Board~~" means the ~~advisory board created in Section 41-3-106.~~]

2979 [~~(6)~~] (5) "Body shop" means a person engaged in rebuilding, restoring, repairing, or
2980 painting the body of motor vehicles for compensation.

2981 [~~(7)~~] (6) "Commission" means the State Tax Commission.

2982 [~~(8)~~] (7) "Crusher" means a person who crushes or shreds motor vehicles subject to
2983 registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to
2984 a more compact size for recycling.

2985 [~~(9)~~] (8) (a) "Dealer" means a person:

2986 (i) whose business in whole or in part involves selling new, used, or new and used
2987 motor vehicles or off-highway vehicles; and

2988 (ii) who sells, displays for sale, or offers for sale or exchange three or more new or
2989 used motor vehicles or off-highway vehicles in any 12-month period.

2990 (b) "Dealer" includes a representative or consignee of any dealer.

2991 [~~(10)~~] (9) "Direct-sale manufacturer" means a person:

2992 (a) that is both a manufacturer and a dealer;

2993 (b) that is:

2994 (i) an electric vehicle manufacturer; or

2995 (ii) a low-volume manufacturer;

2996 (c) that is not a franchise holder;

2997 (d) that is domiciled in the United States; and

2998 (e) whose chief officers direct, control, and coordinate the person's activities as a
2999 direct-sale manufacturer from a physical location in the United States.

3000 [~~(11)~~] (10) "Direct-sale manufacturer salesperson" means an individual who for a
3001 salary, commission, or compensation of any kind, is employed either directly, indirectly,

3002 regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to
3003 negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale
3004 manufacturer who employs the individual.

3005 ~~[(12)]~~ (11) (a) "Dismantler" means a person engaged in the business of dismantling
3006 motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of
3007 parts or for salvage.

3008 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
3009 12-month period.

3010 ~~[(13)]~~ (12) "Distributor" means a person who has a franchise from a manufacturer of
3011 motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or
3012 distributes new motor vehicles to dealers or who maintains distributor representatives.

3013 ~~[(14)]~~ (13) "Distributor branch" means a branch office similarly maintained by a
3014 distributor for the same purposes a factory branch is maintained.

3015 ~~[(15)]~~ (14) "Distributor representative" means a person and each officer and employee
3016 of the person engaged as a representative of a distributor or distributor branch of motor
3017 vehicles to make or promote the sale of the distributor or the distributor branch's motor
3018 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the
3019 distributor branch.

3020 ~~[(16)]~~ (15) "Division" means the Motor Vehicle Enforcement Division created in
3021 Section [41-3-104](#).

3022 ~~[(17)]~~ (16) "Electric vehicle manufacturer" means a person that, in this state, sells,
3023 displays for sale, or offers for sale or exchange only new motor vehicles of the person's own
3024 line-make that are:

3025 (a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another
3026 non-fossil fuel source;

3027 (b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;
3028 or

3029 (ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

3030 (c) manufactured by the person.

3031 ~~[(18)]~~ (17) "Factory branch" means a branch office maintained by a person who
3032 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or

3033 who directs or supervises the factory branch's representatives.

3034 ~~[(19)]~~ (18) "Factory representative" means a person and each officer and employee of
3035 the person engaged as a representative of a manufacturer of motor vehicles or by a factory
3036 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or
3037 for supervising or contacting the dealers or prospective dealers of the manufacturer or the
3038 factory branch.

3039 ~~[(20)]~~ (19) "Fleet transaction" means a licensee's sale of one or more motor vehicles to
3040 a manufacturer-approved current fleet customer under the manufacturer's fleet program.

3041 ~~[(21)]~~ (20) (a) "Franchise" means a contract or agreement between a dealer and a
3042 manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which
3043 the dealer is authorized to sell any specified make or makes of new motor vehicles.

3044 (b) "Franchise" includes a contract or agreement described in Subsection ~~[(21)(a)]~~
3045 ~~(20)(a)~~ regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New
3046 Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

3047 ~~[(22)]~~ (21) (a) "Franchise holder" means a manufacturer who:

3048 (i) previously had a franchised dealer in the United States;

3049 (ii) currently has a franchised dealer in the United States;

3050 (iii) is a successor to another manufacturer who previously had or currently has a
3051 franchised dealer in the United States;

3052 (iv) is a material owner of another manufacturer who previously had or currently has a
3053 franchised dealer in the United States;

3054 (v) is under legal or common ownership, or practical control, with another
3055 manufacturer who previously had or currently has a franchised dealer in the United States; or

3056 (vi) is in a partnership, joint venture, or similar arrangement for production of a
3057 commonly owned line-make with another manufacturer who previously had or currently has a
3058 franchised dealer in the United States.

3059 (b) "Franchise holder" does not include a manufacturer described in Subsection
3060 ~~[(22)(a)]~~ ~~(21)(a)~~, if at all times during the franchised dealer's existence, the manufacturer had
3061 legal or practical common ownership or common control with the franchised dealer.

3062 ~~[(23)]~~ (22) "Low-volume manufacturer" means a manufacturer who:

3063 (a) in this state, sells, displays for sale, or offers for sale or exchange only new motor

3064 vehicles of the person's own line make that are:

3065 (i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;

3066 or

3067 (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

3068 (ii) manufactured by the person; and

3069 (b) constructs no more than 325 new motor vehicles in any 12-month period.

3070 [~~24~~] (23) "Line-make" means motor vehicles that are offered for sale, lease, or

3071 distribution under a common name, trademark, service mark, or brand name of the

3072 manufacturer.

3073 [~~25~~] (24) "Manufacturer" means a person engaged in the business of constructing or

3074 assembling new motor vehicles, ownership of which is customarily transferred by a

3075 manufacturer's statement or certificate of origin, or a person who constructs three or more new

3076 motor vehicles in any 12-month period.

3077 [~~26~~] (25) "Material owner" means a person who possesses, directly or indirectly, the

3078 power to direct, or cause the direction of, the management, policies, or activities of another

3079 person:

3080 (a) through ownership of voting securities;

3081 (b) by contract or credit arrangement; or

3082 (c) in another way not described in Subsections [~~26~~](a) (25)(a) and (b).

3083 [~~27~~] (26) (a) "Motor vehicle" means a vehicle that is:

3084 (i) self-propelled;

3085 (ii) a trailer;

3086 (iii) a travel trailer;

3087 (iv) a semitrailer;

3088 (v) an off-highway vehicle; or

3089 (vi) a small trailer.

3090 (b) "Motor vehicle" does not include:

3091 (i) mobile homes as defined in Section 41-1a-102;

3092 (ii) trailers of 750 pounds or less unladen weight;

3093 (iii) a farm tractor or other machine or tool used in the production, harvesting, or care

3094 of a farm product; and

3095 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).
3096 [~~(28)~~] [\(27\)](#) "Motorcycle" means the same as that term is defined in Section [41-1a-102](#).
3097 [~~(29)~~] [\(28\)](#) "New motor vehicle" means a motor vehicle that:
3098 (a) has never been titled or registered; and
3099 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
3100 less than 7,500 miles.
3101 [~~(30)~~] [\(29\)](#) "Off-highway vehicle" means the same as that term is defined in Section
3102 [41-22-2](#).
3103 [~~(31)~~] [\(30\)](#) "Pawnbroker" means a person whose business is to lend money on security
3104 of personal property deposited with him.
3105 [~~(32)~~] [\(31\)](#) (a) "Principal place of business" means a site or location in this state:
3106 (i) devoted exclusively to the business for which the dealer, manufacturer,
3107 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
3108 incidental to them;
3109 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
3110 indicate the boundary and to admit a definite description with space adequate to permit the
3111 display of three or more new, or new and used, or used motor vehicles and sufficient parking
3112 for the public; and
3113 (iii) that includes a permanent enclosed building or structure large enough to
3114 accommodate the office of the establishment and to provide a safe place to keep the books and
3115 other records of the business, at which the principal portion of the business is conducted and
3116 the books and records kept and maintained.
3117 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
3118 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection
3119 [~~(32)~~]~~(a)~~ [\(31\)](#)(a).
3120 [~~(33)~~] [\(32\)](#) "Remanufacturer" means a person who reconstructs used motor vehicles
3121 subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and
3122 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or
3123 new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more
3124 motor vehicles in any 12-month period.
3125 [~~(34)~~] [\(33\)](#) "Salesperson" means an individual who for a salary, commission, or

3126 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
3127 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
3128 negotiate for the sale, purchase, or exchange of motor vehicles.

3129 ~~[(35)]~~ (34) "Semitrailer" means the same as that term is defined in Section [41-1a-102](#).

3130 ~~[(36)]~~ (35) "Showroom" means a site or location in the state that a direct-sale
3131 manufacturer uses for the direct-sale manufacturer's business, including the display and
3132 demonstration of new motor vehicles that are exclusively of the same line-make that the
3133 direct-sale manufacturer manufactures.

3134 ~~[(37)]~~ (36) "Small trailer" means a trailer that has an unladen weight of:

3135 (a) more than 750 pounds; and

3136 (b) less than 2,000 pounds.

3137 ~~[(38)]~~ (37) "Special equipment" includes a truck mounted crane, cherry picker, material
3138 lift, post hole digger, and a utility or service body.

3139 ~~[(39)]~~ (38) "Special equipment dealer" means a new or new and used motor vehicle
3140 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
3141 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
3142 vehicle.

3143 ~~[(40)]~~ (39) "Trailer" means the same as that term is defined in Section [41-1a-102](#).

3144 ~~[(41)]~~ (40) "Transporter" means a person engaged in the business of transporting motor
3145 vehicles as described in Section [41-3-202](#).

3146 ~~[(42)]~~ (41) "Travel trailer" means the same as that term is defined in Section
3147 [41-1a-102](#).

3148 ~~[(43)]~~ (42) "Used motor vehicle" means a vehicle that:

3149 (a) has been titled and registered to a purchaser other than a dealer; or

3150 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
3151 7,500 or more miles.

3152 ~~[(44)]~~ (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
3153 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
3154 this or any other jurisdiction.

3155 Section 49. Section **41-3-105** is amended to read:

3156 **41-3-105. Administrator's powers and duties -- Administrator and investigators**

3157 **to be law enforcement officers.**

3158 (1) The administrator may make rules to carry out the purposes of this chapter and
3159 Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title
3160 63G, Chapter 3, Utah Administrative Rulemaking Act.

3161 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
3162 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
3163 and assistants.

3164 (b) The administrator, assistant administrator, and all investigators shall be law
3165 enforcement officers certified by peace officer standards and training as required by Section
3166 53-13-103.

3167 (3) (a) The administrator may investigate any suspected or alleged violation of:

3168 (i) this chapter;

3169 (ii) [~~Title 41, Chapter 1a, Motor Vehicle Act~~] Chapter 1a, Motor Vehicle Act;

3170 (iii) any law concerning motor vehicle fraud; or

3171 (iv) any rule made by the administrator.

3172 (b) The administrator may bring an action in the name of the state against any person to
3173 enjoin a violation found under Subsection (3)(a).

3174 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

3175 (b) The administrator may require information from the applicant concerning the
3176 applicant's fitness to be licensed.

3177 (c) Each application for a license shall contain:

3178 (i) if the applicant is an individual, the name and residence address of the applicant and
3179 the trade name, if any, under which the applicant intends to conduct business;

3180 (ii) if the applicant is a partnership, the name and residence address of each partner,
3181 whether limited or general, and the name under which the partnership business will be
3182 conducted;

3183 (iii) if the applicant is a corporation, the name of the corporation, and the name and
3184 residence address of each of its principal officers and directors;

3185 (iv) a complete description of the principal place of business, including:

3186 (A) the municipality, with the street and number, if any;

3187 (B) if located outside of any municipality, a general description so that the location can

3188 be determined; and

3189 (C) any other places of business operated and maintained by the applicant in
3190 conjunction with the principal place of business;

3191 (v) if the application is for a new motor vehicle dealer's license, the name of each
3192 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
3193 the manufacturer or distributor who has enfranchised the applicant, and the name and address
3194 of each individual who will act as a salesperson under authority of the license;

3195 (vi) at least five years of business history;

3196 (vii) the federal tax identification number issued to the dealer;

3197 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
3198 12, Sales and Use Tax Act; and

3199 (ix) if the application is for a direct-sale manufacturer's license:

3200 (A) the name of each line-make the applicant will sell, display for sale, or offer for sale
3201 or exchange;

3202 (B) the name and address of each individual who will act as a direct-sale manufacturer
3203 salesperson under authority of the license;

3204 (C) a complete description of the direct-sale manufacturer's authorized service center,
3205 including the address and any other place of business the applicant operates and maintains in
3206 conjunction with the authorized service center;

3207 (D) a sworn statement that the applicant complies with each qualification for a
3208 direct-sale manufacturer under this chapter;

3209 (E) a sworn statement that if at any time the applicant fails to comply with a
3210 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the
3211 division in writing within 10 business days after the day on which the noncompliance occurs;
3212 and

3213 (F) an acknowledgment that if the applicant fails to comply with a qualification for a
3214 direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the
3215 applicant's direct-sale manufacturer license in accordance with Section [41-3-209](#).

3216 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
3217 Administrator, State of Utah," to authenticate the acts of the administrator's office.

3218 (6) (a) The administrator may require that a licensee erect or post signs or devices on

3219 the licensee's principal place of business and any other sites, equipment, or locations operated
3220 and maintained by the licensee in conjunction with the licensee's business.

3221 (b) The signs or devices shall state the licensee's name, principal place of business,
3222 type and number of licenses, and any other information that the administrator considers
3223 necessary to identify the licensee.

3224 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
3225 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
3226 lettering and other details of signs or devices, and location of signs or devices.

3227 ~~[(7) (a) The administrator shall provide for quarterly meetings of the advisory board
3228 and may call special meetings.]~~

3229 ~~[(b) Notices of all meetings shall be sent to each member not fewer than five days
3230 before the meeting.]~~

3231 ~~[(8)] (7)~~ The administrator, the officers and inspectors of the division designated by the
3232 commission, and peace officers shall:

3233 (a) make arrests upon view and without warrant for any violation committed in their
3234 presence of any of the provisions of this chapter, or ~~[Title 41, Chapter 1a, Motor Vehicle Act]~~
3235 Chapter 1a, Motor Vehicle Act;

3236 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
3237 being operated in violation of any provision of ~~[Title 41, Chapter 1a, Motor Vehicle Act]~~
3238 Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's
3239 driver license and the registration card issued for the vehicle, and submit to an inspection of the
3240 vehicle, the license plates, and registration card;

3241 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
3242 motor vehicles, trailers, and semitrailers;

3243 (d) investigate traffic accidents and secure testimony of any witnesses or persons
3244 involved; and

3245 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

3246 ~~[(9)] (8)~~ The administrator shall provide security for an area within the commission
3247 designated as a secure area under Section [76-8-311.1](#).

3248 ~~[(10)] (9)~~ The Office of the Attorney General shall provide prosecution of this chapter.
3249 Section 50. Section **41-3-107** is amended to read:

3250 **41-3-107. Attorney general -- Duty to render opinions and to represent or appear**
3251 **for administrator .**

3252 The attorney general shall:

3253 (1) represent the administrator~~[, the division, and the board]~~ and the division;

3254 (2) give opinions on all questions of law relating to the interpretation of this chapter or
3255 arising out of the administration of this chapter; and

3256 (3) appear on behalf of the administrator~~[, the division, or the board]~~ or the division in

3257 all actions brought by or against the administrator~~[, the division, or board]~~ or the division,

3258 whether under the provisions of this chapter or otherwise.

3259 Section 51. Section **41-3-109** is amended to read:

3260 **41-3-109. Adjudicative proceedings -- Hearings.**

3261 ~~[(1)]~~ The commission, the division, ~~[the board,]~~ and the administrator shall comply
3262 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act,
3263 in all adjudicative proceedings conducted under the authority of this chapter and Sections
3264 ~~41-1a-1001~~ through ~~41-1a-1008~~.

3265 ~~[(2) The administrator may request the attendance of the board at any hearing, or the~~
3266 ~~administrator may direct that any hearing be held before the board.]~~

3267 Section 52. Section **41-22-12** is amended to read:

3268 **41-22-12. Restrictions on use of public lands.**

3269 (1) Except as provided in ~~[Sections]~~ Section 79-4-203 ~~[and 79-4-304]~~, federal agencies
3270 are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open
3271 public land to responsible off-highway vehicle use and cross-country motor vehicle travel.

3272 (2) A person may not tear down, mutilate, deface, or destroy:

3273 (a) a sign, signboard, or other notice that prohibits or regulates the use of an
3274 off-highway vehicle on public land; or

3275 (b) a fence or other enclosure or a gate or bars belonging to the fence or other
3276 enclosure.

3277 (3) A violation of Subsection (2) is an infraction.

3278 Section 53. Section **53B-6-105.7** is amended to read:

3279 **53B-6-105.7. Initiative student scholarship program.**

3280 (1) Notwithstanding the provisions of this section, beginning on July 1, 2019, the board

3281 may not accept new applications for a scholarship described in this section.

3282 (2) (a) There is established an engineering, computer science, and related technology
3283 scholarship program as a component of the initiative created in Section [53B-6-105](#).

3284 (b) The program is established to recruit, retain, and train engineering, computer
3285 science, and related technology students to assist in providing for and advancing the intellectual
3286 and economic welfare of the state.

3287 (3) (a) The board:

3288 (i) may make rules for the overall administration of the scholarship program in
3289 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

3290 (ii) shall administer the program [~~in consultation with the Technology Initiative~~
3291 ~~Advisory Board created in Section [53B-6-105.5](#)].~~

3292 (b) The board shall also use the following policies and procedures in administering the
3293 student scholarship program:

3294 (i) students may use scholarship money at any institution within the state system of
3295 higher education that offers an engineering, computer science, or related technology degree;

3296 (ii) scholarships shall be given to students who declare an intent to complete a
3297 prescribed course of instruction in one of the areas referred to in Subsection (3)(b)(i) and to
3298 work in the state after graduation in one of those areas; and

3299 (iii) a scholarship may be cancelled at any time by the institution of attendance, if the
3300 student fails to make reasonable progress towards obtaining the degree or there appears to be a
3301 reasonable certainty that the student does not intend to work in the state upon graduation.

3302 (4) The Legislature shall make an annual appropriation to the board to fund the student
3303 scholarship program created in this section.

3304 Section 54. Section **53B-6-105.9** is amended to read:

3305 **53B-6-105.9. Incentive program for engineering, computer science, and related**
3306 **technology faculty.**

3307 (1) The Legislature shall provide an annual appropriation to help fund the faculty
3308 incentive component of the Engineering and Computer Science Initiative established under
3309 Section [53B-6-105](#).

3310 (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in
3311 engineering, computer science, and related technology fields under guidelines established by

3312 the board.

3313 (3) (a) State institutions of higher education shall match the appropriation on a
3314 one-to-one basis in order to qualify for state money appropriated under Subsection (1).

3315 (b) (i) Qualifying institutions shall annually report their matching dollars to the board.

3316 (ii) The board shall make a summary report of the institutional matches.

3317 ~~[(iii) The annual report of the Technology Initiative Advisory Board required by~~
3318 ~~Section 53B-6-105.5 shall include the summary report of the institutional matches.]~~

3319 (4) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
3320 Administrative Rulemaking Act, establishing policies and procedures to apply for and
3321 distribute the state appropriation to qualifying institutions.

3322 Section 55. Section 53B-26-301 is amended to read:

3323 **53B-26-301. Definitions.**

3324 As used in this part:

3325 ~~[(1) "Advisory council" means the Deep Technology Talent Advisory Council created~~
3326 ~~in Section 53B-26-303.]~~

3327 ~~[(2)]~~ (1) (a) "Deep technology" means technology that leads to new products and
3328 innovations based on scientific discovery or meaningful engineering innovation.

3329 (b) "Deep technology" may include technology that leads to new products and
3330 innovations related to one or more of the following:

3331 (i) advanced materials;

3332 (ii) artificial intelligence;

3333 (iii) augmented and virtual reality;

3334 (iv) biotechnology;

3335 (v) photonics;

3336 (vi) quantum computing;

3337 (vii) robotics;

3338 (viii) secure computing; and

3339 (ix) other emerging technologies as determined by the ~~[advisory council]~~ board.

3340 ~~[(3)]~~ (2) "Institution of higher education" means the University of Utah, Utah State
3341 University, Southern Utah University, Weber State University, Snow College, Utah Tech
3342 University, Utah Valley University, or Salt Lake Community College.

3343 Section 56. Section **53B-26-302** is amended to read:

3344 **53B-26-302. Deep technology initiative.**

3345 (1) Subject to appropriations from the Legislature and in accordance with the proposal
3346 process and other provisions of this section, the board shall develop and oversee a deep
3347 technology talent initiative that includes providing funding for expanded programs in deep
3348 technology.

3349 (2) The board shall facilitate collaborations that create expanded, multidisciplinary
3350 programs or stackable credential programs in both undergraduate and graduate studies that
3351 prepare students to be workforce participants in jobs requiring deep technology skills.

3352 (3) An institution of higher education seeking to partner with one or more participating
3353 employers shall submit a proposal to the board, in a form approved by the board and in
3354 accordance with deadlines determined by the board, which contains the following elements:

3355 (a) a description of the proposed program in deep technology that demonstrates the
3356 program will:

3357 (i) be responsive to the deep technology talent needs of the state through industry
3358 involvement in the project's design;

3359 (ii) be a partnership that includes at least one participating employer and at least one
3360 institution of higher education; and

3361 (iii) address a previously unmet state need related to deep technology;

3362 (b) an estimate of:

3363 (i) student enrollment in the program;

3364 (ii) what academic credit or credentials will be provided by the program; and

3365 (iii) occupations for which graduates will be qualified;

3366 (c) evidence that each participating employer is committed to participating and
3367 contributing to the program by providing any combination of instruction, extensive workplace
3368 experience, or mentoring;

3369 (d) a description of any resources that will be provided by each participating employer
3370 in the program; and

3371 (e) the amount of funding requested for the program, including justification for the
3372 funding.

3373 (4) The board shall [~~provide all proposals to the advisory council and the advisory~~

3374 ~~council shall~~] review and prioritize each proposal received and [~~recommend to the board~~]
3375 determine whether the proposal should be funded, including the recommended amount of
3376 funding, using the following criteria:

3377 (a) the quality and completeness of the elements of the proposal described in
3378 Subsection (3);

3379 (b) to what extent the proposed program:

3380 (i) would expand the capacity to meet state or regional workforce needs related to deep
3381 technology;

3382 (ii) would integrate deep technology competency with disciplinary expertise;

3383 (iii) identifies a faculty member or other individual who has expertise and a
3384 demonstrated willingness to lead the proposed program;

3385 (iv) would incorporate internships or significant project experiences, including
3386 team-based experiences;

3387 (v) identifies how industry professionals would participate in curriculum development
3388 and teaching;

3389 (vi) would create partnerships with other higher education institutions and industry;
3390 and

3391 (vii) would be cost effective; and

3392 (c) other relevant criteria as determined by [~~the advisory council and~~] the board.

3393 (5) Subject to Subsection (6) and the other provisions of this section, on or before
3394 September 1 of each fiscal year, the board [~~shall review the recommendations of the advisory~~
3395 ~~council and~~] may provide funding for deep technology programs using the criteria described in
3396 Subsection (4).

3397 (6) Before the board may provide funding for one or more deep technology programs
3398 for fiscal year 2021, on or before October 1, 2020, the board shall provide written information
3399 regarding the proposed funding to, and shall consider the recommendations of, the Higher
3400 Education Appropriations Subcommittee.

3401 (7) (a) Each institution of higher education that receives funding under this section
3402 shall, in a form approved by the board, annually provide written information to the board
3403 regarding the activities, successes, and challenges related to administering the deep technology
3404 program, including:

3405 (i) specific entities that received funding under this section;
 3406 (ii) the amount of funding provided to each entity;
 3407 (iii) the number of participating students in each program;
 3408 (iv) the number of graduates of the program; and
 3409 (v) the number of graduates of the program employed in jobs requiring deep
 3410 technology skills.

3411 (b) On or before November 1 of each year, the board shall provide a written report
 3412 containing the information described in this Subsection (7) to the:

3413 (i) Education Interim Committee; and
 3414 (ii) Higher Education Appropriations Subcommittee.

3415 Section 57. Section **53E-4-403** is amended to read:

3416 **Part 401 State Instructional Materials**

3417 **53E-4-403. Evaluation of instructional materials -- Recommendation by the state**
 3418 **board.**

3419 (1) Semi-annually [~~after reviewing the evaluations of the commission~~], the state board
 3420 shall recommend instructional materials for use in the public schools.

3421 (2) The standard period of time instructional materials shall remain on the list of
 3422 recommended instructional materials shall be five years.

3423 (3) Unsatisfactory instructional materials may be removed from the list of
 3424 recommended instructional materials at any time within the period applicable to the
 3425 instructional materials.

3426 (4) Except as provided in Sections [53G-10-103](#) and [53G-10-402](#), each school shall
 3427 have discretion to select instructional materials for use by the school. A school may select:

3428 (a) instructional materials recommended by the state board as provided in this section;
 3429 or

3430 (b) other instructional materials the school considers appropriate to teach the core
 3431 standards for Utah public schools.

3432 Section 58. Section **53E-4-405** is amended to read:

3433 **53E-4-405. Sealed proposals for instructional materials contracts -- Sample**
 3434 **copies -- Price of instructional materials.**

3435 (1) As used in this section, the word "sealed" does not preclude acceptance of

3436 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
3437 sealed and submitted.

3438 (2) A person seeking a contract to furnish instructional materials for use in the public
3439 schools shall submit a sealed proposal to the ~~[commission]~~ state board.

3440 (3) Each proposal must:

3441 (a) be accompanied by sample copies of the instructional materials to be reviewed; and

3442 (b) include the wholesale price at which the publisher agrees to furnish the

3443 instructional materials to districts and schools during the approval period.

3444 Section 59. Section ~~53E-4-407~~ is amended to read:

3445 **53E-4-407. Illegal acts -- Misdemeanor.**

3446 It is a class B misdemeanor for a member of ~~[the commission or]~~ the state board to

3447 receive money or other remuneration as an inducement for the recommendation or introduction

3448 of instructional materials into the schools.

3449 Section 60. Section ~~53E-4-408~~ is amended to read:

3450 **53E-4-408. Instructional materials alignment with core standards for Utah public**
3451 **schools.**

3452 (1) For a school year beginning with or after the 2012-13 school year, a school district
3453 may not purchase primary instructional materials unless the primary instructional materials
3454 provider:

3455 (a) contracts with an independent party to evaluate and map the alignment of the
3456 primary instructional materials with the core standards for Utah public schools adopted under
3457 Section ~~53E-3-501~~;

3458 (b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public
3459 website at no charge, for use by teachers and the general public; and

3460 (c) pays the costs related to the requirements of this Subsection (1).

3461 (2) The requirements under Subsection (1) may not be performed by:

3462 (a) the state board;

3463 (b) the state superintendent or employees of the state board;

3464 ~~[(c) the State Instructional Materials Commission appointed pursuant to Section~~
3465 ~~53E-4-402;]~~

3466 ~~[(d)]~~ (c) a local school board or a school district; or

3467 [~~e~~] (d) the instructional materials creator or publisher.

3468 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3469 state board shall make rules that establish:

3470 (a) the qualifications of the independent parties who may evaluate and map the
3471 alignment of the primary instructional materials in accordance with the provisions of
3472 Subsection (1)(a); and

3473 (b) requirements for the detailed summary of the evaluation and its placement on a
3474 public website in accordance with the provisions of Subsection (1)(b).

3475 Section 61. Section **53F-2-403** is amended to read:

3476 **53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.**

3477 (1) A student eligible for state-supported transportation means:

3478 (a) a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles
3479 from school;

3480 (b) a student enrolled in grades 7 through 12 who lives at least two miles from school;
3481 and

3482 (c) a student enrolled in a special program offered by a school district and approved by
3483 the state board for trainable, motor, multiple-disability, or other students with severe
3484 disabilities who are incapable of walking to school or where it is unsafe for students to walk
3485 because of their disabling condition, without reference to distance from school.

3486 (2) If a school district implements double sessions as an alternative to new building
3487 construction, with the approval of the state board, those affected elementary school students
3488 residing less than 1-1/2 miles from school may be transported one way to or from school
3489 because of safety factors relating to darkness or other hazardous conditions as determined by
3490 the local school board.

3491 (3) (a) The state board shall distribute transportation money to school districts based
3492 on:

3493 (i) an allowance per mile for approved bus routes;

3494 (ii) an allowance per hour for approved bus routes; and

3495 (iii) a minimum allocation for each school district eligible for transportation funding.

3496 (b) (i) Except as provided in Subsection (3)(b)(ii), the state board shall distribute
3497 appropriated transportation funds based on the prior year's eligible transportation costs as

3498 legally reported under Subsection 53F-2-402(3).

3499 (ii) The state board shall distribute state appropriations for transportation for fiscal
3500 years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in
3501 Subsection 53F-2-402(3).

3502 (c) The state board shall annually review the allowance per mile and the allowance per
3503 hour and adjust the allowances to reflect current economic conditions.

3504 (4) (a) Approved bus routes for funding purposes shall be determined on fall data
3505 collected by October 1.

3506 (b) Approved route funding shall be determined on the basis of the most efficient and
3507 economic routes.

3508 ~~[(5) A Transportation Advisory Committee with representation from school district
3509 superintendents, business officials, school district transportation supervisors, and state board
3510 employees shall serve as a review committee for addressing school transportation needs,
3511 including recommended approved bus routes.]~~

3512 ~~[(6)]~~ (5) A local school board may provide for the transportation of students regardless
3513 of the distance from school, from general funds of the school district.

3514 Section 62. Section 53F-9-203 is amended to read:

3515 **53F-9-203. Charter School Revolving Account.**

3516 (1) (a) The terms defined in Section 53G-5-102 apply to this section.

3517 (b) As used in this section, "account" means the Charter School Revolving Account.

3518 (2) (a) There is created within the Uniform School Fund a restricted account known as
3519 the "Charter School Revolving Account" to provide assistance to charter schools to:

3520 (i) meet school building construction and renovation needs; and

3521 (ii) pay for expenses related to the start up of a new charter school or the expansion of
3522 an existing charter school.

3523 (b) The state board, in consultation with the State Charter School Board, shall
3524 administer the Charter School Revolving Account in accordance with rules adopted by the state
3525 board.

3526 (3) The Charter School Revolving Account shall consist of:

3527 (a) money appropriated to the account by the Legislature;

3528 (b) money received from the repayment of loans made from the account; and

- 3529 (c) interest earned on money in the account.
- 3530 (4) The state superintendent shall make loans to charter schools from the account to
3531 pay for the costs of:
- 3532 (a) planning expenses;
- 3533 (b) constructing or renovating charter school buildings;
- 3534 (c) equipment and supplies; or
- 3535 (d) other start-up or expansion expenses.
- 3536 (5) Loans to new charter schools or charter schools with urgent facility needs may be
3537 given priority.
- 3538 (6) The state board shall:
- 3539 (a) ~~[except as provided in Subsection (7)(a);]~~ review requests by charter schools for
3540 loans under this section; and
- 3541 (b) in consultation with the State Charter School Board, approve or reject each request.
- 3542 ~~[(7) (a) The state board may establish a committee to:]~~
- 3543 ~~[(i) review requests under Subsection (6)(a); and]~~
- 3544 ~~[(ii) make recommendations to the state board and the State Charter School Board~~
3545 ~~regarding the approval or rejection of a request.]~~
- 3546 ~~[(b) (i) A committee established under Subsection (7)(a) shall include individuals who~~
3547 ~~have expertise or experience in finance, real estate, or charter school administration:]~~
- 3548 ~~[(ii) Of the members appointed to a committee established under Subsection (7)(a):]~~
- 3549 ~~[(A) one member shall be nominated by the governor; and]~~
- 3550 ~~[(B) the remaining members shall be selected from a list of nominees submitted by the~~
3551 ~~State Charter School Board:]~~
- 3552 ~~[(c) If the committee recommends approval of a loan application under Subsection~~
3553 ~~(7)(a)(ii), the committee's recommendation shall include:]~~
- 3554 ~~[(i) the recommended amount of the loan;]~~
- 3555 ~~[(ii) the payback schedule; and]~~
- 3556 ~~[(iii) the interest rate to be charged:]~~
- 3557 ~~[(d) A committee member may not:]~~
- 3558 ~~[(i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or]~~
- 3559 ~~[(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person~~

3560 ~~or entity that contracts with a loan applicant.]~~

3561 ~~[(8)]~~ (7) A loan under this section may not be made unless the state board, in
3562 consultation with the State Charter School Board, approves the loan.

3563 ~~[(9)]~~ (8) The term of a loan to a charter school under this section may not exceed five
3564 years.

3565 ~~[(10)]~~ (9) The state board may not approve loans to charter schools under this section
3566 that exceed a total of \$2,000,000 in any fiscal year.

3567 ~~[(H)]~~ (10) (a) On March 16, 2011, the assets of the Charter School Building
3568 Subaccount administered by the state board shall be deposited into the Charter School
3569 Revolving Account.

3570 (b) Beginning on March 16, 2011, loan payments for loans made from the Charter
3571 School Building Subaccount shall be deposited into the Charter School Revolving Account.

3572 Section 63. Section **53G-10-206** is amended to read:

3573 **53G-10-206. Educational freedom.**

3574 (1) As used in this section:

3575 (a) (i) "Administrative personnel" means any LEA or state board staff personnel who
3576 have system-wide, LEA-wide, or school-wide functions and who perform management
3577 activities, including:

3578 (A) developing broad policies for LEA or state-level boards; and

3579 (B) executing developed policies through the direction of personnel at any level within
3580 the state or LEA.

3581 (ii) "Administrative personnel" includes state, LEA, or school superintendents,
3582 assistant superintendents, deputy superintendents, school principals, assistant principals,
3583 directors, executive directors, network directors, cabinet members, subject area directors, grant
3584 coordinators, specialty directors, career center directors, educational specialists, technology
3585 personnel, technology administrators, and others who perform management activities.

3586 (b) (i) "Instructional personnel" means an individual whose function includes the
3587 provision of:

3588 (A) direct or indirect instructional services to students;

3589 (B) direct or indirect support in the learning process of students; or

3590 (C) direct or indirect delivery of instruction, training, coaching, evaluation, or

3591 professional development to instructional or administrative personnel.

3592 (ii) "Instructional personnel" includes:

3593 (A) the state board, LEAs, schools, superintendents, boards, administrators,
3594 administrative staff, teachers, classroom teachers, facilitators, coaches, proctors, therapists,
3595 counselors, student personnel services, librarians, media specialists, associations, affiliations,
3596 committees, contractors, vendors, consultants, advisors, outside entities, community
3597 volunteers, para-professionals, public-private partners, trainers, mentors, specialists, and staff;
3598 or

3599 (B) any other employees, officials, government agencies, educational entities, persons,
3600 or groups for whom access to students is facilitated through, or not feasible without, the public
3601 education system.

3602 (2) (a) Each LEA shall provide an annual assurance to the state board that the LEA's
3603 professional learning, administrative functions, displays, and instructional and curricular
3604 materials, are consistent with the following principles of individual freedom:

3605 (i) the principle that all individuals are equal before the law and have unalienable
3606 rights; and

3607 (ii) the following principles of individual freedom:

3608 (A) that no individual is inherently racist, sexist, or oppressive, whether consciously or
3609 unconsciously, solely by virtue of the individual's race, sex, or sexual orientation;

3610 (B) that no race is inherently superior or inferior to another race;

3611 (C) that no person should be subject to discrimination or adverse treatment solely or
3612 partly on the basis of the individual's race, color, national origin, religion, disability, sex, or
3613 sexual orientation;

3614 (D) that meritocracy or character traits, including hard work ethic, are not racist nor
3615 associated with or inconsistent with any racial or ethnic group; and

3616 (E) that an individual, by virtue of the individual's race or sex, does not bear
3617 responsibility for actions that other members of the same race or sex committed in the past or
3618 present.

3619 (b) Nothing in this section prohibits instruction regarding race, color, national origin,
3620 religion, disability, or sex in a manner that is consistent with the principles described in
3621 Subsection (2)(a).

3622 (3) The state board or an LEA may not:

3623 (a) attempt to persuade a student or instructional or administrative personnel to a point
3624 of view that is inconsistent with the principles described in Subsection (2)(a); or

3625 (b) implement policies or programs, or allow instructional personnel or administrative
3626 personnel to implement policies or programs, with content that is inconsistent with the
3627 principles described in Subsection (2)(a).

3628 [~~(4) The State Instructional Materials Commission may not recommend to the state
3629 board instructional materials under Section 53E-4-403 that violate this section or are
3630 inconsistent with the principles described in Subsection (2)(a).]~~

3631 [(5)] (4) The state board and state superintendent may not develop or continue to use
3632 core standards under Section 53E-3-301 or professional learning that are inconsistent with the
3633 principles described in Subsection (2)(a).

3634 Section 64. Section 53G-10-402 is amended to read:

3635 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**
3636 **and speech of school employees and volunteers -- Political and religious doctrine**
3637 **prohibited.**

3638 (1) As used in this section:

3639 (a) "LEA governing board" means a local school board or charter school governing
3640 board.

3641 (b) "Refusal skills" means instruction:

3642 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
3643 adult;

3644 (ii) in a student's obligation to stop the student's sexual advances if refused by another
3645 individual;

3646 (iii) informing a student of the student's right to report and seek counseling for
3647 unwanted sexual advances;

3648 (iv) in sexual harassment; and

3649 (v) informing a student that a student may not consent to criminally prohibited
3650 activities or activities for which the student is legally prohibited from giving consent, including
3651 the electronic transmission of sexually explicit images by an individual of the individual or
3652 another.

- 3653 (2) (a) The state board shall establish curriculum requirements under Section
3654 53E-3-501 that include instruction in:
- 3655 (i) community and personal health;
 - 3656 (ii) physiology;
 - 3657 (iii) personal hygiene;
 - 3658 (iv) prevention of communicable disease;
 - 3659 (v) refusal skills; and
 - 3660 (vi) the harmful effects of pornography.
- 3661 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3662 state board shall make rules that, and instruction shall:
- 3663 (i) stress the importance of abstinence from all sexual activity before marriage and
3664 fidelity after marriage as methods for preventing certain communicable diseases;
 - 3665 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;
 - 3666 (iii) prohibit instruction in:
 - 3667 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
 - 3668 (B) the advocacy of premarital or extramarital sexual activity; or
 - 3669 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
 - 3670 (iv) except as provided in Subsection (2)(d), allow instruction to include information
3671 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
3672 information on state law applicable to minors obtaining contraceptive methods or devices.
- 3673 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3674 state board shall make rules for an LEA governing board that adopts instructional materials
3675 under Subsection (2)(g)(ii) that:
- 3676 (i) require the LEA governing board to report on the materials selected and the LEA
3677 governing board's compliance with Subsection (2)(h); and
 - 3678 (ii) provide for an appeal and review process of the LEA governing board's adoption of
3679 instructional materials.
- 3680 (d) The state board may not require an LEA to teach or adopt instructional materials
3681 that include information on contraceptive methods or devices.
- 3682 (e) (i) At no time may instruction be provided, including responses to spontaneous
3683 questions raised by students, regarding any means or methods that facilitate or encourage the

3684 violation of any state or federal criminal law by a minor or an adult.

3685 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
3686 spontaneous question as long as the response is consistent with the provisions of this section.

3687 (f) The state board shall recommend instructional materials for use in the curricula
3688 required under Subsection (2)(a) [~~after considering evaluations of instructional materials by the~~
3689 ~~State Instructional Materials Commission~~].

3690 (g) An LEA governing board may choose to adopt:

3691 (i) the instructional materials recommended under Subsection (2)(f); or

3692 (ii) other instructional materials in accordance with Subsection (2)(h).

3693 (h) An LEA governing board that adopts instructional materials under Subsection

3694 (2)(g)(ii) shall:

3695 (i) ensure that the materials comply with state law and board rules;

3696 (ii) base the adoption of the materials on the recommendations of the LEA governing
3697 board's Curriculum Materials Review Committee; and

3698 (iii) adopt the instructional materials in an open and regular meeting of the LEA
3699 governing board for which prior notice is given to parents of students attending the respective
3700 schools and an opportunity for parents to express their views and opinions on the materials at
3701 the meeting.

3702 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on
3703 at least two occasions during the period that begins with the beginning of grade 8 and the end
3704 of grade 12.

3705 (b) At the request of the state board, the Department of Health and Human Services
3706 shall cooperate with the state board in developing programs to provide instruction in those
3707 areas.

3708 (4) (a) The state board shall adopt rules that:

3709 (i) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)
3710 are complied with; and

3711 (ii) require a student's parent to be notified in advance and have an opportunity to
3712 review the information for which parental consent is required under Sections [76-7-322](#) and
3713 [76-7-323](#).

3714 (b) The state board shall also provide procedures for disciplinary action for violation of

3715 Section 76-7-322 or 76-7-323.

3716 (5) (a) In keeping with the requirements of Section 53G-10-204, and because school
3717 employees and volunteers serve as examples to their students, school employees or volunteers
3718 acting in their official capacities may not support or encourage criminal conduct by students,
3719 teachers, or volunteers.

3720 (b) To ensure the effective performance of school personnel, the limitations described
3721 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school
3722 employee's or volunteer's official capacities if:

3723 (i) the employee or volunteer knew or should have known that the employee's or
3724 volunteer's action could result in a material and substantial interference or disruption in the
3725 normal activities of the school; and

3726 (ii) that action does result in a material and substantial interference or disruption in the
3727 normal activities of the school.

3728 (c) The state board or an LEA governing board may not allow training of school
3729 employees or volunteers that supports or encourages criminal conduct.

3730 (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah
3731 Administrative Rulemaking Act, rules implementing this section.

3732 (e) Nothing in this section limits the ability or authority of the state board or an LEA
3733 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding
3734 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

3735 (6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious,
3736 or denominational doctrine may not be taught in the public schools.

3737 (7) (a) An LEA governing board and an LEA governing board's employees shall
3738 cooperate and share responsibility in carrying out the purposes of this chapter.

3739 (b) An LEA governing board shall provide appropriate professional development for
3740 the LEA governing board's teachers, counselors, and school administrators to enable them to
3741 understand, protect, and properly instruct students in the values and character traits referred to
3742 in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204,
3743 and 53G-10-205, and distribute appropriate written materials on the values, character traits, and
3744 conduct to each individual receiving the professional development.

3745 (c) An LEA governing board shall make the written materials described in Subsection

3746 (7)(b) available to classified employees, students, and parents of students.

3747 (d) In order to assist an LEA governing board in providing the professional
3748 development required under Subsection (7)(b), the state board shall, as appropriate, contract
3749 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
3750 (7)(b) to develop and disseminate model teacher professional development programs that an
3751 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to
3752 effectively teach the values and qualities of character referenced in Subsection ~~(7)~~ (7)(b).

3753 (e) In accordance with the provisions of Subsection (5)(c), professional development
3754 may not support or encourage criminal conduct.

3755 (8) An LEA governing board shall review every two years:

3756 (a) LEA governing board policies on instruction described in this section;

3757 (b) for a local school board, data for each county that the school district is located in,
3758 or, for a charter school governing board, data for the county in which the charter school is
3759 located, on the following:

3760 (i) teen pregnancy;

3761 (ii) child sexual abuse; and

3762 (iii) sexually transmitted diseases and sexually transmitted infections; and

3763 (c) the number of pornography complaints or other instances reported within the
3764 jurisdiction of the LEA governing board.

3765 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
3766 section, or the application thereof to any person or circumstance, is found to be
3767 unconstitutional, the balance of this section shall be given effect without the invalid provision,
3768 subsection, sentence, clause, phrase, or word.

3769 Section 65. Section **58-3a-102** is amended to read:

3770 **58-3a-102. Definitions.**

3771 In addition to the definitions in Section **58-1-102**, as used in this chapter:

3772 (1) "Architect" means a person licensed under this chapter as an architect.

3773 (2) "Board" means the Architects and Landscape Architects Licensing Board created in
3774 Section **58-3a-201**.

3775 (3) "Building" means a structure which has human occupancy or habitation as its
3776 principal purpose, and includes the structural, mechanical, and electrical systems, utility

3777 services, and other facilities required for the building, and is otherwise governed by the State
3778 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
3779 Act.

3780 (4) "Complete construction plans" means a final set of plans and specifications for a
3781 building that normally includes:

- 3782 (a) floor plans;
- 3783 (b) elevations;
- 3784 (c) site plans;
- 3785 (d) foundation, structural, and framing detail;
- 3786 (e) electrical, mechanical, and plumbing design;
- 3787 (f) information required by the energy code;
- 3788 (g) specifications and related calculations as appropriate; and
- 3789 (h) all other documents required to obtain a building permit.

3790 (5) "Fund" means the Architects Education and Enforcement Fund created in Section
3791 [58-3a-103](#).

3792 (6) (a) "Practice of architecture" means rendering or offering to render the following
3793 services in connection with the design, construction, enlargement, or alteration of a building or
3794 group of buildings, and the space within and surrounding such buildings:

- 3795 (i) planning;
- 3796 (ii) facility programming;
- 3797 (iii) preliminary studies;
- 3798 (iv) preparation of designs, drawings, and specifications;
- 3799 (v) preparation of technical submissions and coordination of any element of technical
3800 submissions prepared by others including, as appropriate and without limitation, professional
3801 engineers, and landscape architects; and
- 3802 (vi) administration of construction contracts.

3803 (b) "Practice of architecture" does not include the practice of professional engineering
3804 as defined in Section [58-22-102](#), but a licensed architect may perform such professional
3805 engineering work as is incidental to the practice of architecture.

3806 (7) "Principal" means a licensed architect having responsible charge of an
3807 organization's architectural practice.

3808 (8) "Supervision of an employee, subordinate, associate, or drafter of an architect"
3809 means that a licensed architect is responsible for and personally reviews, corrects when
3810 necessary, and approves work performed by any employee, subordinate, associate, or drafter
3811 under the direction of the architect, and may be further defined by rule by the division in
3812 collaboration with the board.

3813 (9) "Unlawful conduct" as defined in Section 58-1-501 is further defined in Section
3814 58-3a-501.

3815 (10) "Unprofessional conduct" as defined in Section 58-1-501 may be further defined
3816 by rule by the division in collaboration with the board.

3817 Section 66. Section 58-3a-201 is amended to read:

3818 **58-3a-201. Board.**

3819 (1) There is created the Architects and Landscape Architects Licensing Board
3820 consisting of:

- 3821 (a) four architects ~~[and]~~;
- 3822 (b) two landscape architects; and
- 3823 (c) one member of the general public.

3824 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

3825 (3) The duties and responsibilities of the board shall be in accordance with Sections
3826 58-1-202 and 58-1-203 with respect to this chapter and Chapter 53, Landscape Architects
3827 Licensing Act. ~~[In addition, the]~~

3828 (4) The board shall designate one of its members on a permanent or rotating basis to:

- 3829 (a) assist the division in reviewing complaints concerning the ~~[unlawful or~~
3830 ~~unprofessional]~~ conduct of ~~[a licensee]~~ an individual licensed under this chapter or Chapter 53,
3831 Landscape Architects Licensing Act; and

3832 (b) advise the division in its investigation of these complaints.

3833 ~~[(4)]~~ (5) A board member who has, under Subsection ~~[(3)]~~ (4), reviewed a complaint or
3834 advised in its investigation may be disqualified from participating with the board when the
3835 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

3836 Section 67. Section 58-17b-102 is amended to read:

3837 **58-17b-102. Definitions.**

3838 In addition to the definitions in Section 58-1-102, as used in this chapter:

3839 (1) "Administering" means:

3840 (a) the direct application of a prescription drug or device, whether by injection,
3841 inhalation, ingestion, or by any other means, to the body of a human patient or research subject
3842 by another person; or

3843 (b) the placement by a veterinarian with the owner or caretaker of an animal or group
3844 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other
3845 means directed to the body of the animal by the owner or caretaker in accordance with written
3846 or verbal directions of the veterinarian.

3847 (2) "Adulterated drug or device" means a drug or device considered adulterated under
3848 21 U.S.C. Sec. 351 (2003).

3849 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for
3850 the purpose of analysis.

3851 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
3852 used as standards and controls in performing drug monitoring or drug screening analysis if the
3853 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid
3854 components, organic solvents, or inorganic buffers at a concentration not exceeding one
3855 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
3856 use.

3857 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by
3858 the use of prescription drugs.

3859 (5) "Automated pharmacy systems" includes mechanical systems which perform
3860 operations or activities, other than compounding or administration, relative to the storage,
3861 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
3862 all transaction information.

3863 (6) "Beyond use date" means the date determined by a pharmacist and placed on a
3864 prescription label at the time of dispensing that indicates to the patient or caregiver a time
3865 beyond which the contents of the prescription are not recommended to be used.

3866 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
3867 in Section [58-17b-201](#).

3868 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically
3869 underserved area, used for the storage and dispensing of prescription drugs, which is dependent

3870 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
3871 approved by the division as the parent pharmacy.

3872 (9) "Centralized prescription processing" means the processing by a pharmacy of a
3873 request from another pharmacy to fill or refill a prescription drug order or to perform
3874 processing functions such as dispensing, drug utilization review, claims adjudication, refill
3875 authorizations, and therapeutic interventions.

3876 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a
3877 retail pharmacy to compound or dispense a drug or dispense a device to the public under a
3878 prescription order.

3879 (11) "Class B pharmacy":

3880 (a) means a pharmacy located in Utah:

3881 (i) that is authorized to provide pharmaceutical care for patients in an institutional
3882 setting; and

3883 (ii) whose primary purpose is to provide a physical environment for patients to obtain
3884 health care services; and

3885 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

3886 (ii) pharmaceutical administration and sterile product preparation facilities.

3887 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture,
3888 production, wholesale, or distribution of drugs or devices in Utah.

3889 (13) "Class D pharmacy" means a nonresident pharmacy.

3890 (14) "Class E pharmacy" means all other pharmacies.

3891 (15) (a) "Closed-door pharmacy" means a pharmacy that:

3892 (i) provides pharmaceutical care to a defined and exclusive group of patients who have
3893 access to the services of the pharmacy because they are treated by or have an affiliation with a
3894 specific entity, including a health maintenance organization or an infusion company; or

3895 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in
3896 retail customers.

3897 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods
3898 to the general public, or the office of a practitioner.

3899 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
3900 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or

3901 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
3902 care functions authorized by the practitioner or practitioners under certain specified conditions
3903 or limitations.

3904 (17) "Collaborative pharmacy practice agreement" means a written and signed
3905 agreement between one or more pharmacists and one or more practitioners that provides for
3906 collaborative pharmacy practice for the purpose of drug therapy management of patients and
3907 prevention of disease of human subjects.

3908 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or
3909 labeling of a limited quantity drug, sterile product, or device:

3910 (i) as the result of a practitioner's prescription order or initiative based on the
3911 practitioner, patient, or pharmacist relationship in the course of professional practice;

3912 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and
3913 not for sale or dispensing; or

3914 (iii) in anticipation of prescription drug orders based on routine, regularly observed
3915 prescribing patterns.

3916 (b) "Compounding" does not include:

3917 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to
3918 another pharmacist or pharmaceutical facility;

3919 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a
3920 dosage form which is regularly and commonly available from a manufacturer in quantities and
3921 strengths prescribed by a practitioner; or

3922 (iii) the preparation of a prescription drug, sterile product, or device which has been
3923 withdrawn from the market for safety reasons.

3924 (19) "Confidential information" has the same meaning as "protected health
3925 information" under the Standards for Privacy of Individually Identifiable Health Information,
3926 45 C.F.R. Parts 160 and 164.

3927 (20) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

3928 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
3929 417, Sec. 3a(ff) which is incorporated by reference.

3930 (22) "Dispense" means the interpretation, evaluation, and implementation of a
3931 prescription drug order or device or nonprescription drug or device under a lawful order of a

3932 practitioner in a suitable container appropriately labeled for subsequent administration to or use
3933 by a patient, research subject, or an animal.

3934 (23) "Dispensing medical practitioner" means an individual who is:

3935 (a) currently licensed as:

3936 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

3937 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
3938 Practice Act;

3939 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

3940 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

3941 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist
3942 is acting within the scope of practice for an optometrist; and

3943 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
3944 of a dispensing medical practitioner.

3945 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
3946 located within a licensed dispensing medical practitioner's place of practice.

3947 (25) "Distribute" means to deliver a drug or device other than by administering or
3948 dispensing.

3949 (26) (a) "Drug" means:

3950 (i) a substance recognized in the official United States Pharmacopoeia, official
3951 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
3952 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
3953 prevention of disease in humans or animals;

3954 (ii) a substance that is required by any applicable federal or state law or rule to be
3955 dispensed by prescription only or is restricted to administration by practitioners only;

3956 (iii) a substance other than food intended to affect the structure or any function of the
3957 body of humans or other animals; and

3958 (iv) substances intended for use as a component of any substance specified in
3959 Subsections (26)(a)(i), (ii), (iii), and (iv).

3960 (b) "Drug" does not include dietary supplements.

3961 (27) "Drug regimen review" includes the following activities:

3962 (a) evaluation of the prescription drug order and patient record for:

3963 (i) known allergies;
3964 (ii) rational therapy-contraindications;
3965 (iii) reasonable dose and route of administration; and
3966 (iv) reasonable directions for use;
3967 (b) evaluation of the prescription drug order and patient record for duplication of
3968 therapy;

3969 (c) evaluation of the prescription drug order and patient record for the following
3970 interactions:

3971 (i) drug-drug;
3972 (ii) drug-food;
3973 (iii) drug-disease; and
3974 (iv) adverse drug reactions; and
3975 (d) evaluation of the prescription drug order and patient record for proper utilization,
3976 including over- or under-utilization, and optimum therapeutic outcomes.

3977 (28) "Drug sample" means a prescription drug packaged in small quantities consistent
3978 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to
3979 be sold, and is intended to be provided to practitioners for the immediate needs of patients for
3980 trial purposes or to provide the drug to the patient until a prescription can be filled by the
3981 patient.

3982 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound,
3983 symbol, or process attached to or logically associated with a record and executed or adopted by
3984 a person with the intent to sign the record.

3985 (30) "Electronic transmission" means transmission of information in electronic form or
3986 the transmission of the exact visual image of a document by way of electronic equipment.

3987 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
3988 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
3989 and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
3990 Inspection.

3991 (32) "Legend drug" has the same meaning as prescription drug.

3992 (33) "Licensed pharmacy technician" means an individual licensed with the division,
3993 that may, under the supervision of a pharmacist, perform the activities involved in the

3994 technician practice of pharmacy.

3995 (34) "Manufacturer" means a person or business physically located in Utah licensed to
3996 be engaged in the manufacturing of drugs or devices.

3997 (35) (a) "Manufacturing" means:

3998 (i) the production, preparation, propagation, conversion, or processing of a drug or
3999 device, either directly or indirectly, by extraction from substances of natural origin or
4000 independently by means of chemical or biological synthesis, or by a combination of extraction
4001 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling
4002 or relabeling of its container; and

4003 (ii) the promotion and marketing of such drugs or devices.

4004 (b) "Manufacturing" includes the preparation and promotion of commercially available
4005 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

4006 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
4007 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
4008 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
4009 analysis.

4010 (36) "Medical order" means a lawful order of a practitioner which may include a
4011 prescription drug order.

4012 (37) "Medication profile" or "profile" means a record system maintained as to drugs or
4013 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze
4014 the profile to provide pharmaceutical care.

4015 (38) "Misbranded drug or device" means a drug or device considered misbranded under
4016 21 U.S.C. Sec. 352 (2003).

4017 (39) (a) "Nonprescription drug" means a drug which:

4018 (i) may be sold without a prescription; and

4019 (ii) is labeled for use by the consumer in accordance with federal law.

4020 (b) "Nonprescription drug" includes homeopathic remedies.

4021 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
4022 person in Utah.

4023 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

4024 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located

4025 outside the state that is licensed and in good standing in another state, that:

4026 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
4027 this state pursuant to a lawfully issued prescription;

4028 (b) provides information to a patient in this state on drugs or devices which may
4029 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
4030 or

4031 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic
4032 effects of drugs.

4033 (43) "Patient counseling" means the written and oral communication by the pharmacist
4034 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of
4035 drugs, devices, and dietary supplements.

4036 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in
4037 which:

4038 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
4039 the facility or agency for administration to patients of that facility or agency;

4040 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
4041 or pharmacy intern with whom the facility has established a prescription drug supervising
4042 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
4043 or agency staff as required, and oversees drug control, accounting, and destruction; and

4044 (c) prescription drugs are professionally administered in accordance with the order of a
4045 practitioner by an employee or agent of the facility or agency.

4046 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
4047 prescribing practitioner, and in accordance with division rule:

4048 (i) designing, implementing, and monitoring a therapeutic drug plan intended to
4049 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing
4050 the patient's disease;

4051 (ii) eliminating or reducing a patient's symptoms; or

4052 (iii) arresting or slowing a disease process.

4053 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a
4054 prescribing practitioner.

4055 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,

4056 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this
4057 state.

4058 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
4059 engaged in the business of wholesale vending or selling of a prescription drug or device to
4060 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
4061 has not produced, manufactured, compounded, or dispensed.

4062 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
4063 facility carrying out the following business activities:

4064 (i) intracompany sales;

4065 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
4066 purchase, or trade a prescription drug or device, if the activity is carried out between one or
4067 more of the following entities under common ownership or common administrative control, as
4068 defined by division rule:

4069 (A) hospitals;

4070 (B) pharmacies;

4071 (C) chain pharmacy warehouses, as defined by division rule; or

4072 (D) other health care entities, as defined by division rule;

4073 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
4074 purchase, or trade a prescription drug or device, for emergency medical reasons, including
4075 supplying another pharmaceutical facility with a limited quantity of a drug, if:

4076 (A) the facility is unable to obtain the drug through a normal distribution channel in
4077 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
4078 obtaining the drug; and

4079 (B) the quantity of the drug does not exceed an amount reasonably required for
4080 immediate dispensing to eliminate the risk of harm;

4081 (iv) the distribution of a prescription drug or device as a sample by representatives of a
4082 manufacturer; and

4083 (v) the distribution of prescription drugs, if:

4084 (A) the facility's total distribution-related sales of prescription drugs does not exceed
4085 5% of the facility's total prescription drug sales; and

4086 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

4087 (48) "Pharmacist" means an individual licensed by this state to engage in the practice
4088 of pharmacy.

4089 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
4090 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
4091 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
4092 in full and actual charge of the pharmacy and all personnel.

4093 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
4094 more years of licensed experience. The preceptor serves as a teacher, example of professional
4095 conduct, and supervisor of interns in the professional practice of pharmacy.

4096 (51) "Pharmacy" means any place where:

4097 (a) drugs are dispensed;

4098 (b) pharmaceutical care is provided;

4099 (c) drugs are processed or handled for eventual use by a patient; or

4100 (d) drugs are used for the purpose of analysis or research.

4101 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
4102 provides a pharmacy benefits management service as defined in Section [31A-46-102](#) on behalf
4103 of a self-insured employer, insurance company, health maintenance organization, or other plan
4104 sponsor, as defined by rule.

4105 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice
4106 as a pharmacy intern.

4107 (54) "Pharmacy manager" means:

4108 (a) a pharmacist-in-charge;

4109 (b) a licensed pharmacist designated by a licensed pharmacy to consult on the
4110 pharmacy's administration;

4111 (c) an individual who manages the facility in which a licensed pharmacy is located;

4112 (d) an individual who oversees the operations of a licensed pharmacy;

4113 (e) an immediate supervisor of an individual described in Subsections (54)(a) through
4114 (d); or

4115 (f) another operations or site manager of a licensed pharmacy.

4116 (55) "Pharmacy technician training program" means an approved technician training
4117 program providing education for pharmacy technicians.

4118 (56) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,
4119 specifically relating to the dispensing of a prescription drug in accordance with Part 8,
4120 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
4121 division rule adopted after consultation with the Board of pharmacy and the governing boards
4122 of the practitioners described in Subsection (23)(a).

4123 (b) "Practice as a dispensing medical practitioner" does not include:

4124 (i) using a vending type of dispenser as defined by the division by administrative rule;

4125 or

4126 (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as
4127 defined in Section 58-37-2.

4128 (57) "Practice as a licensed pharmacy technician" means engaging in practice as a
4129 pharmacy technician under the general supervision of a licensed pharmacist and in accordance
4130 with a scope of practice defined by division rule made in collaboration with the board.

4131 (58) "Practice of pharmacy" includes the following:

4132 (a) providing pharmaceutical care;

4133 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
4134 practice agreement;

4135 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
4136 distribution of prescription drugs or devices, provided that the administration of a prescription
4137 drug or device is:

4138 (i) pursuant to a lawful order of a practitioner when one is required by law; and

4139 (ii) in accordance with written guidelines or protocols:

4140 (A) established by the licensed facility in which the prescription drug or device is to be
4141 administered on an inpatient basis; or

4142 (B) approved by the division, in collaboration with the board and, when appropriate,
4143 the ~~[Physicians]~~ Medical Licensing Board, created in Section 58-67-201, if the prescription
4144 drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

4145 (d) participating in drug utilization review;

4146 (e) ensuring proper and safe storage of drugs and devices;

4147 (f) maintaining records of drugs and devices in accordance with state and federal law
4148 and the standards and ethics of the profession;

4149 (g) providing information on drugs or devices, which may include advice relating to
4150 therapeutic values, potential hazards, and uses;

4151 (h) providing drug product equivalents;

4152 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
4153 technicians;

4154 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

4155 (k) providing emergency refills as defined by rule;

4156 (l) telepharmacy;

4157 (m) formulary management intervention;

4158 (n) prescribing and dispensing a self-administered hormonal contraceptive in

4159 accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

4160 (o) issuing a prescription in accordance with Section [58-17b-627](#).

4161 (59) "Practice of telepharmacy" means the practice of pharmacy through the use of
4162 telecommunications and information technologies.

4163 (60) "Practice of telepharmacy across state lines" means the practice of pharmacy
4164 through the use of telecommunications and information technologies that occurs when the
4165 patient is physically located within one jurisdiction and the pharmacist is located in another
4166 jurisdiction.

4167 (61) "Practitioner" means an individual currently licensed, registered, or otherwise
4168 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
4169 professional practice.

4170 (62) "Prescribe" means to issue a prescription:

4171 (a) orally or in writing; or

4172 (b) by telephone, facsimile transmission, computer, or other electronic means of
4173 communication as defined by division rule.

4174 (63) "Prescription" means an order issued:

4175 (a) by a licensed practitioner in the course of that practitioner's professional practice or
4176 by collaborative pharmacy practice agreement; and

4177 (b) for a controlled substance or other prescription drug or device for use by a patient
4178 or an animal.

4179 (64) "Prescription device" means an instrument, apparatus, implement, machine,

4180 contrivance, implant, in vitro reagent, or other similar or related article, and any component
4181 part or accessory, which is required under federal or state law to be prescribed by a practitioner
4182 and dispensed by or through a person or entity licensed under this chapter or exempt from
4183 licensure under this chapter.

4184 (65) "Prescription drug" means a drug that is required by federal or state law or rule to
4185 be dispensed only by prescription or is restricted to administration only by practitioners.

4186 (66) "Repackage":

4187 (a) means changing the container, wrapper, or labeling to further the distribution of a
4188 prescription drug; and

4189 (b) does not include:

4190 (i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the
4191 product to a patient; or

4192 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8,
4193 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for
4194 dispensing a product to a patient.

4195 (67) "Research using pharmaceuticals" means research:

4196 (a) conducted in a research facility, as defined by division rule, that is associated with a
4197 university or college in the state accredited by the Northwest Commission on Colleges and
4198 Universities;

4199 (b) requiring the use of a controlled substance, prescription drug, or prescription
4200 device;

4201 (c) that uses the controlled substance, prescription drug, or prescription device in
4202 accordance with standard research protocols and techniques, including, if required, those
4203 approved by an institutional review committee; and

4204 (d) that includes any documentation required for the conduct of the research and the
4205 handling of the controlled substance, prescription drug, or prescription device.

4206 (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs
4207 and devices to the general public.

4208 (69) (a) "Self-administered hormonal contraceptive" means a self-administered
4209 hormonal contraceptive that is approved by the United States Food and Drug Administration to
4210 prevent pregnancy.

4211 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
4212 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

4213 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
4214 induce an abortion, as that term is defined in Section 76-7-301.

4215 (70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
4216 with this chapter.

4217 (71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
4218 the pharmacy during a given day or shift.

4219 (72) "Supportive personnel" means unlicensed individuals who:

4220 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed
4221 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
4222 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
4223 those duties may be further defined by division rule adopted in collaboration with the board;
4224 and

4225 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
4226 collaboration with the board.

4227 (73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
4228 and 58-17b-501.

4229 (74) "Unprofessional conduct" means the same as that term is defined in Sections
4230 58-1-501 and 58-17b-502 and may be further defined by rule.

4231 (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
4232 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
4233 for animals.

4234 *The following section is affected by a coordination clause at the end of this bill.*

4235 Section 68. Section 58-17b-605 is amended to read:

4236 **58-17b-605. Drug product equivalents.**

4237 (1) For the purposes of this section:

4238 (a) (i) "Drug" is as defined in Section 58-17b-102.

4239 (ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

4240 (b) "Drug product equivalent" means:

4241 (i) a drug product that is designated as the therapeutic equivalent of another drug

4242 product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by
4243 the Center for Drug Evaluation and Research of the United States Food and Drug
4244 Administration; and

4245 (ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol
4246 designated by division rule made under Subsection (9).

4247 (2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug
4248 by brand or proprietary name may substitute a drug product equivalent for the prescribed drug
4249 only if:

4250 (a) the purchaser specifically requests or consents to the substitution of a drug product
4251 equivalent;

4252 (b) the drug product equivalent is of the same generic type and is designated the
4253 therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations
4254 prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug
4255 Administration;

4256 (c) the drug product equivalent is permitted to move in interstate commerce;

4257 (d) the pharmacist or pharmacy intern counsels the patient on the use and the expected
4258 response to the prescribed drug, whether a substitute or not, and the substitution is not
4259 otherwise prohibited by this chapter;

4260 (e) the prescribing practitioner has not indicated that a drug product equivalent may not
4261 be substituted for the drug, as provided in Subsection (6); and

4262 (f) the substitution is not otherwise prohibited by law.

4263 (3) (a) Each out-of-state mail service pharmacy dispensing a drug product equivalent as
4264 a substitute for another drug into this state shall notify the patient of the substitution either by
4265 telephone or in writing.

4266 (b) Each out-of-state mail service pharmacy shall comply with the requirements of this
4267 chapter with respect to a drug product equivalent substituted for another drug, including
4268 labeling and record keeping.

4269 (4) Pharmacists or pharmacy interns may not substitute without the prescriber's
4270 authorization on trade name drug product prescriptions unless the product is currently
4271 categorized in the approved drug products with therapeutic equivalence evaluations prepared
4272 by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration

4273 as a drug product considered to be therapeutically equivalent to another drug product.

4274 (5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product
4275 equivalent under this section assumes no greater liability than would be incurred had the
4276 pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

4277 (6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the
4278 patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner
4279 may indicate a prohibition on substitution either by writing "dispense as written" or signing in
4280 the appropriate space where two lines have been preprinted on a prescription order and
4281 captioned "dispense as written" or "substitution permitted".

4282 (b) If the prescription is communicated orally by the prescribing practitioner to the
4283 pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution
4284 and that indication shall be noted in writing by the pharmacist or pharmacy intern with the
4285 name of the practitioner and the words "orally by" and the initials of the pharmacist or
4286 pharmacy intern written after it.

4287 (7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a
4288 prescribed drug shall communicate the substitution to the purchaser. The drug product
4289 equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist,
4290 pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both
4291 the name of the prescribed drug and the name of the drug product equivalent dispensed in its
4292 place.

4293 (8) (a) For purposes of this Subsection (8), "substitutes" means to substitute:

4294 (i) a generic drug for another generic drug;

4295 (ii) a generic drug for a nongeneric drug;

4296 (iii) a nongeneric drug for another nongeneric drug; or

4297 (iv) a nongeneric drug for a generic drug.

4298 (b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a
4299 patient with a seizure disorder shall indicate a prohibition on substitution of a drug product
4300 equivalent in the manner provided in Subsection (6)(a) or (b).

4301 (c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who
4302 cannot dispense the prescribed drug as written, and who needs to substitute a drug product
4303 equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the

4304 prescribing practitioner prior to the substitution.

4305 (d) Notification under Subsection (8)(c) is not required if the drug product equivalent is
4306 paid for in whole or in part by Medicaid.

4307 (9) (a) The division shall designate by rule made in accordance with Title 63G, Chapter
4308 3, Utah Administrative Rulemaking Act, and in consultation with the board[;] and the
4309 [~~Physicians~~] Medical Licensing Board created in Section 58-67-201, [~~and the Osteopathic~~
4310 ~~Physician and Surgeon's Licensing Board created in Section 58-68-201;~~] appropriate substitutes
4311 for albuterol.

4312 (b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product
4313 equivalent for albuterol.

4314 (10) Failure of a licensed medical practitioner to specify that no substitution is
4315 authorized does not constitute evidence of negligence.

4316 Section 69. Section **58-17b-610.8** is amended to read:

4317 **58-17b-610.8. Prescription devices.**

4318 (1) The following documents from a prescribing practitioner shall be considered a
4319 prescription for purposes of dispensing of and payment for a device described in Subsection
4320 (3), if the device is prescribed or indicated by the document and the document is on file with a
4321 pharmacy:

4322 (a) a written prescription; or

4323 (b) a written record of a patient's:

4324 (i) current diagnosis; or

4325 (ii) treatment protocol.

4326 (2) A pharmacist or pharmacy intern at a pharmacy at which a document that is
4327 considered a prescription under Subsection (1) is on file may dispense under prescription a
4328 device described in Subsection (3) to the patient in accordance with:

4329 (a) the document that is considered a prescription under Subsection (1); and

4330 (b) rules made by the division under Subsection (4).

4331 (3) This section applies to:

4332 (a) nebulizers;

4333 (b) spacers for use with nebulizers or inhalers; and

4334 (c) diabetic supplies.

4335 (4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
4336 Administrative Rulemaking Act, and in consultation with the board~~[, the Physicians]~~ and the
4337 Medical Licensing Board created in Section 58-67-201~~[, and the Osteopathic Physician and~~
4338 ~~Surgeon's Licensing Board created in Section 58-68-201,]~~ to implement this section.

4339 Section 70. Section 58-17b-625 is amended to read:

4340 **58-17b-625. Administration of a long-acting injectable and naloxone.**

4341 (1) A pharmacist may, in accordance with this section, administer a drug described in
4342 Subsection (2).

4343 (2) Notwithstanding the provisions of Subsection 58-17b-102(58)(c)(ii)(B), the
4344 division shall make rules in collaboration with the board and, when appropriate, the
4345 ~~[Physicians]~~ Medical Licensing Board created in Section 58-67-201, and in accordance with
4346 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish training for a
4347 pharmacist to administer naloxone and long-acting injectables intramuscularly.

4348 (3) A pharmacist may not administer naloxone or a long-acting injectable
4349 intramuscularly unless the pharmacist:

4350 (a) completes the training described in Subsection (2);

4351 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
4352 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
4353 Administrative Rulemaking Act; and

4354 (c) is directed by the physician, as that term is defined in Section 58-67-102 or Section
4355 58-68-102, who issues the prescription to administer the drug.

4356 Section 71. Section 58-17b-1005 is amended to read:

4357 **58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors**
4358 **and stock albuterol.**

4359 (1) A physician acting in the physician's capacity as an employee of the Department of
4360 Health or as a medical director of a local health department may issue a standing prescription
4361 drug order authorizing the dispensing of an epinephrine auto-injector under Section
4362 58-17b-1004 in accordance with a protocol that:

4363 (a) requires the physician to specify the persons, by professional license number,
4364 authorized to dispense the epinephrine auto-injector;

4365 (b) requires the physician to review at least annually the dispensing practices of those

4366 authorized by the physician to dispense the epinephrine auto-injector;

4367 (c) requires those authorized by the physician to dispense the epinephrine auto-injector
4368 to make and retain a record of each dispensing, including:

4369 (i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom
4370 the epinephrine auto-injector is dispensed;

4371 (ii) a description of the epinephrine auto-injector dispensed; and

4372 (iii) other relevant information; and

4373 (d) is approved by the division by administrative rule made in accordance with Title
4374 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [Physicians]
4375 Medical Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

4376 (2) A physician acting in the physician's capacity as an employee of the Department of
4377 Health or as a medical director of a local health department may issue a standing prescription
4378 drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in
4379 accordance with a protocol that:

4380 (a) requires the physician to specify the persons, by professional license number,
4381 authorized to dispense the stock albuterol;

4382 (b) requires the physician to review at least annually the dispensing practices of those
4383 authorized by the physician to dispense the stock albuterol;

4384 (c) requires those authorized by the physician to dispense the stock albuterol to make
4385 and retain a record of each dispensing, including:

4386 (i) the name of the qualified adult or qualified stock albuterol entity to whom the stock
4387 albuterol is dispensed;

4388 (ii) a description of the stock albuterol dispensed; and

4389 (iii) other relevant information; and

4390 (d) is approved by the division by administrative rule made in accordance with Title
4391 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [Physicians]
4392 Medical Licensing Board created in Section 58-67-201 and the board.

4393 Section 72. Section 58-24b-102 is amended to read:

4394 **58-24b-102. Definitions.**

4395 As used in this chapter:

4396 (1) "Animal physical therapy" means practicing physical therapy or physiotherapy on

4397 an animal.

4398 (2) "Board" means the [~~Utah Physical Therapy~~] Physical Therapies Licensing Board,
4399 created in Section [58-24b-201](#).

4400 (3) "Consultation by telecommunication" means the provision of expert or professional
4401 advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or
4402 a health care provider by telecommunication or electronic communication.

4403 (4) "General supervision" means supervision and oversight of a person by a licensed
4404 physical therapist when the licensed physical therapist is immediately available in person, by
4405 telephone, or by electronic communication to assist the person.

4406 (5) "Licensed physical therapist" means a person licensed under this chapter to engage
4407 in the practice of physical therapy.

4408 (6) "Licensed physical therapist assistant" means a person licensed under this chapter
4409 to engage in the practice of physical therapy, subject to the provisions of Subsection
4410 [58-24b-401\(2\)\(a\)](#).

4411 (7) "Licensing examination" means a nationally recognized physical therapy
4412 examination that is approved by the division, in consultation with the board.

4413 (8) "On-site supervision" means supervision and oversight of a person by a licensed
4414 physical therapist or a licensed physical therapist assistant when the licensed physical therapist
4415 or licensed physical therapist assistant is:

4416 (a) continuously present at the facility where the person is providing services;

4417 (b) immediately available to assist the person; and

4418 (c) regularly involved in the services being provided by the person.

4419 (9) "Physical impairment" means:

4420 (a) a mechanical impairment;

4421 (b) a physiological impairment;

4422 (c) a developmental impairment;

4423 (d) a functional limitation;

4424 (e) a disability;

4425 (f) a mobility impairment; or

4426 (g) a bodily malfunction.

4427 (10) (a) "Physical therapy" or "physiotherapy" means:

- 4428 (i) examining, evaluating, and testing an individual who has a physical impairment or
4429 injury;
- 4430 (ii) identifying or labeling a physical impairment or injury;
- 4431 (iii) formulating a therapeutic intervention plan for the treatment of a physical
4432 impairment, injury, or pain;
- 4433 (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a
4434 physical impairment or injury;
- 4435 (v) treating or alleviating a physical impairment by designing, modifying, or
4436 implementing a therapeutic intervention;
- 4437 (vi) reducing the risk of an injury or physical impairment;
- 4438 (vii) providing instruction on the use of physical measures, activities, or devices for
4439 preventative and therapeutic purposes;
- 4440 (viii) promoting and maintaining health and fitness;
- 4441 (ix) the administration of a prescription drug pursuant to Section [58-24b-403](#);
- 4442 (x) subject to Subsection [58-28-307\(12\)\(b\)](#), engaging in the functions described in
4443 Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the
4444 requirements of Section [58-24b-405](#); and
- 4445 (xi) engaging in administration, consultation, education, and research relating to the
4446 practices described in this Subsection (10)(a).
- 4447 (b) "Physical therapy" or "physiotherapy" does not include:
- 4448 (i) diagnosing disease;
- 4449 (ii) performing surgery;
- 4450 (iii) performing acupuncture;
- 4451 (iv) taking x-rays; or
- 4452 (v) prescribing or dispensing a drug, as defined in Section [58-37-2](#).
- 4453 (11) "Physical therapy aide" means a person who:
- 4454 (a) is trained, on-the-job, by a licensed physical therapist; and
- 4455 (b) provides routine assistance to a licensed physical therapist or licensed physical
4456 therapist assistant, while the licensed physical therapist or licensed physical therapist assistant
4457 practices physical therapy, within the scope of the licensed physical therapist's or licensed
4458 physical therapist assistant's license.

- 4459 (12) "Recognized accreditation agency" means an accreditation agency that:
4460 (a) grants accreditation, nationally, in the United States of America; and
4461 (b) is approved by the division, in consultation with the board.
- 4462 (13) (a) "Testing" means a standard method or technique used to gather data regarding
4463 a patient that is generally and nationally accepted by physical therapists for the practice of
4464 physical therapy.
- 4465 (b) "Testing" includes measurement or evaluation of:
4466 (i) muscle strength, force, endurance, or tone;
4467 (ii) cardiovascular fitness;
4468 (iii) physical work capacity;
4469 (iv) joint motion, mobility, or stability;
4470 (v) reflexes or autonomic reactions;
4471 (vi) movement skill or accuracy;
4472 (vii) sensation;
4473 (viii) perception;
4474 (ix) peripheral nerve integrity;
4475 (x) locomotor skills, stability, and endurance;
4476 (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;
4477 (xii) posture;
4478 (xiii) body mechanics;
4479 (xiv) limb length, circumference, and volume;
4480 (xv) thoracic excursion and breathing patterns;
4481 (xvi) activities of daily living related to physical movement and mobility;
4482 (xvii) functioning in the physical environment at home or work, as it relates to physical
4483 movement and mobility; and
4484 (xviii) neural muscular responses.
- 4485 (14) (a) "Trigger point dry needling" means the stimulation of a trigger point using a
4486 dry needle to treat neuromuscular pain and functional movement deficits.
- 4487 (b) "Trigger point dry needling" does not include the stimulation of auricular or distal
4488 points.
- 4489 (15) "Therapeutic intervention" includes:

- 4490 (a) therapeutic exercise, with or without the use of a device;
- 4491 (b) functional training in self-care, as it relates to physical movement and mobility;
- 4492 (c) community or work integration, as it relates to physical movement and mobility;
- 4493 (d) manual therapy, including:
- 4494 (i) soft tissue mobilization;
- 4495 (ii) therapeutic massage; or
- 4496 (iii) joint mobilization, as defined by the division, by rule;
- 4497 (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic,
- 4498 protective, or supportive device;
- 4499 (f) airway clearance techniques, including postural drainage;
- 4500 (g) integumentary protection and repair techniques;
- 4501 (h) wound debridement, cleansing, and dressing;
- 4502 (i) the application of a physical agent, including:
- 4503 (i) light;
- 4504 (ii) heat;
- 4505 (iii) cold;
- 4506 (iv) water;
- 4507 (v) air;
- 4508 (vi) sound;
- 4509 (vii) compression;
- 4510 (viii) electricity; and
- 4511 (ix) electromagnetic radiation;
- 4512 (j) mechanical or electrotherapeutic modalities;
- 4513 (k) positioning;
- 4514 (l) instructing or training a patient in locomotion or other functional activities, with or
- 4515 without an assistive device;
- 4516 (m) manual or mechanical traction;
- 4517 (n) correction of posture, body mechanics, or gait; and
- 4518 (o) trigger point dry needling, under the conditions described in Section [58-24b-505](#).
- 4519 Section 73. Section **58-24b-201** is amended to read:

4520 **Part 2. Physical Therapies Licensing Board**

4521 **58-24b-201. Physical Therapies Licensing Board -- Creation -- Membership --**
4522 **Duties.**

4523 (1) There is created the Physical [~~Therapy~~] Therapies Licensing Board, consisting of:

4524 (a) three licensed physical therapists[-];

4525 (b) one physical therapist assistant[-~~and~~];

4526 (c) two licensed occupational therapists;

4527 (d) one occupational therapy assistant; and

4528 (e) one member of the general public.

4529 (2) Members of the board shall be appointed and serve in accordance with Section
4530 58-1-201.

4531 (3) The duties and responsibilities of the board are described in Subsection (4) and
4532 Sections 58-1-201 through 58-1-203 with respect to this chapter or Chapter 42a, Occupational
4533 Therapy Practice Act.

4534 (4) The board shall designate a member of the board, on a permanent or rotating basis,
4535 to:

4536 (a) assist the division in reviewing complaints [~~of unlawful or unprofessional conduct~~
4537 ~~of a licensee~~] concerning the conduct of an individual licensed under this chapter or Chapter
4538 42a, Occupational Therapy Practice Act; and

4539 (b) advise the division during the division's investigation of the complaints described in
4540 Subsection (4)(a).

4541 (5) A board member who has reviewed a complaint or been involved in an
4542 investigation under Subsection (4) is disqualified from participating in an adjudicative
4543 proceeding relating to the complaint or investigation.

4544 Section 74. Section **58-24c-104** is amended to read:

4545 **58-24c-104. Physical therapy licensing board.**

4546 As used in the compact, with reference to this state, "physical therapy licensing board"
4547 or "licensing board" means the [~~physical therapy licensing board~~] Physical Therapies Licensing
4548 Board created in Section 58-24b-201.

4549 Section 75. Section **58-31b-102** is amended to read:

4550 **58-31b-102. Definitions.**

4551 In addition to the definitions in Section 58-1-102, as used in this chapter:

4552 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
4553 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
4554 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
4555 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
4556 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

4557 (2) "Applicant" means an individual who applies for licensure or certification under
4558 this chapter by submitting a completed application for licensure or certification and the
4559 required fees to the department.

4560 (3) "Approved education program" means a nursing education program that is
4561 accredited by an accrediting body for nursing education that is approved by the United States
4562 Department of Education.

4563 (4) "Board" means the Board of Nursing and Certified Nurse Midwives created in
4564 Section [58-31b-201](#).

4565 (5) "Diagnosis" means the identification of and discrimination between physical and
4566 psychosocial signs and symptoms essential to the effective execution and management of
4567 health care.

4568 (6) "Examinee" means an individual who applies to take or does take any examination
4569 required under this chapter for licensure.

4570 (7) "Licensee" means an individual who is licensed or certified under this chapter.

4571 (8) "Long-term care facility" means any of the following facilities licensed by the
4572 Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health
4573 Care Facility Licensing and Inspection:

4574 (a) a nursing care facility;

4575 (b) a small health care facility;

4576 (c) an intermediate care facility for people with an intellectual disability;

4577 (d) an assisted living facility Type I or II; or

4578 (e) a designated swing bed unit in a general hospital.

4579 (9) "Medication aide certified" means a certified nurse aide who:

4580 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

4581 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
4582 that is approved by the division in collaboration with the board, in administering routine

4583 medications to patients or residents of long-term care facilities; and

4584 (c) is certified by the division as a medication aide certified.

4585 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
4586 under the supervision, as defined by the division by rule made in accordance with Title 63G,
4587 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
4588 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
4589 an individual who:

4590 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
4591 disability; and

4592 (ii) is in a regulated long-term care facility.

4593 (b) "Practice as a medication aide certified":

4594 (i) includes:

4595 (A) providing direct personal assistance or care; and

4596 (B) administering routine medications to patients in accordance with a formulary and
4597 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
4598 Utah Administrative Rulemaking Act; and

4599 (ii) does not include assisting a resident of an assisted living facility, a long term care
4600 facility, or an intermediate care facility for people with an intellectual disability to self
4601 administer a medication, as regulated by the Department of Health and Human Services by rule
4602 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4603 (11) "Practice of advanced practice registered nursing" means the practice of nursing
4604 within the generally recognized scope and standards of advanced practice registered nursing as
4605 defined by rule and consistent with professionally recognized preparation and education
4606 standards of an advanced practice registered nurse by a person licensed under this chapter as an
4607 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

4608 (a) maintenance and promotion of health and prevention of disease;

4609 (b) diagnosis, treatment, correction, consultation, and referral;

4610 (c) prescription or administration of prescription drugs or devices including:

4611 (i) local anesthesia;

4612 (ii) Schedule III-V controlled substances; and

4613 (iii) Schedule II controlled substances; or

4614 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
4615 related services upon the request of a licensed health care professional by an advanced practice
4616 registered nurse specializing as a certified registered nurse anesthetist, including:

4617 (i) preanesthesia preparation and evaluation including:

4618 (A) performing a preanesthetic assessment of the patient;

4619 (B) ordering and evaluating appropriate lab and other studies to determine the health of
4620 the patient; and

4621 (C) selecting, ordering, or administering appropriate medications;

4622 (ii) anesthesia induction, maintenance, and emergence, including:

4623 (A) selecting and initiating the planned anesthetic technique;

4624 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

4625 (C) administering general, regional, and local anesthesia;

4626 (iii) postanesthesia follow-up care, including:

4627 (A) evaluating the patient's response to anesthesia and implementing corrective
4628 actions; and

4629 (B) selecting, ordering, or administering the medications and studies listed in this
4630 Subsection (11)(d);

4631 (iv) other related services within the scope of practice of a certified registered nurse
4632 anesthetist, including:

4633 (A) emergency airway management;

4634 (B) advanced cardiac life support; and

4635 (C) the establishment of peripheral, central, and arterial invasive lines; and

4636 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
4637 professional":

4638 (A) means a health care professional practicing within the scope of the health care
4639 professional's license, requests anesthesia services for a specific patient; and

4640 (B) does not require an advanced practice registered nurse specializing as a certified
4641 registered nurse anesthetist to obtain additional authority to select, administer, or provide
4642 preoperative, intraoperative, or postoperative anesthesia care and services.

4643 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
4644 optimal health, implementing a strategy of care to accomplish defined goals and evaluating

4645 responses to care and treatment, and requires substantial specialized or general knowledge,
4646 judgment, and skill based upon principles of the biological, physical, behavioral, and social
4647 sciences. "Practice of nursing" includes:

- 4648 (a) initiating and maintaining comfort measures;
- 4649 (b) promoting and supporting human functions and responses;
- 4650 (c) establishing an environment conducive to well-being;
- 4651 (d) providing health counseling and teaching;
- 4652 (e) collaborating with health care professionals on aspects of the health care regimen;
- 4653 (f) performing delegated procedures only within the education, knowledge, judgment,
4654 and skill of the licensee;
- 4655 (g) delegating nursing tasks that may be performed by others, including an unlicensed
4656 assistive personnel; and
- 4657 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
4658 the individual performs the task.

4659 (13) "Practice of practical nursing" means the performance of nursing acts in the
4660 generally recognized scope of practice of licensed practical nurses as defined by division rule
4661 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
4662 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
4663 practical nurse and under the direction of a registered nurse, licensed physician, or other
4664 specified health care professional as defined by division rule made in accordance with Title
4665 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 4666 (a) contributing to the assessment of the health status of individuals and groups;
- 4667 (b) participating in the development and modification of the strategy of care;
- 4668 (c) implementing appropriate aspects of the strategy of care;
- 4669 (d) maintaining safe and effective nursing care rendered to a patient directly or
4670 indirectly; and
- 4671 (e) participating in the evaluation of responses to interventions.

4672 (14) "Practice of registered nursing" means performing acts of nursing as provided in
4673 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
4674 the generally recognized scope of practice of registered nurses as defined by division rule made
4675 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered

4676 nursing acts include:

- 4677 (a) assessing the health status of individuals and groups;
- 4678 (b) identifying health care needs;
- 4679 (c) establishing goals to meet identified health care needs;
- 4680 (d) planning a strategy of care;
- 4681 (e) prescribing nursing interventions to implement the strategy of care;
- 4682 (f) implementing the strategy of care;
- 4683 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
- 4684 indirectly;
- 4685 (h) evaluating responses to interventions;
- 4686 (i) teaching the theory and practice of nursing; and
- 4687 (j) managing and supervising the practice of nursing.

4688 (15) "Registered nurse apprentice" means an individual licensed under Subsection
4689 [58-31b-301](#)(2)(b) who is learning and engaging in the practice of registered nursing under the
4690 indirect supervision of an individual licensed under:

- 4691 (a) Subsection [58-31b-301](#)(2)(c), (e), or (f);
- 4692 (b) Chapter 67, Utah Medical Practice Act; or
- 4693 (c) Chapter 68, Utah Osteopathic Medical Practice Act.

4694 (16) "Routine medications":

4695 (a) means established medications administered to a medically stable individual as
4696 determined by a licensed health care practitioner or in consultation with a licensed medical
4697 practitioner; and

4698 (b) is limited to medications that are administered by the following routes:

- 4699 (i) oral;
- 4700 (ii) sublingual;
- 4701 (iii) buccal;
- 4702 (iv) eye;
- 4703 (v) ear;
- 4704 (vi) nasal;
- 4705 (vii) rectal;
- 4706 (viii) vaginal;

4707 (ix) skin ointments, topical including patches and transdermal;

4708 (x) premeasured medication delivered by aerosol/nebulizer; and

4709 (xi) medications delivered by metered hand-held inhalers.

4710 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
4711 and 58-31b-501.

4712 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
4713 title, who is delegated a task by a licensed nurse as permitted by division rule made in
4714 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
4715 of the profession.

4716 (19) "Unprofessional conduct" means the same as that term is defined in Sections
4717 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance
4718 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4719 Section 76. Section 58-31b-201 is amended to read:

4720 **58-31b-201. Board.**

4721 (1) There is created the Board of Nursing and Certified Nurse Midwives that consists
4722 of the following [††] members:

4723 (a) [~~nine~~] five nurses in a manner as may be further defined in division rule; [~~and~~]

4724 (b) two nurse midwives as defined in Section 58-44a-102; and

4725 [~~(b)~~] (c) two members of the public.

4726 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

4727 (3) The board shall [~~carry out the duties and responsibilities in Sections 58-1-202 and~~
4728 ~~58-1-203 and shall~~]:

4729 (a) carry out the duties and responsibilities described in Sections 58-1-202 and
4730 58-1-203 with respect to this chapter and Chapter 44a, Nurse Midwife Practice Act; and

4731 [~~(a)~~] (b) [(†)] recommend to the division minimum standards for educational programs
4732 qualifying a person for licensure or certification under this chapter and Chapter 44a, Nurse
4733 Midwife Practice Act;

4734 [(††)] (c) recommend to the division denial, approval, or withdrawal of approval
4735 regarding educational programs that meet or fail to meet the established minimum standards;
4736 and

4737 [(†††)] (d) designate one of its members on a permanent or rotating basis to:

4738 ~~[(A)]~~ (i) assist the division in reviewing complaints concerning the ~~[unlawful or~~
4739 ~~unprofessional]~~ conduct of ~~[a licensee]~~ an individual licensed under this chapter or Chapter
4740 44a, Nurse Midwife Practice Act; and

4741 ~~[(B)]~~ (ii) advise the division in its investigation of these complaints.

4742 ~~[(b)]~~ (4) A board member who has, under Subsection ~~[(3)(a)(iii)]~~ (3)(d), reviewed a
4743 complaint or advised in its investigation may be disqualified from participating with the board
4744 when the board serves as a presiding officer in an adjudicative proceeding concerning the
4745 complaint.

4746 Section 77. Section **58-31e-103** is amended to read:

4747 **58-31e-103. Implementation and rulemaking authority.**

4748 (1) The term "head of the state licensing board," as used in Article VII b(1) of the
4749 Nurse Licensure Compact in Section **58-31e-102**, means an individual who is an ex-officio
4750 member of the Board of Nursing and Certified Nurse Midwives created in Section **58-31b-201**
4751 and is appointed by the director to serve as the head of the state licensing board for purposes of
4752 Article VII b(1) of the Nurse Licensure Compact.

4753 (2) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative
4754 Rulemaking Act, make rules necessary to implement the provisions of this chapter.

4755 Section 78. Section **58-37f-304** is amended to read:

4756 **58-37f-304. Database utilization.**

4757 (1) As used in this section:

4758 (a) "Dispenser" means a licensed pharmacist, as described in Section **58-17b-303**, the
4759 pharmacist's licensed intern, as described in Section **58-17b-304**, or licensed pharmacy
4760 technician, as described in Section **58-17b-305**, working under the supervision of a licensed
4761 pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37,
4762 Utah Controlled Substances Act.

4763 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare
4764 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
4765 licensed healthcare facility for an overnight stay.

4766 (c) "Prescriber" means an individual authorized to prescribe a controlled substance
4767 under Title 58, Chapter 37, Utah Controlled Substances Act.

4768 (d) "Schedule II opioid" means those substances listed in Subsection **58-37-4(2)(b)(i)**

4769 or (2)(b)(ii).

4770 (e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c)
4771 that are opioids.

4772 (2) (a) A prescriber shall check the database for information about a patient before the
4773 first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule
4774 III opioid.

4775 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid
4776 to a patient, the prescriber shall periodically review information about the patient in:

4777 (i) the database; or

4778 (ii) other similar records of controlled substances the patient has filled.

4779 (c) A prescriber may assign the access and review required under Subsection (2)(a) to
4780 one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

4781 (d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by
4782 checking an electronic health record system if the electronic health record system:

4783 (A) is connected to the database through a connection that has been approved by the
4784 division; and

4785 (B) displays the information from the database in a prominent manner for the
4786 prescriber.

4787 (ii) The division may not approve a connection to the database if the connection does
4788 not satisfy the requirements established by the division under Section 58-37f-301.

4789 (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the
4790 failure to comply with Subsection (2)(a) or (b):

4791 (i) is necessary due to an emergency situation;

4792 (ii) is caused by a suspension or disruption in the operation of the database; or

4793 (iii) is caused by a failure in the operation or availability of the Internet.

4794 (f) The division may not take action against the license of a prescriber for failure to
4795 comply with this Subsection (2) unless the failure occurs after the earlier of:

4796 (i) December 31, 2018; or

4797 (ii) the date that the division has the capability to establish a connection that meets the
4798 requirements established by the division under Section 58-37f-301 between the database and an
4799 electronic health record system.

4800 (3) The division shall, in collaboration with the licensing boards for prescribers and
4801 dispensers:

4802 (a) develop a system that gathers and reports to prescribers and dispensers the progress
4803 and results of the prescriber's and dispenser's individual access and review of the database, as
4804 provided in this section; and

4805 (b) reduce or waive the division's continuing education requirements regarding opioid
4806 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to
4807 the database, for prescribers and dispensers whose individual utilization of the database, as
4808 determined by the division, demonstrates substantial compliance with this section.

4809 (4) If the dispenser's access and review of the database suggest that the individual
4810 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
4811 generally recognized standards as provided in this section and Section 58-37f-201, the
4812 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
4813 current, and professional decision regarding whether the prescribed opioid is medically
4814 justified, notwithstanding the results of the database search.

4815 (5) (a) The division shall review the database to identify any prescriber who has a
4816 pattern of prescribing opioids not in accordance with the recommendations of:

4817 (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the
4818 Centers for Disease Control and Prevention;

4819 (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain,
4820 published by the Department of Health and Human Services; or

4821 (iii) other publications describing best practices related to prescribing opioids as
4822 identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative
4823 Rulemaking Act, and in consultation with the ~~[Physicians]~~ Medical Licensing Board.

4824 (b) The division shall offer education to a prescriber identified under this Subsection
4825 (5) regarding best practices in the prescribing of opioids.

4826 (c) A decision by a prescriber to accept or not accept the education offered by the
4827 division under this Subsection (5) is voluntary.

4828 (d) The division may not use an identification the division has made under this
4829 Subsection (5) or the decision by a prescriber to accept or not accept education offered by the
4830 division under this Subsection (5) in a licensing investigation or action by the division.

4831 (e) Any record created by the division as a result of this Subsection (5) is a protected
4832 record under Section 63G-2-305.

4833 (6) The division may consult with a prescriber or health care system to assist the
4834 prescriber or health care system in following evidence-based guidelines regarding the
4835 prescribing of controlled substances, including the recommendations listed in Subsection
4836 (5)(a).

4837 Section 79. Section 58-38a-201 is amended to read:

4838 **58-38a-201. Controlled Substances Advisory Committee.**

4839 There is created within the Division of Professional Licensing the Controlled
4840 Substances Advisory Committee. The committee consists of:

4841 (1) the director of the Department of Health and Human Services or the director's
4842 designee;

4843 (2) the State Medical Examiner or the examiner's designee;

4844 (3) the commissioner of the Department of Public Safety or the commissioner's
4845 designee;

4846 (4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the
4847 director's designee;

4848 (5) the director of the Utah Poison Control Center or the director's designee;

4849 (6) one physician who is a member of the [~~Physicians~~] Medical Licensing Board and is
4850 designated by that board;

4851 (7) one pharmacist who is a member of the Utah State Board of Pharmacy and is
4852 designated by that board;

4853 (8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
4854 and is designated by that board;

4855 (9) one physician who is currently licensed and practicing in the state, to be appointed
4856 by the governor;

4857 (10) one psychiatrist who is currently licensed and practicing in the state, to be
4858 appointed by the governor;

4859 (11) one individual with expertise in substance abuse addiction, to be appointed by the
4860 governor;

4861 (12) one representative from the Statewide Association of Prosecutors, to be

4862 designated by that association;

4863 (13) one naturopathic physician who is currently licensed and practicing in the state, to
4864 be appointed by the governor;

4865 (14) one advanced practice registered nurse who is currently licensed and practicing in
4866 this state, to be appointed by the governor; and

4867 (15) one member of the public, to be appointed by the governor.

4868 Section 80. Section **58-42a-102** is amended to read:

4869 **58-42a-102. Definitions.**

4870 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

4871 (1) "Board" means the [~~Board of Occupational Therapy created in Section [58-42a-201](#)]~~
4872 Physical Therapies Licensing Board created in Section [58-24b-201](#).

4873 (2) (a) "Individual treatment plan" means a written record composed for each client by
4874 a person licensed under this chapter to engage in the practice of occupational therapy.

4875 (b) "Individual treatment plan" includes:

4876 (i) planning and directing specific exercises and programs to improve sensory
4877 integration and motor functioning at the level of performance neurologically appropriate for the
4878 individual's stage of development;

4879 (ii) establishing a program of instruction to teach a client skills, behaviors, and
4880 attitudes necessary for the client's independent productive, emotional, and social functioning;

4881 (iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the
4882 client's optimal functioning in activities of daily living and to prevent further disability; and

4883 (iv) planning and directing specific programs to evaluate and enhance perceptual,
4884 motor, and cognitive skills.

4885 (3) "Occupational therapist" means a person licensed under this chapter to practice
4886 occupational therapy.

4887 (4) "Occupational therapy aide" means a person who is not licensed under this chapter
4888 but who provides supportive services under the supervision of an occupational therapist or
4889 occupational therapy assistant.

4890 (5) "Occupational therapy assistant" means a person licensed under this chapter to
4891 practice occupational therapy under the supervision of an occupational therapist as described in
4892 Sections [58-42a-305](#) and [58-42a-306](#).

4893 (6) (a) "Practice of occupational therapy" means the therapeutic use of everyday life
4894 activities with an individual:

4895 (i) that has or is at risk of developing an illness, injury, disease, disorder, condition,
4896 impairment, disability, activity limitation, or participation restriction; and

4897 (ii) to develop or restore the individual's ability to engage in everyday life activities by
4898 addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual's
4899 performance.

4900 (b) "Practice of occupational therapy" includes:

4901 (i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of
4902 an individual;

4903 (ii) modifying or adapting an activity or environment to enhance an individual's
4904 performance;

4905 (iii) maintaining and improving an individual's capabilities to avoid declining
4906 performance in everyday life activities;

4907 (iv) promoting health and wellness to develop or improve an individual's performance
4908 in everyday life activities;

4909 (v) performance-barrier prevention for an individual, including disability prevention;

4910 (vi) evaluating factors that affect an individual's activities of daily living in

4911 educational, work, play, leisure, and social situations, including:

4912 (A) body functions and structures;

4913 (B) habits, routines, roles, and behavioral patterns;

4914 (C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity
4915 demands that affect performance; and

4916 (D) motor, process, communication, interaction, and other performance skills;

4917 (vii) providing interventions and procedures to promote or enhance an individual's
4918 safety and performance in activities of daily living in educational, work, and social situations,
4919 including:

4920 (A) the therapeutic use of occupations and exercises;

4921 (B) training in self-care, self-management, home-management, and community and
4922 work reintegration;

4923 (C) the development, remediation, or compensation of behavioral skills and physical,

4924 cognitive, neuromuscular, and sensory functions;

4925 (D) the education and training of an individual's family members and caregivers;

4926 (E) care coordination, case management, and transition services;

4927 (F) providing consulting services to groups, programs, organizations, or communities,

4928 (G) modifying the environment and adapting processes, including the application of
4929 ergonomic principles;

4930 (H) assessing, designing, fabricating, applying, fitting, and providing training in
4931 assistive technology, adaptive devices, orthotic devices, and prosthetic devices;

4932 (I) assessing, recommending, and training an individual in techniques to enhance
4933 functional mobility, including wheelchair management;

4934 (J) driver rehabilitation and community mobility;

4935 (K) enhancing eating and feeding performance; and

4936 (L) applying physical agent modalities, managing wound care, and using manual
4937 therapy techniques to enhance an individual's performance skills, if the occupational therapist
4938 has received the necessary training as determined by division rule in collaboration with the
4939 board.

4940 (7) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
4941 and [58-42a-501](#).

4942 (8) "Unprofessional conduct" means the same as that term is defined in Sections
4943 [58-1-501](#) and [58-42a-502](#).

4944 Section 81. Section **58-44a-102** is amended to read:

4945 **58-44a-102. Definitions.**

4946 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

4947 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
4948 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
4949 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
4950 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

4951 (2) "Board" means the [~~Certified Nurse Midwife Board created in Section [58-44a-201](#)]~~
4952 Board of Nursing and Certified Nurse Midwives created in Section [58-31b-201](#).

4953 (3) "Consultation and Referral Plan" means a written plan jointly developed by a
4954 certified nurse midwife, as defined in Subsection (7), and a consulting physician that permits

4955 the certified nurse midwife to prescribe schedule II-III controlled substances in consultation
4956 with the consulting physician.

4957 (4) "Consulting physician" means a physician and surgeon or osteopathic physician:

4958 (a) with an unrestricted license as a physician;

4959 (b) qualified by education, training, and current practice in obstetrics, gynecology, or
4960 both to act as a consulting physician to a nurse midwife practicing under this chapter and
4961 providing intrapartum care or prescribing Schedule II-III controlled substances; and

4962 (c) who is available to consult with a nurse midwife, which does not include the
4963 consulting physician being present at the time or place the nurse midwife is engaged in
4964 practice.

4965 (5) "Individual" means a natural person.

4966 (6) "Intrapartum referral plan":

4967 (a) means a written plan prepared by a nurse midwife describing the guidelines under
4968 which the nurse midwife will consult with a consulting physician, collaborate with a consulting
4969 physician, and refer patients to a consulting physician; and

4970 (b) does not require the nurse midwife to obtain the signature of a physician on the
4971 intrapartum referral plan.

4972 (7) "Nurse midwife" means a person licensed under this chapter to engage in practice
4973 as a certified nurse midwife.

4974 (8) "Physician" means a physician and surgeon or osteopathic surgeon licensed under
4975 Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

4976 (9) "Practice as a certified nurse midwife" means:

4977 (a) practice [~~as a registered nurse~~] of registered nursing as defined in Section
4978 [58-31b-102](#), and as consistent with the education, training, experience, and current competency
4979 of the licensee;

4980 (b) practice of nursing within the generally recognized scope and standards of nurse
4981 midwifery as defined by rule and consistent with professionally recognized preparations and
4982 educational standards of a certified nurse midwife by a person licensed under this chapter,
4983 which practice includes:

4984 (i) having a safe mechanism for obtaining medical consultation, collaboration, and
4985 referral with one or more consulting physicians who have agreed to consult, collaborate, and

4986 receive referrals, but who are not required to sign a written document regarding the agreement;

4987 (ii) providing a patient with information regarding other health care providers and
4988 health care services and referral to other health care providers and health care services when
4989 requested or when care is not within the scope of practice of a certified nurse midwife; and

4990 (iii) maintaining written documentation of the parameters of service for independent
4991 and collaborative midwifery management and transfer of care when needed; and

4992 (c) the authority to:

4993 (i) elicit and record a patient's complete health information, including physical
4994 examination, history, and laboratory findings commonly used in providing obstetrical,
4995 gynecological, and well infant services to a patient;

4996 (ii) assess findings and upon abnormal findings from the history, physical examination,
4997 or laboratory findings, manage the treatment of the patient, collaborate with the consulting
4998 physician or another qualified physician, or refer the patient to the consulting physician or to
4999 another qualified physician as appropriate;

5000 (iii) diagnose, plan, and implement appropriate patient care, including the
5001 administration and prescribing of:

5002 (A) prescription drugs;

5003 (B) schedule IV-V controlled substances; and

5004 (C) schedule II-III controlled substances in accordance with a consultation and referral
5005 plan;

5006 (iv) evaluate the results of patient care;

5007 (v) consult as is appropriate regarding patient care and the results of patient care;

5008 (vi) manage the intrapartum period according to accepted standards of nurse midwifery
5009 practice and a written intrapartum referral plan, including performance of routine episiotomy
5010 and repairs, and administration of anesthesia, including local, pudendal, or paracervical block
5011 anesthesia, but not including general anesthesia and major conduction anesthesia;

5012 (vii) manage the postpartum period;

5013 (viii) provide gynecological services;

5014 (ix) provide noncomplicated newborn and infant care to the age of one year; and

5015 (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use
5016 the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

5017 (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.

5018 (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
5019 to whom tasks are delegated by a licensed certified nurse midwife in accordance with the
5020 standards of the profession as defined by rule.

5021 (12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as
5022 may be further defined by rule.

5023 Section 82. Section 58-47b-102 is amended to read:

5024 **58-47b-102. Definitions.**

5025 In addition to the definitions in Section 58-1-102, as used in this chapter:

5026 (1) "Board" means the Board of Massage Therapy and Acupuncture created in Section
5027 58-47b-201.

5028 (2) "Breast" means the female mammary gland and does not include the muscles,
5029 connective tissue, or other soft tissue of the upper chest.

5030 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
5031 muscular system.

5032 (4) "Massage apprentice" means an individual licensed under this chapter as a massage
5033 apprentice.

5034 (5) "Massage assistant" means an individual licensed under this chapter as a massage
5035 assistant.

5036 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
5037 massage assistant in-training.

5038 (7) "Massage therapist" means an individual licensed under this chapter as a massage
5039 therapist.

5040 (8) "Massage therapy supervisor" means:

5041 (a) a massage therapist who has at least three years of experience as a massage
5042 therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

5043 (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

5044 (c) a physician licensed under Chapter 67, Utah Medical Practice Act;

5045 (d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
5046 Practice Act;

5047 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

5048 (f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
5049 Act.

5050 (9) (a) "Practice of limited massage therapy" means:

5051 (i) the systematic manual manipulation of the soft tissue of the body for the purpose of
5052 promoting the therapeutic health and well-being of a client, enhancing the circulation of the
5053 blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic
5054 balance, relaxation, or achieving homeostasis;

5055 (ii) seated chair massage;

5056 (iii) the use of body wraps;

5057 (iv) aromatherapy;

5058 (v) reflexology; or

5059 (vi) in connection with an activity described in this Subsection (9), the use of:

5060 (A) the hands;

5061 (B) a towel;

5062 (C) a stone;

5063 (D) a shell;

5064 (E) a bamboo stick; or

5065 (F) an herbal ball compress.

5066 (b) "Practice of limited massage therapy" does not include work on an acute or
5067 subacute injury.

5068 (10) "Practice of massage therapy" means:

5069 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
5070 for the purpose of devising a treatment plan to promote homeostasis;

5071 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for
5072 the purpose of promoting the therapeutic health and well-being of a client, enhancing the
5073 circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring
5074 metabolic balance, or achieving homeostasis, or for any other purpose;

5075 (c) the use of the hands or a mechanical or electrical apparatus in connection with this
5076 Subsection (10);

5077 (d) the use of rehabilitative procedures involving the soft tissue of the body;

5078 (e) range of motion or movements without spinal adjustment as set forth in Section

5079 58-73-102;

5080 (f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower,
5081 steam, and cabinet baths;

5082 (g) manual traction and stretching exercise;

5083 (h) correction of muscular distortion by treatment of the soft tissues of the body;

5084 (i) counseling, education, and other advisory services to reduce the incidence and
5085 severity of physical disability, movement dysfunction, and pain;

5086 (j) activities and modality techniques similar or related to the activities and techniques
5087 described in this Subsection (10);

5088 (k) a practice described in this Subsection (10) on an animal to the extent permitted by:

5089 (i) Subsection 58-28-307(12);

5090 (ii) the provisions of this chapter; and

5091 (iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative
5092 Rulemaking Act; or

5093 (l) providing, offering, or advertising a paid service using the term massage or a
5094 derivative of the word massage, regardless of whether the service includes physical contact.

5095 (11) "Soft tissue" means the muscles and related connective tissue.

5096 (12) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
5097 and 58-47b-501.

5098 (13) "Unprofessional conduct" means the same as that term is defined in Sections
5099 58-1-501 and 58-47b-502 and as may be further defined by division rule made in accordance
5100 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5101 Section 83. Section 58-47b-201 is amended to read:

5102 **58-47b-201. Board.**

5103 (1) There is created the Board of Massage Therapy and Acupuncture consisting of:

5104 (a) four massage therapists; [~~and~~]

5105 (b) two licensed acupuncturists as defined in Section 58-72-102; and

5106 [~~(b)~~] (c) one member of the general public.

5107 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

5108 (3) (a) [The duties and responsibilities of the board are in accordance with Sections
5109 58-1-202 and 58-1-203.] The board shall perform the duties and responsibilities described in

5110 Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 72, Acupuncture
5111 Licensing Act.

5112 (b) In addition, the board shall designate one of its members on a permanent or rotating
5113 basis to:

5114 ~~[(a)]~~ (i) assist the division in reviewing complaints concerning the ~~[unlawful or~~
5115 ~~unprofessional]~~ conduct of a ~~[licensee]~~ an individual licensed under this chapter or Chapter 72,
5116 Acupuncture Licensing Act; and

5117 ~~[(b)]~~ (ii) advise the division in its investigation of these complaints.

5118 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
5119 in its investigation may be disqualified from participating with the board when the board serves
5120 as a presiding officer in an adjudicative proceeding concerning the complaint.

5121 Section 84. Section **58-53-102** is amended to read:

5122 **58-53-102. Definitions.**

5123 In addition to the definitions in Section 58-1-102, as used in this chapter:

5124 (1) "Board" means the ~~[Landscape Architects]~~ Architects and Landscape Architects
5125 Licensing Board created in Section ~~[58-53-201]~~ 58-3a-201.

5126 (2) "Fund" means the Landscape Architects Education and Enforcement Fund created
5127 in Section 58-53-103.

5128 (3) "Practice of landscape architecture" means rendering or offering to render any of
5129 the following services:

5130 (a) production of a site plan which may include the design of any of the following:

5131 (i) sprinkler irrigation systems;

5132 (ii) landscape grading and drainage plans; or

5133 (iii) parking lots;

5134 (b) design of any of the following structures incidental to the production of a site plan:

5135 (i) retaining walls; or

5136 (ii) raised platforms, decks, and walkways;

5137 (c) design of any of the following structures incidental to the production of a site plan
5138 when the structure does not exceed 1,000 square feet:

5139 (i) covered pavilions;

5140 (ii) gazebos;

- 5141 (iii) restrooms;
- 5142 (iv) storage and maintenance facilities; or
- 5143 (v) other accessory structures; or
- 5144 (d) collaboration with architects and professional engineers in the design of roads,
- 5145 bridges, buildings, and structures with respect to the functional and aesthetic requirements of
- 5146 the area in which they are to be placed.

5147 (4) "Principal" means a licensed landscape architect having responsible charge of a

5148 landscape architectural practice.

5149 (5) "Supervision" with respect to the supervision of an employee of a landscape

5150 architect, means that a licensed landscape architect is responsible for and personally reviews,

5151 corrects when necessary, and approves work performed by any employee under the direction of

5152 the landscape architect, and may be further defined by rule of the division in collaboration with

5153 the board.

5154 (6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-53-501.

5155 (7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further

5156 defined by rule of the division in collaboration with the board.

5157 Section 85. Section 58-54-201 is amended to read:

5158 **58-54-201. Board created -- Membership -- Duties.**

5159 (1) There is created a Radiologic Technologist Licensing Board consisting of nine

5160 members as follows:

- 5161 (a) three licensed radiologic technologists;
- 5162 (b) one licensed radiology practical technician;
- 5163 (c) one licensed radiologist assistant;
- 5164 (d) two radiologists;
- 5165 (e) one physician licensed under this title who is not a radiologist, and who uses
- 5166 radiologic services in the physician's practice; and
- 5167 (f) one member from the general public.

5168 (2) The board shall be appointed in accordance with Section 58-1-201.

5169 (3) The duties and responsibilities of the board shall be in accordance with Sections

5170 58-1-202 and 58-1-203.

5171 (4) In accordance with Subsection 58-1-203(1)(f), there is established an advisory peer

5172 committee to the board consisting of eight members broadly representative of the state and
5173 including:

5174 (a) one licensed physician and surgeon who is not a radiologist and who uses radiology
5175 equipment in a rural office-based practice, appointed from among recommendations of the
5176 [~~Physicians~~] Medical Licensing Board;

5177 (b) one licensed physician and surgeon who is not a radiologist and who uses radiology
5178 equipment in an urban office-based practice, appointed from among recommendations of the
5179 [~~Physicians~~] Medical Licensing Board;

5180 (c) one licensed physician and surgeon who is a radiologist practicing in radiology,
5181 appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

5182 (d) one licensed osteopathic physician, appointed from among recommendations of the
5183 [~~Osteopathic Physicians~~] Medical Licensing Board;

5184 (e) one licensed chiropractic physician, appointed from among recommendations of the
5185 Chiropractors Licensing Board;

5186 (f) one licensed podiatric physician, appointed from among recommendations of the
5187 Podiatric Physician Board;

5188 (g) one representative of the state agency with primary responsibility for regulation of
5189 sources of radiation, recommended by that agency; and

5190 (h) one representative of a general acute hospital, as defined in Section [26B-2-201](#), that
5191 is located in a rural area of the state.

5192 (5) (a) Except as required by Subsection (5)(b), members of the advisory peer
5193 committee shall be appointed to four-year terms by the director in collaboration with the board
5194 from among the recommendations.

5195 (b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the
5196 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5197 committee members are staggered so that approximately half of the committee is appointed
5198 every two years.

5199 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
5200 appointed for the unexpired term.

5201 (6) A member may not receive compensation or benefits for the member's service, but
5202 may receive per diem and travel expenses in accordance with:

5203 (a) Section 63A-3-106;
5204 (b) Section 63A-3-107; and
5205 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5206 63A-3-107.

5207 (7) The duties, responsibilities, and scope of authority of the advisory peer committee
5208 are:

5209 (a) to advise the board with respect to the board's fulfillment of its duties, functions,
5210 and responsibilities under Sections 58-1-202 and 58-1-203; and

5211 (b) to advise the division with respect to the examination the division is to adopt by
5212 rule, by which a radiology practical technician may qualify for licensure under Section
5213 58-54-302.

5214 Section 86. Section 58-55-102 is amended to read:

5215 **58-55-102. Definitions.**

5216 In addition to the definitions in Section 58-1-102, as used in this chapter:

5217 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,
5218 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm
5219 system, except as provided in Subsection (1)(b).

5220 (b) "Alarm business" or "alarm company" does not include:

5221 (i) a person engaged in the manufacture or sale of alarm systems unless:

5222 (A) that person is also engaged in the installation, maintenance, alteration, repair,
5223 replacement, servicing, or monitoring of alarm systems;

5224 (B) the manufacture or sale occurs at a location other than a place of business
5225 established by the person engaged in the manufacture or sale; or

5226 (C) the manufacture or sale involves site visits at the place or intended place of
5227 installation of an alarm system; or

5228 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
5229 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
5230 of the alarm system owned by that owner.

5231 (2) "Alarm company agent":

5232 (a) except as provided in Subsection (2)(b), means any individual employed within this
5233 state by an alarm business; and

- 5234 (b) does not include an individual who:
- 5235 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
- 5236 servicing, or monitoring of an alarm system; and
- 5237 (ii) does not, during the normal course of the individual's employment with an alarm
- 5238 business, use or have access to sensitive alarm system information.
- 5239 (3) "Alarm company officer" means:
- 5240 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;
- 5241 (b) an individual appointed as an officer of an alarm company that is a corporation in
- 5242 accordance with Section 16-10a-830;
- 5243 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or
- 5244 (d) a partner, as defined in Section 48-1d-102, of an alarm company.
- 5245 (4) "Alarm company owner" means:
- 5246 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
- 5247 through an entity controlled by the individual, 5% or more of the outstanding shares of an
- 5248 alarm company that:
- 5249 (i) is a corporation; and
- 5250 (ii) is not publicly listed or traded; or
- 5251 (b) an individual who owns directly, or indirectly through an entity controlled by the
- 5252 individual, 5% or more of the equity of an alarm company that is not a corporation.
- 5253 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
- 5254 registered as a sole proprietorship with the Division of Corporations and Commercial Code.
- 5255 (6) "Alarm company trustee" means an individual with control of or power of
- 5256 administration over property held in trust.
- 5257 (7) (a) "Alarm system" means equipment and devices assembled for the purpose of:
- 5258 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
- 5259 premises; or
- 5260 (ii) signaling a robbery or attempted robbery on protected premises.
- 5261 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
- 5262 part of and interfaces with an alarm system for the purposes of detecting and deterring
- 5263 unauthorized intrusion or entry into or onto certain premises.
- 5264 (8) "Apprentice electrician" means a person licensed under this chapter as an

5265 apprentice electrician who is learning the electrical trade under the immediate supervision of a
5266 master electrician, residential master electrician, a journeyman electrician, or a residential
5267 journeyman electrician.

5268 (9) "Apprentice plumber" means a person licensed under this chapter as an apprentice
5269 plumber who is learning the plumbing trade under the immediate supervision of a master
5270 plumber, residential master plumber, journeyman plumber, or a residential journeyman
5271 plumber.

5272 (10) "Approved continuing education" means instruction provided through courses
5273 under a program established under Subsection 58-55-302.5(2).

5274 (11) (a) "Approved prelicensure course provider" means a provider that is the
5275 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
5276 Contractors, or the Utah Home Builders Association, and that meets the requirements
5277 established by rule by the commission with the concurrence of the director, to teach the
5278 25-hour course described in Subsection 58-55-302(1)(e)(iii).

5279 (b) "Approved prelicensure course provider" may only include a provider that, in
5280 addition to any other locations, offers the 25-hour course described in Subsection
5281 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake
5282 County, Utah County, Davis County, or Weber County.

5283 (12) "Board" means the [~~Electrician Licensing Board;~~] Alarm System Security and
5284 Licensing Board, or Electricians and Plumbers Licensing Board created in Section 58-55-201.

5285 (13) "Combustion system" means an assembly consisting of:

5286 (a) piping and components with a means for conveying, either continuously or
5287 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
5288 appliance;

5289 (b) the electric control and combustion air supply and venting systems, including air
5290 ducts; and

5291 (c) components intended to achieve control of quantity, flow, and pressure.

5292 (14) "Commission" means the Construction Services Commission created under
5293 Section 58-55-103.

5294 (15) "Construction trade" means any trade or occupation involving:

5295 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition

5296 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
5297 or other project, development, or improvement to other than personal property; and

5298 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
5299 defined in Section 15A-1-302; or

5300 (b) installation or repair of a residential or commercial natural gas appliance or
5301 combustion system.

5302 (16) "Construction trades instructor" means a person licensed under this chapter to
5303 teach one or more construction trades in both a classroom and project environment, where a
5304 project is intended for sale to or use by the public and is completed under the direction of the
5305 instructor, who has no economic interest in the project.

5306 (17) (a) "Contractor" means any person who for compensation other than wages as an
5307 employee undertakes any work in the construction, plumbing, or electrical trade for which
5308 licensure is required under this chapter and includes:

5309 (i) a person who builds any structure on the person's own property for the purpose of
5310 sale or who builds any structure intended for public use on the person's own property;

5311 (ii) any person who represents that the person is a contractor, or will perform a service
5312 described in this Subsection (17) by advertising on a website or social media, or any other
5313 means;

5314 (iii) any person engaged as a maintenance person, other than an employee, who
5315 regularly engages in activities set forth under the definition of "construction trade";

5316 (iv) any person engaged in, or offering to engage in, any construction trade for which
5317 licensure is required under this chapter; or

5318 (v) a construction manager, construction consultant, construction assistant, or any other
5319 person who, for a fee:

5320 (A) performs or offers to perform construction consulting;

5321 (B) performs or offers to perform management of construction subcontractors;

5322 (C) provides or offers to provide a list of subcontractors or suppliers; or

5323 (D) provides or offers to provide management or counseling services on a construction
5324 project.

5325 (b) "Contractor" does not include:

5326 (i) an alarm company or alarm company agent; or

5327 (ii) a material supplier who provides consulting to customers regarding the design and
5328 installation of the material supplier's products.

5329 (18) (a) "Electrical trade" means the performance of any electrical work involved in the
5330 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
5331 buildings, or appendages or appurtenances.

5332 (b) "Electrical trade" does not include:

5333 (i) transporting or handling electrical materials;

5334 (ii) preparing clearance for raceways for wiring;

5335 (iii) work commonly done by unskilled labor on any installations under the exclusive
5336 control of electrical utilities;

5337 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
5338 hazard; or

5339 (v) work involving class two or class three power-limited circuits as defined in the
5340 National Electrical Code.

5341 (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#), except
5342 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
5343 incline platform lift.

5344 (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
5345 this chapter that is engaged in the business of erecting, constructing, installing, altering,
5346 servicing, repairing, or maintaining an elevator.

5347 (21) "Elevator mechanic" means an individual who is licensed under this chapter as an
5348 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
5349 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

5350 (22) "Employee" means an individual as defined by the division by rule giving
5351 consideration to the definition adopted by the Internal Revenue Service and the Department of
5352 Workforce Services.

5353 (23) "Engage in a construction trade" means to:

5354 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
5355 in a construction trade; or

5356 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
5357 to believe one is or will act as a contractor.

5358 (24) (a) "Financial responsibility" means a demonstration of a current and expected
5359 future condition of financial solvency evidencing a reasonable expectation to the division and
5360 the board that an applicant or licensee can successfully engage in business as a contractor
5361 without jeopardy to the public health, safety, and welfare.

5362 (b) Financial responsibility may be determined by an evaluation of the total history
5363 concerning the licensee or applicant including past, present, and expected condition and record
5364 of financial solvency and business conduct.

5365 (25) "Gas appliance" means any device that uses natural gas to produce light, heat,
5366 power, steam, hot water, refrigeration, or air conditioning.

5367 (26) (a) "General building contractor" means a person licensed under this chapter as a
5368 general building contractor qualified by education, training, experience, and knowledge to
5369 perform or superintend construction of structures for the support, shelter, and enclosure of
5370 persons, animals, chattels, or movable property of any kind or any of the components of that
5371 construction except plumbing, electrical work, mechanical work, work related to the operating
5372 integrity of an elevator, and manufactured housing installation, for which the general building
5373 contractor shall employ the services of a contractor licensed in the particular specialty, except
5374 that a general building contractor engaged in the construction of single-family and multifamily
5375 residences up to four units may perform the mechanical work and hire a licensed plumber or
5376 electrician as an employee.

5377 (b) The division may by rule exclude general building contractors from engaging in the
5378 performance of other construction specialties in which there is represented a substantial risk to
5379 the public health, safety, and welfare, and for which a license is required unless that general
5380 building contractor holds a valid license in that specialty classification.

5381 (27) (a) "General electrical contractor" means a person licensed under this chapter as a
5382 general electrical contractor qualified by education, training, experience, and knowledge to
5383 perform the fabrication, construction, and installation of generators, transformers, conduits,
5384 raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses
5385 electrical energy.

5386 (b) The scope of work of a general electrical contractor may be further defined by rules
5387 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5388 Chapter 3, Utah Administrative Rulemaking Act.

5389 (28) (a) "General engineering contractor" means a person licensed under this chapter as
5390 a general engineering contractor qualified by education, training, experience, and knowledge to
5391 perform or superintend construction of fixed works or components of fixed works requiring
5392 specialized engineering knowledge and skill in any of the following:

- 5393 (i) irrigation;
- 5394 (ii) drainage;
- 5395 (iii) water power;
- 5396 (iv) water supply;
- 5397 (v) flood control;
- 5398 (vi) an inland waterway;
- 5399 (vii) a harbor;
- 5400 (viii) a railroad;
- 5401 (ix) a highway;
- 5402 (x) a tunnel;
- 5403 (xi) an airport;
- 5404 (xii) an airport runway;
- 5405 (xiii) a sewer;
- 5406 (xiv) a bridge;
- 5407 (xv) a refinery;
- 5408 (xvi) a pipeline;
- 5409 (xvii) a chemical plant;
- 5410 (xviii) an industrial plant;
- 5411 (xix) a pier;
- 5412 (xx) a foundation;
- 5413 (xxi) a power plant; or
- 5414 (xxii) a utility plant or installation.

5415 (b) A general engineering contractor may not perform or superintend:

- 5416 (i) construction of a structure built primarily for the support, shelter, and enclosure of
5417 persons, animals, and chattels; or
- 5418 (ii) performance of:
 - 5419 (A) plumbing work;

5420 (B) electrical work; or

5421 (C) mechanical work.

5422 (29) (a) "General plumbing contractor" means a person licensed under this chapter as a
5423 general plumbing contractor qualified by education, training, experience, and knowledge to
5424 perform the fabrication or installation of material and fixtures to create and maintain sanitary
5425 conditions in a building by providing permanent means for a supply of safe and pure water, a
5426 means for the timely and complete removal from the premises of all used or contaminated
5427 water, fluid and semi-fluid organic wastes and other impurities incidental to life and the
5428 occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and
5429 industrial purposes.

5430 (b) The scope of work of a general plumbing contractor may be further defined by rules
5431 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5432 Chapter 3, Utah Administrative Rulemaking Act.

5433 (30) "Immediate supervision" means reasonable direction, oversight, inspection, and
5434 evaluation of the work of a person:

5435 (a) as the division specifies in rule;

5436 (b) by, as applicable, a qualified electrician or plumber;

5437 (c) as part of a planned program of training; and

5438 (d) to ensure that the end result complies with applicable standards.

5439 (31) "Individual" means a natural person.

5440 (32) "Journeyman electrician" means a person licensed under this chapter as a
5441 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
5442 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

5443 (33) "Journeyman plumber" means a person licensed under this chapter as a
5444 journeyman plumber having the qualifications, training, experience, and technical knowledge
5445 to engage in the plumbing trade.

5446 (34) "Master electrician" means a person licensed under this chapter as a master
5447 electrician having the qualifications, training, experience, and knowledge to properly plan,
5448 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
5449 for light, heat, power, and other purposes.

5450 (35) "Master plumber" means a person licensed under this chapter as a master plumber

5451 having the qualifications, training, experience, and knowledge to properly plan and layout
5452 projects and supervise persons in the plumbing trade.

5453 (36) "Person" means a natural person, sole proprietorship, joint venture, corporation,
5454 limited liability company, association, or organization of any type.

5455 (37) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
5456 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
5457 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

5458 (i) delivery of the water supply;

5459 (ii) discharge of liquid and water carried waste;

5460 (iii) building drainage system within the walls of the building; and

5461 (iv) delivery of gases for lighting, heating, and industrial purposes.

5462 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
5463 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
5464 safe and adequate supply of gases, together with their devices, appurtenances, and connections
5465 where installed within the outside walls of the building.

5466 (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
5467 licensed electrician apprentices that are allowed to be under the immediate supervision of a
5468 licensed supervisor as established by the provisions of this chapter and by rules made by the
5469 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5470 Utah Administrative Rulemaking Act.

5471 (39) "Residential and small commercial contractor" means a person licensed under this
5472 chapter as a residential and small commercial contractor qualified by education, training,
5473 experience, and knowledge to perform or superintend the construction of single-family
5474 residences, multifamily residences up to four units, and commercial construction of not more
5475 than three stories above ground and not more than 20,000 square feet, or any of the components
5476 of that construction except plumbing, electrical work, mechanical work, and manufactured
5477 housing installation, for which the residential and small commercial contractor shall employ
5478 the services of a contractor licensed in the particular specialty, except that a residential and
5479 small commercial contractor engaged in the construction of single-family and multifamily
5480 residences up to four units may perform the mechanical work and hire a licensed plumber or
5481 electrician as an employee.

5482 (40) "Residential building," as it relates to the license classification of residential
5483 journeyman plumber and residential master plumber, means a single or multiple family
5484 dwelling of up to four units.

5485 (41) (a) "Residential electrical contractor" means a person licensed under this chapter
5486 as a residential electrical contractor qualified by education, training, experience, and
5487 knowledge to perform the fabrication, construction, and installation of services, disconnecting
5488 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
5489 appliances, and fixtures in a residential unit.

5490 (b) The scope of work of a residential electrical contractor may be further defined by
5491 rules made by the commission, with the concurrence of the director, in accordance with Title
5492 63G, Chapter 3, Utah Administrative Rulemaking Act.

5493 (42) "Residential journeyman electrician" means a person licensed under this chapter
5494 as a residential journeyman electrician having the qualifications, training, experience, and
5495 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
5496 and other purposes on buildings using primarily nonmetallic sheath cable.

5497 (43) "Residential journeyman plumber" means a person licensed under this chapter as a
5498 residential journeyman plumber having the qualifications, training, experience, and knowledge
5499 to engage in the plumbing trade as limited to the plumbing of residential buildings.

5500 (44) "Residential master electrician" means a person licensed under this chapter as a
5501 residential master electrician having the qualifications, training, experience, and knowledge to
5502 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
5503 and equipment for light, heat, power, and other purposes on residential projects.

5504 (45) "Residential master plumber" means a person licensed under this chapter as a
5505 residential master plumber having the qualifications, training, experience, and knowledge to
5506 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
5507 plumbing of residential buildings.

5508 (46) (a) "Residential plumbing contractor" means a person licensed under this chapter
5509 as a residential plumbing contractor qualified by education, training, experience, and
5510 knowledge to perform the fabrication or installation of material and fixtures to create and
5511 maintain sanitary conditions in residential buildings by providing permanent means for a
5512 supply of safe and pure water, a means for the timely and complete removal from the premises

5513 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
5514 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
5515 for lighting, heating, and residential purposes.

5516 (b) The scope of work of a residential plumbing contractor may be further defined by
5517 rules made by the commission, with the concurrence of the director, in accordance with Title
5518 63G, Chapter 3, Utah Administrative Rulemaking Act.

5519 (47) "Residential project," as it relates to an electrician or electrical contractor, means
5520 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
5521 and regulations governing this work, including the National Electrical Code, and in which the
5522 voltage does not exceed 250 volts line to line and 125 volts to ground.

5523 (48) "Responsible management personnel" means:

5524 (a) a qualifying agent;

5525 (b) an operations manager; or

5526 (c) a site manager.

5527 (49) "Sensitive alarm system information" means:

5528 (a) a pass code or other code used in the operation of an alarm system;

5529 (b) information on the location of alarm system components at the premises of a
5530 customer of the alarm business providing the alarm system;

5531 (c) information that would allow the circumvention, bypass, deactivation, or other
5532 compromise of an alarm system of a customer of the alarm business providing the alarm
5533 system; and

5534 (d) any other similar information that the division by rule determines to be information
5535 that an individual employed by an alarm business should use or have access to only if the
5536 individual is licensed as provided in this chapter.

5537 (50) (a) "Specialty contractor" means a person licensed under this chapter under a
5538 specialty contractor classification established by rule, who is qualified by education, training,
5539 experience, and knowledge to perform those construction trades and crafts requiring
5540 specialized skill, the regulation of which are determined by the division to be in the best
5541 interest of the public health, safety, and welfare.

5542 (b) A specialty contractor may perform work in crafts or trades other than those in
5543 which the specialty contractor is licensed if they are incidental to the performance of the

5544 specialty contractor's licensed craft or trade.

5545 (51) "Unincorporated entity" means an entity that is not:

5546 (a) an individual;

5547 (b) a corporation; or

5548 (c) publicly traded.

5549 (52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
5550 and 58-55-501.

5551 (53) "Unprofessional conduct" means the same as that term is defined in Sections
5552 58-1-501 and 58-55-502 and as may be further defined by rule.

5553 (54) "Wages" means amounts due to an employee for labor or services whether the
5554 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
5555 the amount.

5556 Section 87. Section 58-55-103 is amended to read:

5557 **58-55-103. Construction Services Commission created -- Functions --**

5558 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**
5559 **-- Concurrence.**

5560 (1) (a) There is created within the division the Construction Services Commission.

5561 (b) The commission shall:

5562 (i) with the concurrence of the director, make reasonable rules under Title 63G,
5563 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which
5564 are consistent with this chapter including:

5565 (A) licensing of various licensees;

5566 (B) examination requirements and administration of the examinations, to include
5567 approving and establishing a passing score for applicant examinations;

5568 (C) standards of supervision for students or persons in training to become qualified to
5569 obtain a license in the trade they represent; and

5570 (D) standards of conduct for various licensees;

5571 (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

5572 (iii) except where the boards conduct them, conduct all administrative hearings not
5573 delegated to an administrative law judge relating to the licensing of any applicant;

5574 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the

5575 concurrence of the director, impose sanctions against licensees and certificate holders with the
5576 same authority as the division under Section 58-1-401;

5577 (v) advise the director on the administration and enforcement of any matters affecting
5578 the division and the construction industry;

5579 (vi) advise the director on matters affecting the division budget;

5580 (vii) advise and assist trade associations in conducting construction trade seminars and
5581 industry education and promotion; and

5582 (viii) perform other duties as provided by this chapter.

5583 (2) ~~[(a) Initially the commission shall be comprised of the five members of the~~
5584 ~~Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing~~
5585 ~~Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.]~~

5586 ~~[(b)]~~ (a) The terms of office of the commission members who are serving on the
5587 Contractors Licensing Board shall continue as they serve on the commission.

5588 ~~[(c) Beginning July 1, 2004, the]~~

5589 (b) The commission shall be comprised of ~~nine~~ the following members appointed by
5590 the executive director with the approval of the governor from the following groups:

5591 (i) one member shall be a licensed general engineering contractor;

5592 (ii) one member shall be a licensed general building contractor;

5593 (iii) two members shall be licensed residential and small commercial contractors;

5594 ~~[(iv) three members shall be the three chair persons from the Plumbers Licensing~~
5595 ~~Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board;~~
5596 ~~and]~~

5597 (iv) one member shall be a licensed plumber and a member of the Electricians and
5598 Plumbers Licensing Board;

5599 (v) one member shall be a licensed electrician and a member of the Electricians and
5600 Plumbers Licensing Board;

5601 (vi) one member shall be the chair person of the Alarm System Security and Licensing
5602 Board; and

5603 ~~[(v)]~~ (vii) two members shall be from the general public.

5604 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
5605 members expire, the executive director with the approval of the governor shall appoint each

5606 new member or reappointed member to a four-year term ending June 30.

5607 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
5608 the approval of the governor shall, at the time of appointment or reappointment, adjust the
5609 length of terms to stagger the terms of commission members so that approximately 1/2 of the
5610 commission members are appointed every two years.

5611 (c) A commission member may not serve more than two consecutive terms.

5612 (4) The commission shall elect annually one of its members as chair, for a term of one
5613 year.

5614 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
5615 appointed for the unexpired term.

5616 (6) A member may not receive compensation or benefits for the member's service, but
5617 may receive per diem and travel expenses in accordance with:

5618 (a) Section 63A-3-106;

5619 (b) Section 63A-3-107; and

5620 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5621 63A-3-107.

5622 (7) (a) The commission shall meet at least monthly unless the director determines
5623 otherwise.

5624 (b) The director may call additional meetings at the director's discretion, upon the
5625 request of the chair, or upon the written request of four or more commission members.

5626 (8) (a) Five members constitute a quorum for the transaction of business.

5627 (b) If a quorum is present when a vote is taken, the affirmative vote of commission
5628 members present is the act of the commission.

5629 (9) The commission shall comply with the procedures and requirements of Title 13,
5630 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
5631 Act, in all of its adjudicative proceedings.

5632 (10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a
5633 concurring role must jointly agree for the action to be taken.

5634 (b) If a provision of this chapter requires concurrence between the director or division
5635 and the commission and no concurrence can be reached, the director or division has final
5636 authority.

5637 (c) When this chapter requires concurrence between the director or division and the
5638 commission:

5639 (i) the director or division shall report to and update the commission on a regular basis
5640 related to matters requiring concurrence; and

5641 (ii) the commission shall review the report submitted by the director or division under
5642 this Subsection (10)(c) and concur with the report, or:

5643 (A) provide a reason for not concurring with the report; and

5644 (B) provide recommendations to the director or division.

5645 Section 88. Section **58-55-201** is amended to read:

5646 **58-55-201. Boards created -- Duties.**

5647 (1) There is created the Electrician and Plumbers Licensing Board consisting of [~~seven~~
5648 ~~members as follows~~] the following members:

5649 (a) three members [~~shall be~~] licensed from among the license classifications of master
5650 or journeyman plumber, of whom at least one [~~shall represent~~] represents a union organization
5651 and at least one [~~shall be selected having~~] has no union affiliation;

5652 (b) [~~three members shall be~~] two members who are licensed plumbing contractors, of
5653 whom at least one [~~shall represent~~] represents a union organization and at least one [~~shall be~~
5654 ~~selected having~~] has no union affiliation; [~~and~~]

5655 (c) three members licensed from among the license classifications of master or
5656 journeyman electrician, of whom at least one shall represent a union organization and at least
5657 one shall be selected having no union affiliation; and

5658 (d) two members who are licensed electrical contractors, of whom at least one
5659 represents a union organization and at least one has no union affiliation;

5660 [~~(e)~~] (e) one member [shall be] who is from the public at large with no history of
5661 involvement in the construction trades.

5662 (2) (a) There is created the Alarm System Security and Licensing Board consisting of
5663 [~~five members as follows~~] the following members:

5664 (i) three individuals who are officers or owners of a licensed alarm business;

5665 (ii) one individual from among nominees of the Utah Peace Officers Association; and

5666 (iii) one individual representing the general public.

5667 (b) The Alarm System Security and Licensing Board shall designate one of its

5668 members on a permanent or rotating basis to:

5669 (i) assist the division in reviewing complaints concerning the unlawful or
5670 unprofessional conduct of a licensee; and

5671 (ii) advise the division in its investigation of these complaints.

5672 (c) A board member who has, under this Subsection (2)(c), reviewed a complaint or
5673 advised in its investigation is disqualified from participating with the board when the board
5674 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

5675 ~~[(3) There is created the Electricians Licensing Board consisting of seven members as~~
5676 ~~follows:]~~

5677 ~~[(a) three members shall be licensed from among the license classifications of master~~
5678 ~~or journeyman electrician, of whom at least one shall represent a union organization and at~~
5679 ~~least one shall be selected having no union affiliation;]~~

5680 ~~[(b) three members shall be licensed electrical contractors, of whom at least one shall~~
5681 ~~represent a union organization and at least one shall be selected having no union affiliation;~~
5682 ~~and]~~

5683 ~~[(c) one member shall be from the public at large with no history of involvement in the~~
5684 ~~construction trades or union affiliation.]~~

5685 ~~[(4)]~~ (3) The duties, functions, and responsibilities of each board described in
5686 Subsections (1) ~~[through (3)]~~ and (2) include the following:

5687 (a) recommending to the commission appropriate rules;

5688 (b) recommending to the commission policy and budgetary matters;

5689 (c) approving and establishing a passing score for applicant examinations;

5690 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
5691 relicensure;

5692 (e) assisting the commission in establishing standards of supervision for students or
5693 persons in training to become qualified to obtain a license in the occupation or profession the
5694 board represents; and

5695 (f) acting as presiding officer in conducting hearings associated with the adjudicative
5696 proceedings and in issuing recommended orders when so authorized by the commission.

5697 Section 89. Section **58-55-302** is amended to read:

5698 **58-55-302. Qualifications for licensure.**

- 5699 (1) Each applicant for a license under this chapter shall:
- 5700 (a) submit an application prescribed by the division;
- 5701 (b) pay a fee as determined by the department under Section 63J-1-504;
- 5702 (c) meet the examination requirements established by this section and by rule by the
- 5703 commission with the concurrence of the director, which requirements include:
- 5704 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty
- 5705 contractor, no division-administered examination is required;
- 5706 (ii) for licensure as a general building contractor, general engineering contractor,
- 5707 residential and small commercial contractor, general plumbing contractor, residential plumbing
- 5708 contractor, general electrical contractor, or residential electrical contractor, the only required
- 5709 division-administered examination is a division-administered examination that covers
- 5710 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
- 5711 have been previously completed as part of applying for any other license under this chapter,
- 5712 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
- 5713 course described in Subsection (1)(e)(iv); and
- 5714 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
- 5715 division-administered examination if the applicant is a business entity;
- 5716 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 5717 (e) if an applicant for a contractor's license:
- 5718 (i) produce satisfactory evidence of financial responsibility, except for a construction
- 5719 trades instructor for whom evidence of financial responsibility is not required;
- 5720 (ii) produce satisfactory evidence of:
- 5721 (A) except as provided in Subsection (2)(a), and except that no employment experience
- 5722 is required for licensure as a specialty contractor, two years full-time paid employment
- 5723 experience in the construction industry, which employment experience, unless more
- 5724 specifically described in this section, may be related to any contracting classification and does
- 5725 not have to include supervisory experience; and
- 5726 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
- 5727 necessary for the protection of the public health, safety, and welfare;
- 5728 (iii) except as otherwise provided by rule by the commission with the concurrence of
- 5729 the director, complete a 25-hour course established by rule by the commission with the

5730 concurrence of the director, which is taught by an approved prelicensure course provider, and
5731 which course may include:

5732 (A) construction business practices;

5733 (B) bookkeeping fundamentals;

5734 (C) mechanics lien fundamentals;

5735 (D) other aspects of business and construction principles considered important by the
5736 commission with the concurrence of the director; and

5737 (E) for no additional fee, a provider-administered examination at the end of the
5738 25-hour course;

5739 (iv) complete a five-hour business and law course established by rule by the
5740 commission with the concurrence of the director, which is taught by an approved prelicensure
5741 course provider, if an applicant for licensure as a general building contractor, general
5742 engineering contractor, residential and small commercial contractor, general plumbing
5743 contractor, residential plumbing contractor, general electrical contractor, or residential
5744 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
5745 completed before July 1, 2019, the applicant does not need to take the business and law course;

5746 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
5747 license or a licensed master residential electrician if an applicant for a residential electrical
5748 contractor's license;

5749 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
5750 a licensed master residential plumber if an applicant for a residential plumbing contractor's
5751 license; or

5752 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
5753 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

5754 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
5755 individuals who hold an ownership interest in the applicant as of the day on which the
5756 application is filed that includes for each individual:

5757 (A) the individual's name, address, birth date, and social security number or other
5758 satisfactory evidence of the applicant's identity permitted under rules made by the division in
5759 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

5760 (B) whether the individual will engage in a construction trade; and

5761 (f) if an applicant for a construction trades instructor license, satisfy any additional
5762 requirements established by rule.

5763 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
5764 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
5765 evidence of two years full-time paid employment experience as a building inspector, which
5766 shall include at least one year full-time experience as a licensed combination inspector.

5767 (b) The applicant shall file the following with the division before the division issues
5768 the license:

5769 (i) proof of workers' compensation insurance which covers employees of the applicant
5770 in accordance with applicable Utah law;

5771 (ii) proof of public liability insurance in coverage amounts and form established by rule
5772 except for a construction trades instructor for whom public liability insurance is not required;
5773 and

5774 (iii) proof of registration as required by applicable law with the:

5775 (A) Department of Commerce;

5776 (B) Division of Corporations and Commercial Code;

5777 (C) Unemployment Insurance Division in the Department of Workforce Services, for
5778 purposes of Title 35A, Chapter 4, Employment Security Act;

5779 (D) State Tax Commission; and

5780 (E) Internal Revenue Service.

5781 (3) In addition to the general requirements for each applicant in Subsection (1),
5782 applicants shall comply with the following requirements to be licensed in the following
5783 classifications:

5784 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

5785 (A) has been a licensed journeyman plumber for at least two years and had two years of
5786 supervisory experience as a licensed journeyman plumber in accordance with division rule;

5787 (B) has received at least an associate of applied science degree or similar degree
5788 following the completion of a course of study approved by the division and had one year of
5789 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

5790 (C) meets the qualifications for expedited licensure as established by rules made by the
5791 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5792 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5793 and skills to be a licensed master plumber.

5794 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
5795 least four years of practical experience as a licensed apprentice under the supervision of a
5796 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
5797 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
5798 master plumber license under this chapter, and satisfies the requirements of this Subsection
5799 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

5800 (iii) An individual holding a valid plumbing contractor's license or residential
5801 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
5802 2008:

5803 (A) considered to hold a current master plumber license under this chapter if licensed
5804 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
5805 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
5806 58-55-303; and

5807 (B) considered to hold a current residential master plumber license under this chapter if
5808 licensed as a residential plumbing contractor and a residential journeyman plumber, and
5809 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
5810 that license under Section 58-55-303.

5811 (b) A master residential plumber applicant shall produce satisfactory evidence that the
5812 applicant:

5813 (i) has been a licensed residential journeyman plumber for at least two years and had
5814 two years of supervisory experience as a licensed residential journeyman plumber in
5815 accordance with division rule; or

5816 (ii) meets the qualifications for expedited licensure as established by rules made by the
5817 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5818 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5819 and skills to be a licensed master residential plumber.

5820 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

5821 (i) successful completion of the equivalent of at least four years of full-time training
5822 and instruction as a licensed apprentice plumber under supervision of a licensed master

5823 plumber or journeyman plumber and in accordance with a planned program of training
5824 approved by the division;

5825 (ii) at least eight years of full-time experience approved by the division in collaboration
5826 with the Electricians and Plumbers Licensing Board; or

5827 (iii) meeting the qualifications for expedited licensure as established by rules made by
5828 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5829 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5830 and skills to be a licensed journeyman plumber.

5831 (d) A residential journeyman plumber shall produce satisfactory evidence of:

5832 (i) completion of the equivalent of at least three years of full-time training and
5833 instruction as a licensed apprentice plumber under the supervision of a licensed residential
5834 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
5835 accordance with a planned program of training approved by the division;

5836 (ii) completion of at least six years of full-time experience in a maintenance or repair
5837 trade involving substantial plumbing work; or

5838 (iii) meeting the qualifications for expedited licensure as established by rules made by
5839 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5840 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5841 and skills to be a licensed residential journeyman plumber.

5842 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
5843 in accordance with the following:

5844 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
5845 under the immediate supervision of a licensed master plumber, licensed residential master
5846 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

5847 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
5848 apprentice plumber may work without supervision for a period not to exceed eight hours in any
5849 24-hour period; and

5850 (iii) rules made by the commission, with the concurrence of the director, in accordance
5851 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5852 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5853 ratio of apprentices in their fourth year of training or later that are allowed to be under the

5854 immediate supervision of a licensed supervisor.

5855 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

5856 (i) is a graduate electrical engineer of an accredited college or university approved by

5857 the division and has one year of practical electrical experience as a licensed apprentice

5858 electrician;

5859 (ii) is a graduate of an electrical trade school, having received an associate of applied

5860 sciences degree following successful completion of a course of study approved by the division,

5861 and has two years of practical experience as a licensed journeyman electrician;

5862 (iii) has four years of practical experience as a journeyman electrician; or

5863 (iv) meets the qualifications for expedited licensure as established by rules made by the

5864 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5865 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

5866 and skills to be a licensed master electrician.

5867 (g) A master residential electrician applicant shall produce satisfactory evidence that

5868 the applicant:

5869 (i) has at least two years of practical experience as a residential journeyman electrician;

5870 or

5871 (ii) meets the qualifications for expedited licensure as established by rules made by the

5872 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5873 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

5874 and skills to be a master residential electrician.

5875 (h) A journeyman electrician applicant shall produce satisfactory evidence that the

5876 applicant:

5877 (i) has successfully completed at least four years of full-time training and instruction as

5878 a licensed apprentice electrician under the supervision of a master electrician or journeyman

5879 electrician and in accordance with a planned training program approved by the division;

5880 (ii) has at least eight years of full-time experience approved by the division in

5881 collaboration with the Electricians and Plumbers Licensing Board; or

5882 (iii) meets the qualifications for expedited licensure as established by rules made by the

5883 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5884 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge

5885 and skills to be a licensed journeyman electrician.

5886 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
5887 that the applicant:

5888 (i) has successfully completed two years of training in an electrical training program
5889 approved by the division;

5890 (ii) has four years of practical experience in wiring, installing, and repairing electrical
5891 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
5892 journeyman, residential master, or residential journeyman electrician; or

5893 (iii) meets the qualifications for expedited licensure as established by rules made by the
5894 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5895 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5896 and skills to be a licensed residential journeyman electrician.

5897 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
5898 be in accordance with the following:

5899 (i) [~~A~~] a licensed apprentice electrician shall be under the immediate supervision of a
5900 licensed master, journeyman, residential master, or residential journeyman electrician;

5901 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
5902 apprentice electrician may work without supervision for a period not to exceed eight hours in
5903 any 24-hour period;

5904 (iii) rules made by the commission, with the concurrence of the director, in accordance
5905 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5906 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5907 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5908 immediate supervision of a licensed supervisor; and

5909 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
5910 residential project, or more if established by rules made by the commission, in concurrence
5911 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5912 Act.

5913 (k) An alarm company applicant shall:

5914 (i) have a qualifying agent who:

5915 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an

5916 alarm company trustee, or other responsible management personnel;
5917 (B) demonstrates 6,000 hours of experience in the alarm company business;
5918 (C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
5919 company business or in a construction business; and
5920 (D) passes an examination component established by rule by the commission with the
5921 concurrence of the director;
5922 (ii) provide the name, address, date of birth, social security number, fingerprint card,
5923 and consent to a background check in accordance with Section 58-55-302.1 and requirements
5924 established by division rule made in accordance with Title 63G, Chapter 3, Utah
5925 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
5926 company proprietor, alarm company trustee, and responsible management personnel with direct
5927 responsibility for managing operations of the applicant within the state;
5928 (iii) document that none of the persons described in Subsection (3)(k)(ii):
5929 (A) have been declared by any court of competent jurisdiction incompetent by reason
5930 of mental defect or disease and not been restored; or
5931 (B) are currently suffering from habitual drunkenness or from drug addiction or
5932 dependence;
5933 (iv) file and maintain with the division evidence of:
5934 (A) comprehensive general liability insurance in form and in amounts to be established
5935 by rule by the commission with the concurrence of the director;
5936 (B) workers' compensation insurance that covers employees of the applicant in
5937 accordance with applicable Utah law; and
5938 (C) registration as is required by applicable law with the:
5939 (I) Division of Corporations and Commercial Code;
5940 (II) Unemployment Insurance Division in the Department of Workforce Services, for
5941 purposes of Title 35A, Chapter 4, Employment Security Act;
5942 (III) State Tax Commission; and
5943 (IV) Internal Revenue Service; and
5944 (v) meet with the division and board.
5945 (l) Each applicant for licensure as an alarm company agent shall:
5946 (i) submit an application in a form prescribed by the division accompanied by

- 5947 fingerprint cards;
- 5948 (ii) pay a fee determined by the department under Section 63J-1-504;
- 5949 (iii) submit to and pass a criminal background check in accordance with Section
- 5950 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
- 5951 Chapter 3, Utah Administrative Rulemaking Act;
- 5952 (iv) not have been declared by any court of competent jurisdiction incompetent by
- 5953 reason of mental defect or disease and not been restored;
- 5954 (v) not be currently suffering from habitual drunkenness or from drug addiction or
- 5955 dependence; and
- 5956 (vi) meet with the division and board if requested by the division or the board.
- 5957 (m) (i) Each applicant for licensure as an elevator mechanic shall:
- 5958 (A) provide documentation of experience and education credits of not less than three
- 5959 years work experience in the elevator industry, in construction, maintenance, or service and
- 5960 repair; and
- 5961 (B) satisfactorily complete a written examination administered by the division
- 5962 established by rule under Section 58-1-203; or
- 5963 (C) provide certificates of completion of an apprenticeship program for elevator
- 5964 mechanics, having standards substantially equal to those of this chapter and registered with the
- 5965 United States Department of Labor Bureau Apprenticeship and Training or a state
- 5966 apprenticeship council.
- 5967 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
- 5968 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
- 5969 repairing, or maintaining an elevator, the contractor may:
- 5970 (I) notify the division of the unavailability of licensed personnel; and
- 5971 (II) request the division issue a temporary elevator mechanic license to an individual
- 5972 certified by the contractor as having an acceptable combination of documented experience and
- 5973 education to perform the work described in this Subsection (3)(m)(ii)(A).
- 5974 (B) (I) The division may issue a temporary elevator mechanic license to an individual
- 5975 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
- 5976 the appropriate fee as determined by the department under Section 63J-1-504.
- 5977 (II) The division shall specify the time period for which the license is valid and may

5978 renew the license for an additional time period upon its determination that a shortage of
5979 licensed elevator mechanics continues to exist.

5980 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5981 division may make rules establishing when Federal Bureau of Investigation records shall be
5982 checked for applicants as an alarm company or alarm company agent under this section and
5983 Section [58-55-302.1](#).

5984 (5) (a) An application for licensure under this chapter shall be denied if:

5985 (i) the applicant has had a previous license, which was issued under this chapter,
5986 suspended or revoked within two years before the date of the applicant's application;

5987 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

5988 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5989 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5990 status, performing similar functions, or directly or indirectly controlling the applicant has
5991 served in any similar capacity with any person or entity which has had a previous license,
5992 which was issued under this chapter, suspended or revoked within two years before the date of
5993 the applicant's application;

5994 (iii) (A) the applicant is an individual or sole proprietorship; and

5995 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5996 Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under
5997 this chapter, suspended or revoked within two years before the date of the applicant's
5998 application; or

5999 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
6000 an unincorporated entity at the time the entity's license under this chapter was revoked; and

6001 (B) the application for licensure is filed within 60 months after the revocation of the
6002 unincorporated entity's license.

6003 (b) An application for licensure under this chapter shall be reviewed by the appropriate
6004 licensing board prior to approval if:

6005 (i) the applicant has had a previous license, which was issued under this chapter,
6006 suspended or revoked more than two years before the date of the applicant's application;

6007 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

6008 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the

6009 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
6010 status, performing similar functions, or directly or indirectly controlling the applicant has
6011 served in any similar capacity with any person or entity which has had a previous license,
6012 which was issued under this chapter, suspended or revoked more than two years before the date
6013 of the applicant's application; or

6014 (iii) (A) the applicant is an individual or sole proprietorship; and

6015 (B) any owner or agent acting as a qualifier has served in any capacity listed in
6016 Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under
6017 this chapter, suspended or revoked more than two years before the date of the applicant's
6018 application.

6019 (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
6020 report with the division every 30 days after the day on which the license is issued if the licensee
6021 has more than five owners who are individuals who:

6022 (A) own an interest in the contractor that is an unincorporated entity;

6023 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
6024 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
6025 unincorporated entity; and

6026 (C) engage, or will engage, in a construction trade in the state as owners of the
6027 contractor described in Subsection (6)(a)(i)(A).

6028 (ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the
6029 licensee shall provide the ownership status report with an application for renewal of licensure.

6030 (b) An ownership status report required under this Subsection (6) shall:

6031 (i) specify each addition or deletion of an owner:

6032 (A) for the first ownership status report, after the day on which the unincorporated
6033 entity is licensed under this chapter; and

6034 (B) for a subsequent ownership status report, after the day on which the previous
6035 ownership status report is filed;

6036 (ii) be in a format prescribed by the division that includes for each owner, regardless of
6037 the owner's percentage ownership in the unincorporated entity, the information described in
6038 Subsection (1)(e)(vi);

6039 (iii) list the name of:

6040 (A) each officer or manager of the unincorporated entity; and
6041 (B) each other individual involved in the operation, supervision, or management of the
6042 unincorporated entity; and
6043 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
6044 if the ownership status report indicates there is a change described in Subsection (6)(b)(i).
6045 (c) The division may, at any time, audit an ownership status report under this
6046 Subsection (6):
6047 (i) to determine if financial responsibility has been demonstrated or maintained as
6048 required under Section 58-55-306; and
6049 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
6050 Subsection 58-55-502(8) or (9).
6051 (7) (a) An unincorporated entity that provides labor to an entity licensed under this
6052 chapter by providing an individual who owns an interest in the unincorporated entity to engage
6053 in a construction trade in Utah shall file with the division:
6054 (i) before the individual who owns an interest in the unincorporated entity engages in a
6055 construction trade in Utah, a current list of the one or more individuals who hold an ownership
6056 interest in the unincorporated entity that includes for each individual:
6057 (A) the individual's name, address, birth date, and social security number; and
6058 (B) whether the individual will engage in a construction trade; and
6059 (ii) every 30 days after the day on which the unincorporated entity provides the list
6060 described in Subsection (7)(a)(i), an ownership status report containing the information that
6061 would be required under Subsection (6) if the unincorporated entity were a licensed contractor.
6062 (b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership
6063 status report described in Subsection (7)(a)(i) an unincorporated entity shall pay a fee set by the
6064 division in accordance with Section 63J-1-504.
6065 (8) This chapter may not be interpreted to create or support an express or implied
6066 independent contractor relationship between an unincorporated entity described in Subsection
6067 (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax
6068 withholding.
6069 (9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a
6070 private record under Subsection 63G-2-302(1)(i).

6071 (b) The division may designate an applicant's evidence of identity under Subsection
6072 (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

6073 Section 90. Section 58-67-102 is amended to read:

6074 **58-67-102. Definitions.**

6075 In addition to the definitions in Section 58-1-102, as used in this chapter:

6076 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
6077 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
6078 YAG lasers.

6079 (b) "Ablative procedure" does not include hair removal.

6080 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
6081 American Medical Association.

6082 (3) "Administrative penalty" means a monetary fine or citation imposed by the division
6083 for acts or omissions determined to constitute unprofessional or unlawful conduct, in
6084 accordance with a fine schedule established by the division in collaboration with the board, as a
6085 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
6086 Administrative Procedures Act.

6087 (4) "Associate physician" means an individual licensed under Section 58-67-302.8.

6088 (5) "Attempted sex change" means an attempt or effort to change an individual's body
6089 to present that individual as being of a sex or gender that is different from the individual's
6090 biological sex at birth.

6091 (6) "Biological sex at birth" means an individual's sex, as being male or female,
6092 according to distinct reproductive roles as manifested by:

6093 (a) sex and reproductive organ anatomy;

6094 (b) chromosomal makeup; and

6095 (c) endogenous hormone profiles.

6096 (7) "Board" means the ~~[Physicians]~~ Medical Licensing Board created in Section
6097 58-67-201.

6098 (8) "Collaborating physician" means an individual licensed under Section 58-67-302
6099 who enters into a collaborative practice arrangement with an associate physician.

6100 (9) "Collaborative practice arrangement" means the arrangement described in Section
6101 58-67-807.

6102 (10) (a) "Cosmetic medical device" means tissue altering energy based devices that
6103 have the potential for altering living tissue and that are used to perform ablative or nonablative
6104 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
6105 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and
6106 excludes ANSI designated Class IIIa and lower powered devices.

6107 (b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower
6108 powered device is being used to perform an ablative procedure, the device is included in the
6109 definition of cosmetic medical device under Subsection (10)(a).

6110 (11) "Cosmetic medical procedure":

6111 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
6112 procedures; and

6113 (b) does not include a treatment of the ocular globe such as refractive surgery.

6114 (12) "Diagnose" means:

6115 (a) to examine in any manner another person, parts of a person's body, substances,
6116 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
6117 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
6118 condition;

6119 (b) to attempt to conduct an examination or determination described under Subsection
6120 (12)(a);

6121 (c) to hold oneself out as making or to represent that one is making an examination or
6122 determination as described in Subsection (12)(a); or

6123 (d) to make an examination or determination as described in Subsection (12)(a) upon
6124 or from information supplied directly or indirectly by another person, whether or not in the
6125 presence of the person making or attempting the diagnosis or examination.

6126 (13) "LCME" means the Liaison Committee on Medical Education of the American
6127 Medical Association.

6128 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
6129 described in Subsection [58-67-305\(6\)](#).

6130 (15) "Medically underserved area" means a geographic area in which there is a
6131 shortage of primary care health services for residents, as determined by the Department of
6132 Health and Human Services.

6133 (16) "Medically underserved population" means a specified group of people living in a
6134 defined geographic area with a shortage of primary care health services, as determined by the
6135 Department of Health and Human Services.

6136 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
6137 alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove
6138 living tissue.

6139 (ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair
6140 removal.

6141 (b) "Nonablative procedure" does not include:

6142 (i) a superficial procedure as defined in Section 58-1-102;

6143 (ii) the application of permanent make-up; or

6144 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
6145 performed by an individual licensed under this title who is acting within the individual's scope
6146 of practice.

6147 (18) "Physician" means both physicians and surgeons licensed under Section
6148 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
6149 Section 58-68-301, Utah Osteopathic Medical Practice Act.

6150 (19) (a) "Practice of medicine" means:

6151 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
6152 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
6153 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any
6154 means or instrumentality, and by an individual in Utah or outside the state upon or for any
6155 human within the state;

6156 (ii) when a person not licensed as a physician directs a licensee under this chapter to
6157 withhold or alter the health care services that the licensee has ordered;

6158 (iii) to maintain an office or place of business for the purpose of doing any of the acts
6159 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

6160 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6161 treatment of human diseases or conditions in any printed material, stationery, letterhead,
6162 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
6163 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these

6164 designations in any manner which might cause a reasonable person to believe the individual
6165 using the designation is a licensed physician and surgeon, and if the party using the designation
6166 is not a licensed physician and surgeon, the designation must additionally contain the
6167 description of the branch of the healing arts for which the person has a license, provided that an
6168 individual who has received an earned degree of doctor of medicine degree but is not a licensed
6169 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not
6170 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

6171 (b) The practice of medicine does not include:

6172 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the
6173 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
6174 under another chapter of this title;

6175 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
6176 performing the ablative cosmetic medical procedure includes the authority to operate or
6177 perform a surgical procedure; or

6178 (iii) conduct under Subsection [58-67-501\(2\)](#).

6179 (20) "Prescription device" means an instrument, apparatus, implement, machine,
6180 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6181 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6182 and dispensed by or through a person or entity licensed under this chapter or exempt from
6183 licensure under this chapter.

6184 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
6185 be dispensed only by prescription or is restricted to administration only by practitioners.

6186 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
6187 done for the purpose of effectuating or facilitating an individual's attempted sex change:

6188 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
6189 penectomy, vaginoplasty, or vulvoplasty;

6190 (ii) for an individual whose biological sex at birth is female, hysterectomy,
6191 oophorectomy, metoidioplasty, or phalloplasty; or

6192 (iii) any surgical procedure that is related to or necessary for a procedure described in
6193 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
6194 sterile.

- 6195 (b) "Primary sex characteristic surgical procedure" does not include:
- 6196 (i) surgery or other procedures or treatments performed on an individual who:
- 6197 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
- 6198 (B) is born with 46, XX chromosomes with virilization;
- 6199 (C) is born with 46, XY chromosomes with undervirilization;
- 6200 (D) has both ovarian and testicular tissue; or
- 6201 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 6202 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 6203 hormone production, or sex steroid hormone action for a male or female; or
- 6204 (ii) removing a body part:
- 6205 (A) because the body part is cancerous or diseased; or
- 6206 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
- 6207 individual's attempted sex change.
- 6208 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
- 6209 if done for the purpose of effectuating or facilitating an individual's attempted sex change:
- 6210 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
- 6211 chest feminization surgery, or facial feminization surgery; or
- 6212 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
- 6213 reduction surgery, chest masculinization surgery, or facial masculinization surgery.
- 6214 (b) "Secondary sex characteristic surgical procedure" does not include:
- 6215 (i) surgery or other procedures or treatments performed on an individual who:
- 6216 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
- 6217 (B) is born with 46, XX chromosomes with virilization;
- 6218 (C) is born with 46, XY chromosomes with undervirilization;
- 6219 (D) has both ovarian and testicular tissue; or
- 6220 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 6221 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 6222 hormone production, or sex steroid hormone action for a male or female; or
- 6223 (ii) removing a body part:
- 6224 (A) because the body part is cancerous or diseased; or
- 6225 (B) for a reason that is medically necessary, other than to effectuate or facilitate an

6226 individual's attempted sex change.

6227 (24) "SPEX" means the Special Purpose Examination of the Federation of State
6228 Medical Boards.

6229 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
6230 and 58-67-501.

6231 (26) "Unprofessional conduct" means the same as that term is defined in Sections
6232 58-1-501 and 58-67-502, and as may be further defined by division rule.

6233 Section 91. Section 58-67-201 is amended to read:

6234 **58-67-201. Board.**

6235 (1) There is created the [~~Physicians~~] Medical Licensing Board consisting of [~~nine~~
6236 ~~physicians and surgeons and two members of the general public.~~] the following members:

6237 (a) seven physicians and surgeons;

6238 (b) two osteopathic physicians and surgeons;

6239 (c) a physician who is a board certified psychiatrist who currently works or previously
6240 worked collaboratively with a physician assistant;

6241 (d) three physician assistants, one of whom is involved in the administration of an
6242 approved physician assistant education program in the state; and

6243 (e) two members of the public.

6244 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

6245 (3) (a) In addition to any duty or responsibility described in Section 58-1-202 or
6246 58-1-203, the board shall regulate:

6247 (i) anesthesiologist assistants licensed under [~~Chapter 70b, Anesthesiologist Assistant~~
6248 Licensing Act.] Chapter 70b, Anesthesiologist Assistant Licensing Act;

6249 (ii) osteopathic physicians and surgeons licensed under Chapter 68, Utah Osteopathic
6250 Medical Practice Act; and

6251 (iii) physician assistants licensed under Chapter 70a, Utah Physician Assistant Act.

6252 (b) The board may also designate one of the board's members on a permanent or
6253 rotating basis to:

6254 (i) assist the division in reviewing complaints concerning the [~~unlawful or~~
6255 ~~unprofessional~~] conduct of a licensee the board regulates; and

6256 (ii) advise the division in the division's investigation of these complaints.

6257 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
6258 in the complaint's investigation may be disqualified from participating with the board when the
6259 board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

6260 Section 92. Section **58-68-102** is amended to read:

6261 **58-68-102. Definitions.**

6262 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

6263 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
6264 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
6265 YAG lasers.

6266 (b) "Ablative procedure" does not include hair removal.

6267 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
6268 American Medical Association.

6269 (3) "Administrative penalty" means a monetary fine imposed by the division for acts or
6270 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
6271 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
6272 Procedures Act.

6273 (4) "AOA" means the American Osteopathic Association.

6274 (5) "Associate physician" means an individual licensed under Section [58-68-302.5](#).

6275 (6) "Attempted sex change" means an attempt or effort to change an individual's body
6276 to present that individual as being of a sex or gender that is different from the individual's
6277 biological sex at birth.

6278 (7) "Biological sex at birth" means an individual's sex, as being male or female,
6279 according to distinct reproductive roles as manifested by:

6280 (a) sex and reproductive organ anatomy;

6281 (b) chromosomal makeup; and

6282 (c) endogenous hormone profiles.

6283 (8) "Board" means the [~~Osteopathic Physician and Surgeon's Licensing Board created~~
6284 ~~in Section [58-68-201](#)]~~ Medical Licensing Board created in Section [58-67-201](#).

6285 (9) "Collaborating physician" means an individual licensed under Section [58-68-302](#)
6286 who enters into a collaborative practice arrangement with an associate physician.

6287 (10) "Collaborative practice arrangement" means the arrangement described in Section

6288 58-68-807.

6289 (11) (a) "Cosmetic medical device" means tissue altering energy based devices that
6290 have the potential for altering living tissue and that are used to perform ablative or nonablative
6291 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
6292 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and
6293 excludes ANSI designated Class IIIa and lower powered devices.

6294 (b) Notwithstanding Subsection (11)(a), if an ANSI designated Class IIIa and lower
6295 powered device is being used to perform an ablative procedure, the device is included in the
6296 definition of cosmetic medical device under Subsection (11)(a).

6297 (12) "Cosmetic medical procedure":

6298 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
6299 procedures; and

6300 (b) does not include a treatment of the ocular globe such as refractive surgery.

6301 (13) "Diagnose" means:

6302 (a) to examine in any manner another person, parts of a person's body, substances,
6303 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
6304 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
6305 condition;

6306 (b) to attempt to conduct an examination or determination described under Subsection
6307 (13)(a);

6308 (c) to hold oneself out as making or to represent that one is making an examination or
6309 determination as described in Subsection (13)(a); or

6310 (d) to make an examination or determination as described in Subsection (13)(a) upon
6311 or from information supplied directly or indirectly by another person, whether or not in the
6312 presence of the person making or attempting the diagnosis or examination.

6313 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
6314 described in Subsection 58-68-305(6).

6315 (15) "Medically underserved area" means a geographic area in which there is a
6316 shortage of primary care health services for residents, as determined by the Department of
6317 Health and Human Services.

6318 (16) "Medically underserved population" means a specified group of people living in a

6319 defined geographic area with a shortage of primary care health services, as determined by the
6320 Department of Health and Human Services.

6321 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
6322 alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove
6323 living tissue.

6324 (ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair
6325 removal.

6326 (b) "Nonablative procedure" does not include:

6327 (i) a superficial procedure as defined in Section [58-1-102](#);

6328 (ii) the application of permanent make-up; or

6329 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
6330 performed by an individual licensed under this title who is acting within the individual's scope
6331 of practice.

6332 (18) "Physician" means both physicians and surgeons licensed under Section
6333 [58-67-301](#), Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
6334 Section [58-68-301](#), Utah Osteopathic Medical Practice Act.

6335 (19) (a) "Practice of osteopathic medicine" means:

6336 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
6337 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
6338 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
6339 is based upon emphasis of the importance of the musculoskeletal system and manipulative
6340 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
6341 state upon or for any human within the state;

6342 (ii) when a person not licensed as a physician directs a licensee under this chapter to
6343 withhold or alter the health care services that the licensee has ordered;

6344 (iii) to maintain an office or place of business for the purpose of doing any of the acts
6345 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

6346 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6347 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
6348 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
6349 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"

6350 "D.O.," or any combination of these designations in any manner which might cause a
6351 reasonable person to believe the individual using the designation is a licensed osteopathic
6352 physician, and if the party using the designation is not a licensed osteopathic physician, the
6353 designation must additionally contain the description of the branch of the healing arts for which
6354 the person has a license, provided that an individual who has received an earned degree of
6355 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah
6356 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
6357 in the same size and style of lettering.

6358 (b) The practice of osteopathic medicine does not include:

6359 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the
6360 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
6361 under another chapter of this title;

6362 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
6363 performing the ablative cosmetic medical procedure includes the authority to operate or
6364 perform a surgical procedure; or

6365 (iii) conduct under Subsection [58-68-501\(2\)](#).

6366 (20) "Prescription device" means an instrument, apparatus, implement, machine,
6367 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6368 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6369 and dispensed by or through a person or entity licensed under this chapter or exempt from
6370 licensure under this chapter.

6371 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
6372 be dispensed only by prescription or is restricted to administration only by practitioners.

6373 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
6374 done for the purpose of effectuating or facilitating an individual's attempted sex change:

6375 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
6376 penectomy, vaginoplasty, or vulvoplasty;

6377 (ii) for an individual whose biological sex at birth is female, hysterectomy,
6378 oophorectomy, metoidioplasty, or phalloplasty; or

6379 (iii) any surgical procedure that is related to or necessary for a procedure described in
6380 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not

6381 sterile.

6382 (b) "Primary sex characteristic surgical procedure" does not include:

6383 (i) surgery or other procedures or treatments performed on an individual who:

6384 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

6385 (B) is born with 46, XX chromosomes with virilization;

6386 (C) is born with 46, XY chromosomes with undervirilization;

6387 (D) has both ovarian and testicular tissue; or

6388 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a

6389 sex development disorder characterized by abnormal sex chromosome structure, sex steroid

6390 hormone production, or sex steroid hormone action for a male or female; or

6391 (ii) removing a body part:

6392 (A) because the body part is cancerous or diseased; or

6393 (B) for a reason that is medically necessary, other than to effectuate or facilitate an

6394 individual's attempted sex change.

6395 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following

6396 if done for the purpose of effectuating or facilitating an individual's attempted sex change:

6397 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,

6398 chest feminization surgery, or facial feminization surgery; or

6399 (ii) for an individual whose biological sex at birth is female, mastectomy, breast

6400 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

6401 (b) "Secondary sex characteristic surgical procedure" does not include:

6402 (i) surgery or other procedures or treatments performed on an individual who:

6403 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

6404 (B) is born with 46, XX chromosomes with virilization;

6405 (C) is born with 46, XY chromosomes with undervirilization;

6406 (D) has both ovarian and testicular tissue; or

6407 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a

6408 sex development disorder characterized by abnormal sex chromosome structure, sex steroid

6409 hormone production, or sex steroid hormone action for a male or female; or

6410 (ii) removing a body part:

6411 (A) because the body part is cancerous or diseased; or

6412 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
6413 individual's attempted sex change.

6414 (24) "SPEX" means the Special Purpose Examination of the Federation of State
6415 Medical Boards.

6416 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
6417 and 58-68-501.

6418 (26) "Unprofessional conduct" means the same as that term is defined in Sections
6419 58-1-501 and 58-68-502 and as may be further defined by division rule.

6420 Section 93. Section 58-70a-102 is amended to read:

6421 **58-70a-102. Definitions.**

6422 In addition to the definitions in Section 58-1-102, as used in this chapter:

6423 (1) "Board" means the [~~Physician Assistant Licensing Board created in Section~~
6424 ~~58-70a-201~~] Medical Licensing Board created in Section 58-67-201.

6425 (2) "Competence" means possessing the requisite cognitive, non-cognitive, and
6426 communicative abilities and qualities to perform effectively within the scope of practice of the
6427 physician assistant's practice while adhering to professional and ethical standards.

6428 (3) "Health care facility" means the same as that term is defined in Section 26B-2-201.

6429 (4) "Mental health therapist" means the same as that term is defined in Section
6430 58-60-102.

6431 (5) "Physician" means the same as that term is defined in Section 58-67-102.

6432 (6) "Physician assistant" means an individual who is licensed to practice under this
6433 chapter.

6434 (7) "Practice as a physician assistant" means the professional activities and conduct of
6435 a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for
6436 any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the
6437 provisions of this chapter.

6438 (8) "Practice of mental health therapy" means the same as that term is defined in
6439 Section 58-60-102.

6440 (9) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
6441 and 58-70a-502.

6442 (10) "Unprofessional conduct" means "unprofessional conduct":

6443 (a) as defined in Sections 58-1-501 and 58-70a-503; and

6444 (b) as further defined by the division by rule.

6445 Section 94. Section 58-70b-101 is amended to read:

6446 **58-70b-101. Definitions.**

6447 As used in this chapter:

6448 (1) "Anesthesiologist" means an individual who:

6449 (a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
6450 Osteopathic Medical Practice Act; and

6451 (b) has completed a residency program in anesthesiology.

6452 (2) "Anesthesiologist assistant" means an individual licensed under this chapter.

6453 (3) "Board" means the ~~[Physicians]~~ Medical Licensing Board created in Section
6454 58-67-201.

6455 (4) "Practice of assisting an anesthesiologist" means personally performing the health
6456 care services delegated to the anesthesiologist assistant by the supervising anesthesiologist in
6457 accordance with the acceptable medical practice and the American Society of
6458 Anesthesiologists' guidance for best practice of anesthesia in a care team model.

6459 (5) "Supervision standards" means standards established by the division through rule
6460 that:

6461 (a) prohibit an anesthesiologist from supervising more than four anesthesiologist
6462 assistants at any one time; and

6463 (b) comply with the rules and regulations for anesthesia service reimbursement created
6464 by the Centers for Medicare and Medicaid Services to the extent that the rules and regulations
6465 do not conflict with state law.

6466 Section 95. Section 58-71-102 is amended to read:

6467 **58-71-102. Definitions.**

6468 In addition to the definitions in Section 58-1-102, as used in this chapter:

6469 (1) "Acupuncture" means the ~~[same as that term is]~~ practice of acupuncture as defined
6470 in Section 58-72-102.

6471 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or
6472 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
6473 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative

6474 Procedures Act.

6475 (3) "Controlled substance" means the same as that term is defined in Section 58-37-2.

6476 (4) "Diagnose" means:

6477 (a) to examine in any manner another individual, parts of an individual's body,
6478 substances, fluids, or materials excreted, taken, or removed from an individual's body, or
6479 produced by an individual's body, to determine the source, nature, kind, or extent of a disease
6480 or other physical or mental condition;

6481 (b) to attempt to conduct an examination or determination described under Subsection
6482 (4)(a);

6483 (c) to hold oneself out as making or to represent that one is making an examination or
6484 determination as described in Subsection (4)(a); or

6485 (d) to make an examination or determination as described in Subsection (4)(a) upon or
6486 from information supplied directly or indirectly by another individual, whether or not in the
6487 presence of the individual the examination or determination concerns.

6488 (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled
6489 prescription drug, which:

6490 (a) is applied topically or by injection associated with the performance of minor office
6491 procedures;

6492 (b) has the ability to produce loss of sensation to a targeted area of an individual's
6493 body;

6494 (c) does not cause loss of consciousness or produce general sedation; and

6495 (d) is part of the competent practice of naturopathic medicine during minor office
6496 procedures.

6497 (6) "Medical naturopathic assistant" means an unlicensed individual working under the
6498 direct and immediate supervision of a licensed naturopathic physician and engaged in specific
6499 tasks assigned by the licensed naturopathic physician in accordance with the standards and
6500 ethics of the profession.

6501 (7) (a) "Minor office procedures" means:

6502 (i) the use of operative, electrical, or other methods for repair and care of superficial
6503 lacerations, abrasions, and benign lesions;

6504 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or

- 6505 ear;
- 6506 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical
6507 procedures; and
- 6508 (iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:
- 6509 (A) local anesthesia or a prescription drug described in Subsection (8)(d); or
6510 (B) natural substances.
- 6511 (b) "Minor office procedures" does not include:
- 6512 (i) general or spinal anesthesia;
- 6513 (ii) office procedures more complicated or extensive than those set forth in Subsection
6514 (7)(a);
- 6515 (iii) procedures involving the eye; and
- 6516 (iv) any office procedure involving nerves, veins, or arteries.
- 6517 (8) "Natural medicine" means any:
- 6518 (a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and
6519 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not
6520 designated a prescription drug or controlled substance;
- 6521 (b) over-the-counter medication;
- 6522 (c) other nonprescription substance, the prescription or administration of which is not
6523 otherwise prohibited or restricted under federal or state law; or
- 6524 (d) prescription drug:
- 6525 (i) the prescription of which is consistent with the competent practice of naturopathic
6526 medicine;
- 6527 (ii) that is not a controlled substance except for testosterone; and
- 6528 (iii) that is not any of the following as determined by the federal Food and Drug
6529 Administration's general drug category list:
- 6530 (A) an anticoagulant for the management of a bleeding disorder;
- 6531 (B) an anticonvulsant;
- 6532 (C) an antineoplastic;
- 6533 (D) an antipsychotic;
- 6534 (E) a barbiturate;
- 6535 (F) a cytotoxic;

- 6536 (G) a sedative;
- 6537 (H) a sleeping drug;
- 6538 (I) a tranquilizer; or
- 6539 (J) any drug category added after April 1, 2022, unless the division determines the drug
- 6540 category to be consistent with the practice of naturopathic medicine under Section [58-71-203](#).
- 6541 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a
- 6542 naturopathic physician.
- 6543 (b) "Naturopathic childbirth" includes the use of:
- 6544 (i) natural medicines; and
- 6545 (ii) uncomplicated episiotomy.
- 6546 (c) "Naturopathic childbirth" does not include the use of:
- 6547 (i) forceps delivery;
- 6548 (ii) general or spinal anesthesia;
- 6549 (iii) caesarean section delivery; or
- 6550 (iv) induced labor or abortion.
- 6551 (10) (a) "Naturopathic mobilization therapy" means manually administering
- 6552 mechanical treatment of body structures or tissues for the purpose of restoring normal
- 6553 physiological function to the body by normalizing and balancing the musculoskeletal system of
- 6554 the body.
- 6555 (b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of
- 6556 the joints of the human body beyond the elastic barrier.
- 6557 (c) "Naturopathic mobilization therapy" does not include manipulation as used in
- 6558 Chapter 73, Chiropractic Physician Practice Act.
- 6559 (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air,
- 6560 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical
- 6561 modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound,
- 6562 hydrotherapy, naturopathic mobilization therapy, and exercise.
- 6563 (b) "Naturopathic physical medicine" does not include the practice of physical therapy
- 6564 or physical rehabilitation.
- 6565 (12) "Naturopathic physician" means an individual licensed under this chapter to
- 6566 engage in the practice of naturopathic medicine.

- 6567 (13) "Practice of naturopathic medicine" means:
- 6568 (a) a system of primary health care for the prevention, diagnosis, and treatment of
- 6569 human health conditions, injuries, and diseases that uses education, natural medicines, and
- 6570 natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:
- 6571 (i) using naturopathic childbirth, but only if:
- 6572 (A) the licensee meets standards of the American College of Naturopathic
- 6573 Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration
- 6574 with the board; and
- 6575 (B) the licensee follows a written plan for naturopathic physicians practicing
- 6576 naturopathic childbirth approved by the division in collaboration with the board, which
- 6577 includes entering into an agreement with a consulting physician and surgeon or osteopathic
- 6578 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and
- 6579 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic
- 6580 physician will:
- 6581 (I) refer patients to the consulting physician; and
- 6582 (II) consult with the consulting physician;
- 6583 (ii) using naturopathic mobilization therapy;
- 6584 (iii) using naturopathic physical medicine;
- 6585 (iv) using minor office procedures;
- 6586 (v) prescribing or administering natural medicine;
- 6587 (vi) prescribing medical equipment and devices, diagnosing by the use of medical
- 6588 equipment and devices, and administering therapy or treatment by the use of medical devices
- 6589 necessary and consistent with the competent practice of naturopathic medicine;
- 6590 (vii) prescribing barrier devices for contraception;
- 6591 (viii) using dietary therapy;
- 6592 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and
- 6593 physiological function tests;
- 6594 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in
- 6595 diagnosis;
- 6596 (xi) taking of a history from and conducting of a physical examination upon a human
- 6597 patient; and

6598 (xii) administering local anesthesia during the performance of a minor office
6599 procedure;

6600 (b) to maintain an office or place of business for the purpose of doing any of the acts
6601 described in Subsection (13)(a), whether or not for compensation; or

6602 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6603 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
6604 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic
6605 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"
6606 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"
6607 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that
6608 might cause a reasonable person to believe the individual using the designation is a licensed
6609 naturopathic physician.

6610 (14) "Prescribe" means to issue a prescription:

6611 (a) orally or in writing; or

6612 (b) by telephone, facsimile transmission, computer, or other electronic means of
6613 communication as defined by division rule.

6614 (15) "Prescription device" means an instrument, apparatus, implement, machine,
6615 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6616 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6617 and dispensed by or through a person licensed under this chapter or exempt from licensure
6618 under this chapter.

6619 (16) "Prescription drug" means a drug that is required by federal or state law or rule to
6620 be dispensed only by prescription or is restricted to administration only by practitioners.

6621 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
6622 and 58-71-501.

6623 (18) "Unprofessional conduct" means the same as that term is defined in Sections
6624 58-1-501 and 58-71-502, and as may be further defined by division rule.

6625 Section 96. Section 58-72-102 is amended to read:

6626 **58-72-102. Acupuncture licensing -- Definitions.**

6627 In addition to the definitions in Section 58-1-102, as used in this chapter:

6628 (1) "Board" means the [~~Acupuncture Licensing Board created in Section 58-72-201~~]

6629 Board of Massage Therapy and Acupuncture created in Section [58-47b-201](#).

6630 (2) (a) "Injection therapy" means the use of a hypodermic needle, by a licensed
6631 acupuncturist who has obtained a clean needle technique certificate from the National
6632 Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM), to inject
6633 any of the following sterile substances in liquid form into acupuncture points on the body
6634 subcutaneously or intramuscularly:

6635 (i) a nutritional substance;

6636 (ii) a local anesthetic;

6637 (iii) autologous blood, if the licensee holds a current phlebotomy certification to draw
6638 blood;

6639 (iv) sterile water;

6640 (v) dextrose;

6641 (vi) sodium bicarbonate; and

6642 (vii) sterile saline.

6643 (b) "Injection therapy" includes using ultrasound guidance to ensure that an injection is
6644 only a subcutaneous injection or an intramuscular injection.

6645 (c) "Injection therapy" does not include injecting a substance into a vein, joint, artery,
6646 blood vessel, nerve, tendon, deep organ, or the spine.

6647 (d) "Injection therapy" may not be performed on a pregnant woman or a child under the
6648 age of eight.

6649 (3) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been
6650 licensed under this chapter to practice acupuncture.

6651 (4) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture
6652 points of the body.

6653 (5) (a) "Practice of acupuncture" means the insertion of acupuncture needles, the use of
6654 injection therapy, and the application of moxibustion to specific areas of the body based on
6655 traditional oriental medical diagnosis and modern research as a primary mode of therapy.

6656 (b) Adjunctive therapies within the scope of the practice of acupuncture may include:

6657 (i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based
6658 on traditional oriental medical diagnosis and modern research;

6659 (ii) the recommendation, administration, or provision of dietary guidelines, herbs,

6660 supplements, homeopathics, and therapeutic exercise based on traditional oriental medical
6661 diagnosis and modern research according to practitioner training; and

6662 (iii) the practice described in Subsections (5)(a) and (b) on an animal to the extent
6663 permitted by:

6664 (A) Subsection 58-28-307(12);

6665 (B) the provisions of this chapter; and

6666 (C) division rule.

6667 (c) "Practice of acupuncture" does not include:

6668 (i) the manual manipulation or adjustment of the joints of the body beyond the elastic
6669 barrier; or

6670 (ii) the "manipulation of the articulation of the spinal column" as defined in Section
6671 58-73-102.

6672 (6) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as
6673 may be further defined by division rule.

6674 Section 97. Section 58-88-205 is amended to read:

6675 **58-88-205. Operating standards -- Rulemaking.**

6676 (1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
6677 Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing
6678 practice licensed under this part which shall include, but is not limited to, standards for:

6679 (a) security;

6680 (b) labeling;

6681 (c) storage;

6682 (d) supervision;

6683 (e) inventory control; and

6684 (f) patient counseling.

6685 (2) The division may designate individual medications and classes of medications that
6686 may not be dispensed at a licensed dispensing practice under this chapter.

6687 (3) When making rules under this part, the division shall consult with a group
6688 consisting of:

6689 (a) two members of the [~~Physicians~~] Medical Licensing Board created in Section
6690 58-67-201; and

6691 (b) two members of the Utah State Board of Pharmacy created in Section [58-17b-201](#).

6692 Section 98. Section **63C-1-103** is enacted to read:

6693 **63C-1-103. Appointment and terms of boards transitioning on October 1, 2024.**

6694 (1) As used in this section:

6695 (a) "Enacted committee" means the following as constituted on or after October 1,
6696 2024:

6697 (i) the Physical Therapies Licensing Board created in Section [58-24b-201](#);

6698 (ii) the Board of Nursing and Certified Nurse Midwives created in Section [58-31b-201](#);

6699 (iii) the Architects and Landscape Architects Licensing Board created in Section
6700 [58-3a-201](#);

6701 (iv) the Construction Services Commission created in Section [58-55-103](#);

6702 (v) the Board of Massage Therapy and Acupuncture created in Section [58-47b-201](#);

6703 and

6704 (vi) the Medical Licensing Board created in Section [58-67-201](#).

6705 (b) "Expired committee" means:

6706 (i) the following which, in accordance with Title 63I, Chapter 2, Repeal Dates by Title
6707 Act, are repealed on October 1, 2024:

6708 (A) the Board of Occupational Therapy created in Section [58-42a-201](#);

6709 (B) the Certified Nurse Midwife Board created in Section [58-44a-201](#);

6710 (C) the Landscape Architects Board created in Section [58-53-201](#);

6711 (D) the Acupuncture Licensing Board created in Section [58-72-201](#);

6712 (E) the Osteopathic Physician and Surgeon's Licensing Board created in Section
6713 [58-68-201](#); and

6714 (F) the Physician Assistant Licensing Board created in Section [58-70a-201](#); and

6715 (ii) the following as constituted before October 1, 2024:

6716 (A) the Physical Therapy Licensing Board created in Section [58-24b-201](#);

6717 (B) the Board of Nursing created in Section [58-31b-201](#);

6718 (C) the Architects Licensing Board created in Section [58-3a-201](#);

6719 (D) the Plumbers Licensing Board created in Section [58-55-201](#);

6720 (E) the Electricians Licensing Board created in Section [58-55-201](#);

6721 (F) the Board of Massage Therapy created in Section [58-47b-201](#); and

6722 (G) the Physicians Licensing Board created in Section 58-67-201.
6723 (2) An individual who is appointed as a member of an expired committee is removed
6724 from the expired committee after September 30, 2024.
6725 (3) (a) On or after May 1, 2024, but before October 1, 2024:
6726 (i) the appointing authority of an enacted committee may appoint a member to the
6727 enacted committee in accordance with the section governing appointment to the enacted
6728 committee; and
6729 (ii) if applicable under the section governing appointment to the enacted committee,
6730 the Senate may provide advice and consent.
6731 (b) A member described in Subsection (3)(a) may not begin the individual's term of
6732 service on the enacted committee before October 1, 2024.
6733 (4) (a) Nothing in this section prevents an appointing authority from appointing an
6734 individual who is removed from an expired committee in accordance with Subsection (2) to an
6735 enacted committee if the individual's appointment meets the requirements of the section
6736 governing appointment to the enacted committee.
6737 (b) If an individual is removed from an expired committee under Subsection (2) and is
6738 then appointed to an enacted committee under Subsection (3)(a), and the appointed position has
6739 limited terms an individual may serve, the appointment under Subsection (3)(a) does not count
6740 as an additional term.
6741 Section 99. Section **63I-1-204** is amended to read:
6742 **63I-1-204. Repeal dates: Title 4.**
6743 (1) Section **4-2-108**, which creates the Agricultural Advisory Board, is repealed July 1,
6744 2028.
6745 (2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.
6746 (3) Section **4-17-104**, which creates the State Weed Committee, is repealed July 1,
6747 2026.
6748 (4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.
6749 (5) Section **4-20-103**, which creates the Utah Grazing Improvement Program Advisory
6750 Board, is repealed July 1, 2032.
6751 (6) Sections **4-23-104** and **4-23-105**, which create the Agricultural and Wildlife
6752 Damage Prevention Board, are repealed July 1, 2024.

6753 (7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1,
6754 2025.

6755 [~~(8)~~ Section 4-35-103, which creates the Decision and Action Committee, is repealed
6756 July 1, 2026.]

6757 [~~(9)~~ (8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council,
6758 is repealed July 1, 2027.

6759 Section 100. Section 63I-1-207 is amended to read:

6760 **63I-1-207. Repeal dates: Title 7.**

6761 [~~(1)~~] Section 7-1-203, which creates the Board of Financial Institutions, is repealed
6762 July 1, 2031.

6763 [~~(2)~~ Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1,
6764 2032.]

6765 [~~(3)~~ Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July
6766 1, 2033.]

6767 Section 101. Section 63I-1-213 is amended to read:

6768 **63I-1-213. Repeal dates: Title 13.**

6769 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1,
6770 2034.

6771 [~~(2)~~ Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise
6772 Advisory Board, is repealed July 1, 2027.]

6773 [~~(3)~~ Section 13-35-103, which creates the Powersport Motor Vehicle Franchise
6774 Advisory Board, is repealed July 1, 2032.]

6775 [~~(4)~~ (2) Section 13-43-202, which creates the Land Use and Eminent Domain
6776 Advisory Board, is repealed July 1, 2026.

6777 Section 102. Section 63I-1-219 is amended to read:

6778 **63I-1-219. Repeal dates: Title 19.**

6779 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

6780 [~~(2)~~ Section 19-2a-102 is repealed July 1, 2026.]

6781 [~~(3)~~ Section 19-2a-104 is repealed July 1, 2022.]

6782 [~~(4)~~ (2) (a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

6783 (b) Notwithstanding Subsection [~~(4)~~(a)] (2)(a), Section 19-4-115, Drinking water

6784 quality in schools and child care centers, is repealed July 1, 2027.

6785 [~~(5)~~] (3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

6786 [~~(6)~~] (4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,
6787 2029.

6788 [~~(7)~~] (5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed
6789 July 1, 2030.

6790 [~~(8)~~] (6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,
6791 2028.

6792 [~~(9)~~] (7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1,
6793 2026.

6794 [~~(10)~~] (8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1,
6795 2029.

6796 [~~(11)~~] (9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1,
6797 2030.

6798 [~~(12)~~] (10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July
6799 1, 2027.

6800 Section 103. Section **63I-1-234** is amended to read:

6801 **63I-1-234. Repeal dates: Titles 34 and 34A.**

6802 (1) Subsection [~~34A-1-202(2)(c)(i)~~] [34A-1-202\(2\)\(b\)\(i\)](#), related to the Workers'
6803 Compensation Advisory Council, is repealed July 1, 2027.

6804 (2) Subsection [~~34A-1-202(2)(c)(iii)~~] [34A-1-202\(2\)\(b\)\(iii\)](#), related to the Coal Miner
6805 Certification Panel, is repealed July 1, 2024.

6806 (3) Section [34A-2-107](#), which creates the Workers' Compensation Advisory Council, is
6807 repealed July 1, 2027.

6808 (4) Section [34A-2-202.5](#) is repealed December 31, 2030.

6809 Section 104. Section **63I-1-235** is amended to read:

6810 **63I-1-235. Repeal dates: Title 35A.**

6811 (1) Subsection [35A-1-202\(2\)\(d\)](#), related to the Child Care Advisory Committee, is
6812 repealed July 1, 2026.

6813 (2) Section [35A-3-205](#), which creates the Child Care Advisory Committee, is repealed
6814 July 1, 2026.

6815 (3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is
6816 repealed July 1, 2032.

6817 (4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July
6818 1, 2028.

6819 (5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on
6820 Employment of People with Disabilities, are repealed July 1, 2028.

6821 (6) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is
6822 repealed July 1, 2024.

6823 ~~[(7) Section 35A-13-404, which creates the advisory council for the Division of~~
6824 ~~Services for the Blind and Visually Impaired, is repealed July 1, 2025.]~~

6825 ~~[(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification~~
6826 ~~Board, are repealed July 1, 2026.]~~

6827 Section 105. Section 63I-1-236 is amended to read:

6828 **63I-1-236. Repeal dates: Title 36.**

6829 (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

6830 (2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
6831 January 1, 2025.

6832 ~~[(3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1,~~
6833 ~~2028.]~~

6834 ~~[(4)]~~ (3) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

6835 Section 106. Section 63I-1-241 is amended to read:

6836 **63I-1-241. Repeal dates: Title 41.**

6837 (1) Subsection 41-1a-1201(8), related to the Neuro-Rehabilitation Fund, is repealed
6838 January 1, 2025.

6839 ~~[(2) Section 41-3-106, which creates an advisory board related to motor vehicle~~
6840 ~~business regulation, is repealed July 1, 2024.]~~

6841 ~~[(3)]~~ (2) The following subsections addressing lane filtering are repealed on July 1,
6842 2027:

6843 (a) the subsection in Section 41-6a-102 that defines "lane filtering";

6844 (b) Subsection 41-6a-704(5); and

6845 (c) Subsection 41-6a-710(1)(c).

6846 [(4)] (3) Subsection 41-6a-1406(6)(b)(iii), related to the Neuro-Rehabilitation Fund, is
6847 repealed January 1, 2025.

6848 [(5)] (4) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council
6849 that includes in the advisory council's duties addressing off-highway vehicle issues, are
6850 repealed July 1, 2027.

6851 [(6)] (5) Subsection 41-22-8(3), related to the Neuro-Rehabilitation Fund, is repealed
6852 January 1, 2025.

6853 Section 107. Section 63I-1-253 (Superseded 07/01/24) is amended to read:

6854 **63I-1-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**

6855 (1) Section 53-2a-105, which creates the Emergency Management Administration
6856 Council, is repealed July 1, 2027.

6857 (2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory
6858 Board, are repealed July 1, 2027.

6859 (3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed
6860 July 1, 2024.

6861 [~~(4)~~] Section ~~53B-6-105.5~~, which creates the Technology Initiative Advisory Board, is
6862 repealed July 1, 2024.]

6863 [(5)] (4) Section 53B-7-709, regarding five-year performance goals for the Utah
6864 System of Higher Education is repealed July 1, 2027.

6865 [(6)] (5) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
6866 repealed July 1, 2028.

6867 [(7)] (6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

6868 [(8)] (7) Section 53B-17-1203, which creates the SafeUT and School Safety
6869 Commission, is repealed January 1, 2025.

6870 [(9)] (8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

6871 [(10)] (9) Title 53B, Chapter 18, Part 18, Electrification of Transportation
6872 Infrastructure Research Center, is repealed on July 1, 2028.

6873 [(11)] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of
6874 money from the Land Exchange Distribution Account to the Geological Survey for test wells
6875 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

6876 [(12)] (11) Subsections 53E-3-503(5) and (6), which create coordinating councils for

6877 youth in custody, are repealed July 1, 2027.

6878 ~~[(13)]~~ (12) In relation to a standards review committee, on January 1, 2028:

6879 (a) in Subsection [53E-4-202](#)(8), the language "by a standards review committee and the
6880 recommendations of a standards review committee established under Section [53E-4-203](#)" is
6881 repealed; and

6882 (b) Section [53E-4-203](#) is repealed.

6883 ~~[(14) Section [53E-4-402](#), which creates the State Instructional Materials Commission,
6884 is repealed July 1, 2027.]~~

6885 ~~[(15)]~~ (13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
6886 Commission, is repealed July 1, 2033.

6887 ~~[(16)]~~ (14) Section [53F-2-420](#), which creates the Intensive Services Special Education
6888 Pilot Program, is repealed July 1, 2024.

6889 ~~[(17)]~~ (15) Section [53F-5-213](#) is repealed July 1, 2023.

6890 ~~[(18)]~~ (16) Section [53F-5-214](#), in relation to a grant for professional learning, is
6891 repealed July 1, 2025.

6892 ~~[(19)]~~ (17) Section [53F-5-215](#), in relation to an elementary teacher preparation grant, is
6893 repealed July 1, 2025.

6894 ~~[(20)]~~ (18) Section [53F-5-219](#), which creates the Local Innovations Civics Education
6895 Pilot Program, is repealed on July 1, 2025.

6896 ~~[(21) Subsection [53F-9-203](#)(7), which creates the Charter School Revolving Account
6897 Committee, is repealed July 1, 2024.]~~

6898 ~~[(22)]~~ (19) Subsections [53G-4-608](#)(2)(b) and (4)(b), related to the Utah Seismic Safety
6899 Commission, are repealed January 1, 2025.

6900 ~~[(23)]~~ (20) Section [53G-9-212](#), Drinking water quality in schools, is repealed July 1,
6901 2027.

6902 ~~[(24)]~~ (21) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
6903 July 1, 2027.

6904 Section 108. Section **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)** is amended to
6905 read:

6906 **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25). Repeal dates: Titles 53 through**
6907 **53G.**

6908 (1) Section 53-2a-105, which creates the Emergency Management Administration
6909 Council, is repealed July 1, 2027.

6910 (2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory
6911 Board, are repealed July 1, 2027.

6912 (3) Section 53-2d-703 is repealed July 1, 2027.

6913 (4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed
6914 July 1, 2024.

6915 [~~(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is~~
6916 ~~repealed July 1, 2024.~~]

6917 [~~(6)~~ (5) Section 53B-7-709, regarding five-year performance goals for the Utah
6918 System of Higher Education is repealed July 1, 2027.

6919 [~~(7)~~ (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
6920 repealed July 1, 2028.

6921 [~~(8)~~ (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

6922 [~~(9)~~ (8) Section 53B-17-1203, which creates the SafeUT and School Safety
6923 Commission, is repealed January 1, 2025.

6924 [~~(10)~~ (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1,
6925 2028.

6926 [~~(11)~~ (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation
6927 Infrastructure Research Center, is repealed on July 1, 2028.

6928 [~~(12)~~ (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of
6929 money from the Land Exchange Distribution Account to the Geological Survey for test wells
6930 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

6931 [~~(13)~~ (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for
6932 youth in custody, are repealed July 1, 2027.

6933 [~~(14)~~ (13) In relation to a standards review committee, on January 1, 2028:

6934 (a) in Subsection 53E-4-202(8), the language "by a standards review committee and the
6935 recommendations of a standards review committee established under Section 53E-4-203" is
6936 repealed; and

6937 (b) Section 53E-4-203 is repealed.

6938 [~~(15) Section 53E-4-402, which creates the State Instructional Materials Commission,~~

6939 is repealed July 1, 2027.]

6940 [(16)] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
6941 Commission, is repealed July 1, 2033.

6942 [(17)] (15) Section 53F-2-420, which creates the Intensive Services Special Education
6943 Pilot Program, is repealed July 1, 2024.

6944 [(18)] (16) Section 53F-5-213 is repealed July 1, 2023.

6945 [(19)] (17) Section 53F-5-214, in relation to a grant for professional learning, is
6946 repealed July 1, 2025.

6947 [(20)] (18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is
6948 repealed July 1, 2025.

6949 [(21)] (19) Section 53F-5-219, which creates the Local Innovations Civics Education
6950 Pilot Program, is repealed on July 1, 2025.

6951 [(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account
6952 Committee, is repealed July 1, 2024.]

6953 [(23)] (20) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
6954 Commission, are repealed January 1, 2025.

6955 [(24)] (21) Section 53G-9-212, Drinking water quality in schools, is repealed July 1,
6956 2027.

6957 [(25)] (22) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
6958 July 1, 2027.

6959 Section 109. Section 63I-1-253 (Contingently Effective 01/01/25) is amended to read:
6960 **63I-1-253 (Contingently Effective 01/01/25). Repeal dates: Titles 53 through 53G.**

6961 (1) Section 53-2a-105, which creates the Emergency Management Administration
6962 Council, is repealed July 1, 2027.

6963 (2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory
6964 Board, are repealed July 1, 2027.

6965 (3) Section 53-2d-703 is repealed July 1, 2027.

6966 (4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed
6967 July 1, 2024.

6968 [(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is
6969 repealed July 1, 2024.]

- 6970 [(6)] (5) Section 53B-7-709, regarding five-year performance goals for the Utah
6971 System of Higher Education is repealed July 1, 2027.
- 6972 [(7)] (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
6973 repealed July 1, 2028.
- 6974 [(8)] (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.
- 6975 [(9)] (8) Section 53B-17-1203, which creates the SafeUT and School Safety
6976 Commission, is repealed January 1, 2025.
- 6977 [(10)] (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1,
6978 2028.
- 6979 [(11)] (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation
6980 Infrastructure Research Center, is repealed on July 1, 2028.
- 6981 [(12)] (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of
6982 money from the Land Exchange Distribution Account to the Geological Survey for test wells
6983 and other hydrologic studies in the West Desert, is repealed July 1, 2030.
- 6984 [(13)] (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for
6985 youth in custody, are repealed July 1, 2027.
- 6986 [(14)] (13) In relation to a standards review committee, on January 1, 2028:
6987 (a) in Subsection 53E-4-202(8), the language "by a standards review committee and the
6988 recommendations of a standards review committee established under Section 53E-4-203" is
6989 repealed; and
- 6990 (b) Section 53E-4-203 is repealed.
- 6991 ~~[(15)] Section 53E-4-402, which creates the State Instructional Materials Commission,
6992 is repealed July 1, 2027.]~~
- 6993 [(16)] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
6994 Commission, is repealed July 1, 2033.
- 6995 [(17)] (15) Section 53F-2-420, which creates the Intensive Services Special Education
6996 Pilot Program, is repealed July 1, 2024.
- 6997 [(18)] (16) Section 53F-5-213 is repealed July 1, 2023.
- 6998 [(19)] (17) Section 53F-5-214, in relation to a grant for professional learning, is
6999 repealed July 1, 2025.
- 7000 [(20)] (18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is

7001 repealed July 1, 2025.

7002 ~~[(21)]~~ (19) Section [53F-5-219](#), which creates the Local Innovations Civics Education
7003 Pilot Program, is repealed on July 1, 2025.

7004 ~~[(22)]~~ (20) (a) Subsection [53F-9-201.1\(2\)\(b\)\(ii\)](#), in relation to the use of funds from a
7005 loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

7006 (b) On July 1, 2030, the Office of Legislative Research and General Counsel shall
7007 renumber the remaining subsections accordingly.

7008 ~~[(23)]~~ Subsection [53F-9-203\(7\)](#), which creates the Charter School Revolving Account
7009 Committee, is repealed July 1, 2024.]

7010 ~~[(24)]~~ (21) Subsections [53G-4-608\(2\)\(b\)](#) and [\(4\)\(b\)](#), related to the Utah Seismic Safety
7011 Commission, are repealed January 1, 2025.

7012 ~~[(25)]~~ (22) Section [53G-9-212](#), Drinking water quality in schools, is repealed July 1,
7013 2027.

7014 ~~[(26)]~~ (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
7015 July 1, 2027.

7016 Section 110. Section **63I-1-258** is amended to read:

7017 **63I-1-258. Repeal dates: Title 58.**

7018 ~~[(1)]~~ Section [58-3a-201](#), which creates the Architects Licensing Board, is repealed July
7019 1, 2026.]

7020 ~~[(2)]~~ (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
7021 repealed July 1, 2026.

7022 ~~[(3)]~~ (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1,
7023 2025.

7024 ~~[(4)]~~ (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
7025 2028.

7026 ~~[(5)]~~ (4) Subsection [58-37-6\(7\)\(f\)\(iii\)](#), relating to the seven-day opiate supply
7027 restriction, is repealed July 1, 2032, and the Office of Legislative Research and General
7028 Counsel is authorized to renumber the remaining subsections accordingly.

7029 ~~[(6)]~~ (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
7030 2033.

7031 ~~[(7)]~~ (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing

7032 Act, is repealed July 1, 2029.

7033 ~~[(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,~~
7034 ~~2025.]~~

7035 ~~[(9)]~~ (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
7036 repealed July 1, 2033.

7037 ~~[(10)]~~ (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
7038 2024.

7039 ~~[(11)]~~ (9) Subsection 58-55-201(2), which creates the Alarm System and Security
7040 Licensing Advisory Board, is repealed July 1, 2027.

7041 ~~[(12) Subsection 58-60-405(3), regarding certain educational qualifications for~~
7042 ~~licensure and reporting, is repealed July 1, 2032.]~~

7043 ~~[(13)]~~ (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
7044 July 1, 2026.

7045 ~~[(14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.]~~

7046 Section 111. Section **63I-1-263** is amended to read:

7047 **63I-1-263. Repeal dates: Titles 63A to 63N.**

7048 (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital
7049 improvement funding, is repealed July 1, 2024.

7050 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
7051 2023.

7052 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
7053 Committee, are repealed July 1, 2023.

7054 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
7055 1, 2028.

7056 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
7057 2025.

7058 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
7059 2024.

7060 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
7061 repealed July 1, 2023.

7062 (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed

7063 December 31, 2026.

7064 (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
7065 repealed July 1, 2026.

7066 (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

7067 (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

7068 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December
7069 31, 2024.

7070 (13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is
7071 repealed on July 1, 2028.

7072 (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities
7073 Advisory Board, is repealed July 1, 2026.

7074 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
7075 2028.

7076 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
7077 2024.

7078 (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

7079 (18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is
7080 repealed January 1, 2025.

7081 (19) Section 63L-11-204, creating a canyon resource management plan to Provo
7082 Canyon, is repealed July 1, 2025.

7083 (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
7084 repealed July 1, 2027.

7085 (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on
7086 January 1, 2033:

7087 (a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are
7088 repealed;

7089 (b) Section 63M-7-305, the language that states "council" is replaced with
7090 "commission";

7091 (c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

7092 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

7093 (d) Subsection 63M-7-305(2) is repealed and replaced with:

7094 "(2) The commission shall:

7095 (a) provide ongoing oversight of the implementation, functions, and evaluation of the

7096 Drug-Related Offenses Reform Act; and

7097 (b) coordinate the implementation of Section 77-18-104 and related provisions in

7098 Subsections 77-18-103(2)(c) and (d)."

7099 (22) The Crime Victim Reparations and Assistance Board, created in Section

7100 63M-7-504, is repealed July 1, 2027.

7101 ~~[(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,~~

7102 ~~2026.]~~

7103 ~~[(24) (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,~~

7104 ~~2026.~~

7105 ~~[(25) (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is~~

7106 ~~repealed January 1, 2025.~~

7107 ~~[(26) (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.~~

7108 ~~[(27) (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed~~

7109 ~~July 1, 2028.~~

7110 ~~[(28) (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is~~

7111 ~~repealed July 1, 2027.~~

7112 ~~[(29) (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant~~

7113 ~~Program, is repealed July 1, 2025.~~

7114 ~~[(30) (29) In relation to the Rural Employment Expansion Program, on July 1, 2028:~~

7115 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;

7116 and

7117 (b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion

7118 Program, is repealed.

7119 ~~[(31) (30) In relation to the Board of Tourism Development, on July 1, 2025:~~

7120 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

7121 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is

7122 repealed and replaced with "Utah Office of Tourism";

7123 (c) Subsection 63N-7-101(1), which defines "board," is repealed;

7124 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive

7125 approval from the Board of Tourism Development, is repealed; and

7126 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

7127 ~~[(32)]~~ (31) Subsection [63N-8-103](#)(3)(c), which allows the Governor's Office of
7128 Economic Opportunity to issue an amount of tax credit certificates only for rural productions,
7129 is repealed on July 1, 2024.

7130 Section 112. Section **63I-1-265** is amended to read:

7131 **63I-1-265. Repeal dates: Title 65A.**

7132 ~~[Section [65A-8-306](#), which creates the Heritage Trees Advisory Committee, is repealed~~
7133 ~~July 1, 2026.]~~

7134 Section 113. Section **63I-1-279** is amended to read:

7135 **63I-1-279. Repeal dates: Title 79.**

7136 ~~[(1) Subsection [79-2-201](#)(2)(p), related to the Heritage Trees Advisory Committee, is~~
7137 ~~repealed July 1, 2026.]~~

7138 ~~[(2)]~~ (1) Subsection [~~[79-2-201](#)(2)(q)~~] [79-2-201](#)(2)(o), related to the Utah Outdoor
7139 Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

7140 ~~[(3)]~~ (2) Subsection [~~[79-2-201](#)(2)(r)(i)~~] [79-2-201](#)(2)(p)(i), related to an advisory
7141 council created by the Division of Outdoor Recreation to advise on boating policies, is repealed
7142 July 1, 2024.

7143 ~~[(4)]~~ (3) Subsection [~~[79-2-201](#)(2)(s)~~] [79-2-201](#)(2)(q), related to the Wildlife Board
7144 Nominating Committee, is repealed July 1, 2028.

7145 ~~[(5)]~~ (4) Subsection [~~[79-2-201](#)(2)(t)~~] [79-2-201](#)(2)(r), related to regional advisory
7146 councils for the Wildlife Board, is repealed July 1, 2028.

7147 ~~[(6)]~~ (5) Section [79-7-206](#), creating the Utah Outdoor Recreation Infrastructure
7148 Advisory Committee, is repealed July 1, 2027.

7149 ~~[(7)]~~ (6) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant
7150 Program, is repealed January 1, 2028.

7151 Section 114. Section **63I-2-204** is amended to read:

7152 **63I-2-204. Repeal dates: Title 4.**

7153 ~~[(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30,~~
7154 ~~2027.]~~

7155 ~~[(2)]~~ (1) Subsection [4-41a-102](#)(4), defining the Cannabis Research Review Board, is

7156 repealed July 1, 2026.

7157 (2) Section [4-41a-102.1](#) is repealed January 1, 2024.

7158 (3) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for
7159 Agricultural Education and Leadership, is repealed on July 1, 2024.

7160 (4) Section [4-46-104](#), Transition, is repealed July 1, 2024.

7161 Section 115. Section **63I-2-207** is enacted to read:

7162 **63I-2-207. Repeal dates: Title 7.**

7163 (1) Section [7-3-40](#) is repealed October 1, 2024.

7164 (2) Section [7-9-43](#) is repealed October 1, 2024.

7165 Section 116. Section **63I-2-209** is amended to read:

7166 **63I-2-209. Repeal dates: Title 9.**

7167 (1) Section [9-9-112](#), Bears Ears Visitor Center Advisory Committee, is repealed
7168 December 31, 2024.

7169 [~~(2) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is~~
7170 ~~repealed June 30, 2021.~~]

7171 [~~(3)~~] (2) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural
7172 Exchange Restricted Account Act, is repealed on July 1, 2024.

7173 [~~(4)~~] (3) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted
7174 Account Act, is repealed on July 1, 2024.

7175 [~~(5)~~] (4) Title 9, Chapter 19, National Professional Men's Soccer Team Support of
7176 Building Communities Restricted Account Act, is repealed on July 1, 2024.

7177 Section 117. Section **63I-2-213** is amended to read:

7178 **63I-2-213. Repeal dates: Title 13.**

7179 (1) Section [13-1-16](#) is repealed on July 1, 2024.

7180 (2) Section [13-14-103](#) is repealed October 1, 2024.

7181 (3) Section [13-35-103](#) is repealed October 1, 2024.

7182 [~~(2)~~] (4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the
7183 program start date, as defined in Section [63G-12-102](#).

7184 Section 118. Section **63I-2-226 (Superseded 07/01/24)** is amended to read:

7185 **63I-2-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.**

7186 (1) Subsection [26B-1-204\(2\)\(e\)](#), related to the Air Ambulance Committee, is repealed

7187 July 1, 2024.

7188 (2) Section [26B-1-241](#) is repealed July 1, 2024.

7189 (3) Section [26B-1-302](#) is repealed on July 1, 2024.

7190 (4) Section [26B-1-313](#) is repealed on July 1, 2024.

7191 (5) Section [26B-1-314](#) is repealed on July 1, 2024.

7192 (6) Section [26B-1-321](#) is repealed on July 1, 2024.

7193 (7) Section [26B-1-405](#), related to the Air Ambulance Committee, is repealed on July 1,
7194 2024.

7195 (8) Section [26B-1-419](#), which creates the Utah Health Care Workforce Financial
7196 Assistance Program Advisory Committee, is repealed July 1, 2027.

7197 (9) Section [26B-1-420](#), which creates the Cannabis Research Review Board, is
7198 repealed July 1, 2026.

7199 (10) Subsection [26B-1-421\(9\)\(a\)](#) is repealed July 1, 2026.

7200 [~~9~~] (11) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
7201 [26B-2-231\(1\)\(a\)](#) is amended to read:

7202 "(a) provide the patient or the patient's representative with the following information
7203 before contacting an air medical transport provider:

7204 (i) which health insurers in the state the air medical transport provider contracts with;

7205 (ii) if sufficient data is available, the average charge for air medical transport services
7206 for a patient who is uninsured or out of network; and

7207 (iii) whether the air medical transport provider balance bills a patient for any charge not
7208 paid by the patient's health insurer; and".

7209 [~~10~~] (12) Section [26B-3-142](#) is repealed July 1, 2024.

7210 [~~11~~] (13) Subsection [26B-3-215\(5\)](#), related to reporting on coverage for in vitro
7211 fertilization and genetic testing, is repealed July 1, 2030.

7212 (14) Subsection [26B-4-201\(4\)](#), defining the Cannabis Research Review Board, is
7213 repealed July 1, 2026.

7214 [~~12~~] (15) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
7215 [26B-4-135\(1\)\(a\)](#) is amended to read:

7216 "(a) provide the patient or the patient's representative with the following information
7217 before contacting an air medical transport provider:

7218 (i) which health insurers in the state the air medical transport provider contracts with;

7219 (ii) if sufficient data is available, the average charge for air medical transport services

7220 for a patient who is uninsured or out of network; and

7221 (iii) whether the air medical transport provider balance bills a patient for any charge not

7222 paid by the patient's health insurer; and".

7223 (16) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is

7224 repealed July 1, 2026.

7225 [~~(13)~~] (17) Section 26B-4-702, related to the Utah Health Care Workforce Financial

7226 Assistance Program, is repealed July 1, 2027.

7227 [~~(14)~~] (18) Section 26B-5-117, related to early childhood mental health support grant

7228 programs, is repealed January 2, 2025.

7229 [~~(15)~~] (19) Subsection 26B-7-117(3), related to reports to the Legislature on syringe

7230 exchange and education, is repealed January 1, 2027.

7231 [~~(16)~~] (20) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1,

7232 2025.

7233 Section 119. Section **63I-2-226 (Effective 07/01/24)** is amended to read:

7234 **63I-2-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**

7235 (1) Section **26B-1-241** is repealed July 1, 2024.

7236 (2) Section **26B-1-302** is repealed on July 1, 2024.

7237 (3) Section **26B-1-313** is repealed on July 1, 2024.

7238 (4) Section **26B-1-314** is repealed on July 1, 2024.

7239 (5) Section **26B-1-321** is repealed on July 1, 2024.

7240 (6) Section **26B-1-419**, which creates the Utah Health Care Workforce Financial

7241 Assistance Program Advisory Committee, is repealed July 1, 2027.

7242 (7) Section 26B-1-420, which creates the Cannabis Research Review Board, is

7243 repealed July 1, 2026.

7244 (8) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

7245 [~~(7)~~] (9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection

7246 **26B-2-231(1)(a)** is amended to read:

7247 "(a) provide the patient or the patient's representative with the following information

7248 before contacting an air medical transport provider:

- 7249 (i) which health insurers in the state the air medical transport provider contracts with;
 7250 (ii) if sufficient data is available, the average charge for air medical transport services
 7251 for a patient who is uninsured or out of network; and
 7252 (iii) whether the air medical transport provider balance bills a patient for any charge not
 7253 paid by the patient's health insurer; and".
- 7254 ~~[(8)]~~ (10) Section [26B-3-142](#) is repealed July 1, 2024.
- 7255 ~~[(9)]~~ (11) Subsection [26B-3-215](#)(5), related to reporting on coverage for in vitro
 7256 fertilization and genetic testing, is repealed July 1, 2030.
- 7257 (12) Subsection [26B-4-201](#)(4), defining the Cannabis Research Review Board, is
 7258 repealed July 1, 2026.
- 7259 (13) Subsection [26B-4-212](#)(1)(b), defining the Cannabis Research Review Board, is
 7260 repealed July 1, 2026.
- 7261 ~~[(10)]~~ (14) Section [26B-4-702](#), related to the Utah Health Care Workforce Financial
 7262 Assistance Program, is repealed July 1, 2027.
- 7263 ~~[(11)]~~ (15) Section [26B-5-117](#), related to early childhood mental health support grant
 7264 programs, is repealed January 2, 2025.
- 7265 ~~[(12)]~~ (16) Subsection [26B-7-117](#)(3), related to reports to the Legislature on syringe
 7266 exchange and education, is repealed January 1, 2027.
- 7267 ~~[(13)]~~ (17) Section [26B-7-120](#), relating to sickle cell disease, is repealed on July 1,
 7268 2025.
- 7269 Section 120. Section **63I-2-234** is amended to read:
 7270 **63I-2-234. Repeal dates: Title 34A.**
- 7271 ~~[(1) Section [34A-2-107.3](#) is repealed May 15, 2025. (2)]~~ Subsection [34A-3-113](#)(7)
 7272 relating to a study is repealed on January 1, 2025.
- 7273 Section 121. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:
 7274 **63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**
- 7275 (1) Section [53-1-118](#) is repealed on July 1, 2024.
 7276 (2) Section [53-1-120](#) is repealed on July 1, 2024.
 7277 (3) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed
 7278 July 1, 2026.
- 7279 ~~[(3)]~~ (4) Section [53-7-109](#) is repealed on July 1, 2024.

- 7280 [~~(4)~~] (5) Section 53-22-104 is repealed December 31, 2023.
- 7281 [~~(5)~~] (6) Section 53B-6-105.7 is repealed July 1, 2024.
- 7282 [~~(6)~~] (7) Section 53B-7-707 regarding performance metrics for technical colleges is
7283 repealed July 1, 2023.
- 7284 [~~(7)~~] (8) Section 53B-8-114 is repealed July 1, 2024.
- 7285 [~~(8)~~] (9) The following provisions, regarding the Regents' scholarship program, are
7286 repealed on July 1, 2023:
- 7287 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
7288 established under Sections 53B-8-202 through 53B-8-205";
- 7289 (b) Section 53B-8-202;
- 7290 (c) Section 53B-8-203;
- 7291 (d) Section 53B-8-204; and
- 7292 (e) Section 53B-8-205.
- 7293 [~~(9)~~] (10) Section 53B-10-101 is repealed on July 1, 2027.
- 7294 [~~(10)~~] (11) Subsection 53E-1-201(1)(s) regarding the report by the Educational
7295 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.
- 7296 [~~(11)~~] (12) Section 53E-1-202.2, regarding a Public Education Appropriations
7297 Subcommittee evaluation and recommendations, is repealed January 1, 2024.
- 7298 [~~(12)~~] (13) Section 53F-2-209, regarding local education agency budgetary flexibility,
7299 is repealed July 1, 2024.
- 7300 [~~(13)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the
7301 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.
- 7302 [~~(14)~~] (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
7303 is repealed July 1, 2024.
- 7304 [~~(15)~~] (16) Section 53F-5-221, regarding a management of energy and water pilot
7305 program, is repealed July 1, 2028.
- 7306 [~~(16)~~] (17) Section 53F-9-401 is repealed on July 1, 2024.
- 7307 [~~(17)~~] (18) Section 53F-9-403 is repealed on July 1, 2024.
- 7308 [~~(18)~~] (19) On July 1, 2023, when making changes in this section, the Office of
7309 Legislative Research and General Counsel shall, in addition to the office's authority under
7310 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified

7311 in this section are complete sentences and accurately reflect the office's perception of the
7312 Legislature's intent.

7313 Section 122. Section **63I-2-253 (Effective 07/01/24)** is amended to read:

7314 **63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.**

7315 (1) Subsection **53-1-104(1)(b)**, regarding the Air Ambulance Committee, is repealed
7316 July 1, 2024.

7317 (2) Section **53-1-118** is repealed on July 1, 2024.

7318 (3) Section **53-1-120** is repealed on July 1, 2024.

7319 (4) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed
7320 July 1, 2026.

7321 [~~4~~] (5) Section **53-2d-107**, regarding the Air Ambulance Committee, is repealed July
7322 1, 2024.

7323 [~~5~~] (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
7324 **53-2d-702(1)(a)** is amended to read:

7325 "(a) provide the patient or the patient's representative with the following information
7326 before contacting an air medical transport provider:

7327 (i) which health insurers in the state the air medical transport provider contracts with;

7328 (ii) if sufficient data is available, the average charge for air medical transport services
7329 for a patient who is uninsured or out of network; and

7330 (iii) whether the air medical transport provider balance bills a patient for any charge not
7331 paid by the patient's health insurer; and".

7332 [~~6~~] (7) Section **53-7-109** is repealed on July 1, 2024.

7333 [~~7~~] (8) Section **53-22-104** is repealed December 31, 2023.

7334 [~~8~~] (9) Section **53B-6-105.7** is repealed July 1, 2024.

7335 [~~9~~] (10) Section **53B-7-707** regarding performance metrics for technical colleges is
7336 repealed July 1, 2023.

7337 [~~10~~] (11) Section **53B-8-114** is repealed July 1, 2024.

7338 [~~11~~] (12) The following provisions, regarding the Regents' scholarship program, are
7339 repealed on July 1, 2023:

7340 (a) in Subsection **53B-8-105(12)**, the language that states, "or any scholarship

7341 established under Sections **53B-8-202** through **53B-8-205**";

- 7342 (b) Section [53B-8-202](#);
- 7343 (c) Section [53B-8-203](#);
- 7344 (d) Section [53B-8-204](#); and
- 7345 (e) Section [53B-8-205](#).
- 7346 [~~(12)~~] (13) Section [53B-10-101](#) is repealed on July 1, 2027.
- 7347 [~~(13)~~] (14) Subsection [53E-1-201](#)(1)(s) regarding the report by the Educational
- 7348 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.
- 7349 [~~(14)~~] (15) Section [53E-1-202.2](#), regarding a Public Education Appropriations
- 7350 Subcommittee evaluation and recommendations, is repealed January 1, 2024.
- 7351 [~~(15)~~] (16) Section [53F-2-209](#), regarding local education agency budgetary flexibility,
- 7352 is repealed July 1, 2024.
- 7353 [~~(16)~~] (17) Subsection [53F-2-314](#)(4), relating to a one-time expenditure between the
- 7354 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.
- 7355 [~~(17)~~] (18) Section [53F-2-524](#), regarding teacher bonuses for extra work assignments,
- 7356 is repealed July 1, 2024.
- 7357 [~~(18)~~] (19) Section [53F-5-221](#), regarding a management of energy and water pilot
- 7358 program, is repealed July 1, 2028.
- 7359 [~~(19)~~] (20) Section [53F-9-401](#) is repealed on July 1, 2024.
- 7360 [~~(20)~~] (21) Section [53F-9-403](#) is repealed on July 1, 2024.
- 7361 [~~(21)~~] (22) On July 1, 2023, when making changes in this section, the Office of
- 7362 Legislative Research and General Counsel shall, in addition to the office's authority under
- 7363 Section [36-12-12](#), make corrections necessary to ensure that sections and subsections identified
- 7364 in this section are complete sentences and accurately reflect the office's perception of the
- 7365 Legislature's intent.
- 7366 Section 123. Section **63I-2-258** is amended to read:
- 7367 **63I-2-258. Repeal dates: Title 58.**
- 7368 (1) Section [58-42a-201](#) is repealed October 1, 2024.
- 7369 (2) Section [58-44a-201](#) is repealed October 1, 2024.
- 7370 (3) Section [58-53-201](#) is repealed October 1, 2024.
- 7371 (4) Section [58-68-201](#) is repealed October 1, 2024.
- 7372 (5) Section [58-70a-201](#) is repealed October 1, 2024.

- 7373 (6) Section 58-72-201 is repealed October 1, 2024.
- 7374 Section 124. Section **63I-2-263** is amended to read:
- 7375 **63I-2-263. Repeal dates: Title 63A to Title 63N.**
- 7376 (1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services
- 7377 Procurement Advisory Council, is repealed July 1, 2025.
- 7378 (2) Section 63A-17-303 is repealed July 1, 2023.
- 7379 (3) Section 63A-17-806 is repealed June 30, 2026.
- 7380 (4) Section 63C-1-103 is repealed January 1, 2025.
- 7381 ~~[(4)]~~ (5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology
- 7382 Commission is repealed July 1, 2023.
- 7383 ~~[(5)]~~ (6) Section 63H-7a-303 is repealed July 1, 2024.
- 7384 ~~[(6)]~~ (7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public
- 7385 safety communications network, is repealed July 1, 2033.
- 7386 ~~[(7)]~~ (8) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax
- 7387 Commission for property tax deferral reimbursements, is repealed July 1, 2027.
- 7388 ~~[(8)]~~ (9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same
- 7389 taxable year as the targeted business income tax credit, is repealed December 31, 2024.
- 7390 ~~[(9)]~~ (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an
- 7391 Enterprise Zone, is repealed December 31, 2024.
- 7392 Section 125. Section **65A-8-302** is amended to read:
- 7393 **65A-8-302. Definitions.**
- 7394 As used in this part:
- 7395 (1) "Alter" means to change the configuration of a heritage tree by pruning, trimming,
- 7396 topping, cutting, or by any other means.
- 7397 ~~[(2)] "Committee" means the Heritage Trees Advisory Committee.]~~
- 7398 ~~[(3)]~~ (2) "Division" means the Division of Forestry, Fire, and State Lands.
- 7399 ~~[(4)]~~ (3) "Heritage tree" means any tree or group of trees designated as such by the
- 7400 division, in accordance with the following criteria:
- 7401 (a) any live tree or group of trees indigenous to the state, or which has adapted
- 7402 exceptionally well to the climatic conditions of the state, or is one of a kind;
- 7403 (b) any tree or group of trees that has exceptional national, state, or local historic

7404 significance;

7405 (c) any tree or group of trees which has an exceptional size or exceptional form for its
7406 species;

7407 (d) any tree or group of trees which has an exceptional age for its species; or

7408 (e) any tree or group of trees in the state which is the sole representative of its species.

7409 ~~[(5)]~~ (4) "Person" means any individual, partnership, corporation, or association.

7410 Section 126. Section **65A-8-304** is amended to read:

7411 **65A-8-304. Guidelines and standards for granting or denying applications to**

7412 **alter or remove trees.**

7413 ~~[(1) The committee shall develop published guidelines and standards to be used by the~~

7414 ~~board in granting or denying applications for the alteration or removal of heritage trees. (2) In~~

7415 ~~addition to the guidelines and standards developed by the committee, the] The~~ division shall

7416 consider the following criteria in granting or denying an application:

7417 ~~[(a)]~~ (1) the physical condition of the heritage tree or trees with respect to:

7418 ~~[(i)]~~ (a) insect infestation;

7419 ~~[(ii)]~~ (b) disease;

7420 ~~[(iii)]~~ (c) danger of falling;

7421 ~~[(iv)]~~ (d) proximity to existing or proposed structures; and

7422 ~~[(v)]~~ (e) interference with utility services;

7423 ~~[(b)]~~ (2) the necessity of alteration or removal of the heritage tree or trees in order to

7424 construct proposed improvements and allow economic enjoyment of property;

7425 ~~[(c)]~~ (3) the topography of the land and the effect of removal of the heritage tree or

7426 trees on:

7427 ~~[(i)]~~ (a) erosion;

7428 ~~[(ii)]~~ (b) soil retention; and

7429 ~~[(iii)]~~ (c) the diversion or increased flow of surface waters resultant upon alteration or

7430 removal;

7431 ~~[(d)]~~ (4) the number of heritage trees existing in the neighborhood on improved

7432 property;

7433 ~~[(e)]~~ (5) the effect alteration or removal would have on established standards and

7434 property values in the area; and

7435 [(f)] (6) the number of heritage trees the particular parcel can support according to
7436 good forestry practices.

7437 Section 127. Section **76-7-314** is amended to read:

7438 **76-7-314. Violations of abortion laws -- Classifications.**

7439 (1) An intentional violation of Section **76-7-307**, **76-7-308**, **76-7-310**, **76-7-310.5**,
7440 **76-7-311**, or **76-7-312** is a felony of the third degree.

7441 (2) A violation of Section **76-7-326** is a felony of the third degree.

7442 (3) A violation of Section **76-7-314.5** is a felony of the second degree.

7443 (4) A violation of any other provision of this part, including Subsections
7444 **76-7-305(2)(a)** through (c), and (e), is a class A misdemeanor.

7445 (5) The Department of Health and Human Services shall report a physician's violation
7446 of any provision of this part to the [**Physicians**] Medical Licensing Board, described in Section
7447 **58-67-201**.

7448 (6) Any person with knowledge of a physician's violation of any provision of this part
7449 may report the violation to the [**Physicians**] Medical Licensing Board, described in Section
7450 **58-67-201**.

7451 (7) In addition to the penalties described in this section, the department may take any
7452 action described in Section **26B-2-208** against a health care facility if a violation of this chapter
7453 occurs at the health care facility.

7454 Section 128. Section **76-7-328** is amended to read:

7455 **76-7-328. Hearing to determine necessity of physician's conduct.**

7456 (1) A physician accused of an offense under Section **76-7-326** may seek a hearing
7457 before the [**Physicians**] Medical Licensing Board created in [~~Section **58-67-201**, or the~~
7458 ~~Osteopathic Physician and Surgeon's Licensing Board created in Section **58-68-201**]~~ Section
7459 **58-67-201** on whether the physician's conduct was necessary to save the life of the mother
7460 whose life was endangered by a physical disorder, physical illness, or physical injury, including
7461 a life endangering physical condition caused by or arising from the pregnancy itself.

7462 (2) The findings on that issue are admissible on that issue at the trial of the physician.
7463 Upon a motion from the physician, the court shall delay the beginning of the trial for not more
7464 than 30 days to permit such a hearing to take place.

7465 Section 129. Section **79-2-201** is amended to read:

- 7466 **79-2-201. Department of Natural Resources created.**
- 7467 (1) There is created the Department of Natural Resources.
- 7468 (2) The department comprises the following:
- 7469 (a) Board of Water Resources, created in Section 73-10-1.5;
- 7470 (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
- 7471 [~~(c)~~] ~~Board of State Parks, created in Section 79-4-301;~~
- 7472 [~~(d)~~] (c) Office of Energy Development, created in Section 79-6-401;
- 7473 [~~(e)~~] (d) Wildlife Board, created in Section 23A-2-301;
- 7474 [~~(f)~~] (e) Board of the Utah Geological Survey, created in Section 79-3-301;
- 7475 [~~(g)~~] (f) Water Development Coordinating Council, created in Section 73-10c-3;
- 7476 [~~(h)~~] (g) Division of Water Rights, created in Section 73-2-1.1;
- 7477 [~~(i)~~] (h) Division of Water Resources, created in Section 73-10-18;
- 7478 [~~(j)~~] (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
- 7479 [~~(k)~~] (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
- 7480 [~~(l)~~] (k) Division of State Parks, created in Section 79-4-201;
- 7481 [~~(m)~~] (l) Division of Outdoor Recreation, created in Section 79-7-201;
- 7482 [~~(n)~~] (m) Division of Wildlife Resources, created in Section 23A-2-201;
- 7483 [~~(o)~~] (n) Utah Geological Survey, created in Section 79-3-201;
- 7484 [~~(p)~~] ~~Heritage Trees Advisory Committee, created in Section 65A-8-306;~~
- 7485 [~~(q)~~] (o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in
- 7486 Section 79-7-206;
- 7487 [~~(r)~~] (p) (i) an advisory council that includes in the advisory council's duties advising
- 7488 on state boating policy, authorized by Section 73-18-3.5; or
- 7489 (ii) an advisory council that includes in the advisory council's duties advising on
- 7490 off-highway vehicle use, authorized by Section 41-22-10;
- 7491 [~~(s)~~] (q) Wildlife Board Nominating Committee, created in Section 23A-2-302;
- 7492 [~~(t)~~] (r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;
- 7493 [~~(u)~~] (s) Utah Watersheds Council, created in Section 73-10g-304;
- 7494 [~~(v)~~] (t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305;
- 7495 and
- 7496 [~~(w)~~] (u) Public Lands Policy Coordinating Office created in Section 63L-11-201.

7497 (3) The department shall provide office space, furnishings, and supplies to the Great
 7498 Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake
 7499 Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt
 7500 Lake Commissioner.

7501 Section 130. Section 79-4-102 is amended to read:

7502 **79-4-102. Definitions.**

7503 [~~(1) "Board" means the Board of State Parks.~~ (2)] "Division" means the Division of
 7504 State Parks.

7505 Section 131. **Repealer.**

7506 This bill repeals:

7507 Section 4-2-601, **Title.**

7508 Section 4-2-602, **Local Food Advisory Council created.**

7509 Section 4-2-603, **Duties.**

7510 Section 4-2-604, **Duties -- Interim report.**

7511 Section 4-35-103, **Decision and Action Committee created -- Members -- How**
 7512 **appointed -- Duties of committee -- Per diem and expenses allowed.**

7513 Section 13-32a-112, **Pawnshop, Secondhand Merchandise, and Catalytic Converter**
 7514 **Advisory Board.**

7515 Section 19-2a-102, **Air Quality Policy Advisory Board created -- Composition --**
 7516 **Responsibility -- Terms of office -- Compensation.**

7517 Section 32B-2-210, **Alcoholic Beverage Services Advisory Board.**

7518 Section 34-20-3, **Labor relations board.**

7519 Section 34-20-4, **Labor relations board -- Employees -- Agencies -- Expenses.**

7520 Section 34-20-5, **Labor relations board -- Offices -- Jurisdiction -- Member's**
 7521 **participation in case.**

7522 Section 34-20-6, **Labor relations board -- Rules and regulations.**

7523 Section 34-20-10, **Unfair labor practices -- Powers of board to prevent --**
 7524 **Procedure.**

7525 Section 34-20-11, **Hearings and investigations -- Power of board -- Witnesses --**
 7526 **Procedure.**

7527 Section 34-20-12, **Willful interference -- Penalty.**

- 7528 Section [34A-2-107.3](#), **Mental Health Protections for First Responders Workgroup.**
- 7529 Section [35A-13-404](#), **Appointment of advisory council.**
- 7530 Section [35A-13-603](#), **Board.**
- 7531 Section [36-29-108](#), **Criminal Code Evaluation Task Force.**
- 7532 Section [41-3-106](#), **Board -- Creation and composition -- Appointment, terms,**
- 7533 **compensation, and expenses of members -- Meetings -- Quorum -- Powers and duties --**
- 7534 **Officers' election and duties -- Voting.**
- 7535 Section [53B-6-105.5](#), **Technology Initiative Advisory Board -- Composition --**
- 7536 **Duties.**
- 7537 Section [53B-26-303](#), **Deep Technology Talent Advisory Council.**
- 7538 Section [53E-4-402](#), **Creation of commission -- Powers -- Payment of expenses.**
- 7539 Section [53E-4-404](#), **Meetings -- Notice.**
- 7540 Section [63M-7-801](#), **Definitions.**
- 7541 Section [63M-7-802](#), **Sex Offense Management Board - Creation - Members**
- 7542 **appointment - Qualifications - Terms.**
- 7543 Section [63M-7-803](#), **Board duties.**
- 7544 Section [65A-8-306](#), **Heritage Trees Advisory Committee -- Members -- Officers --**
- 7545 **Expenses -- Functions.**
- 7546 Section [79-4-301](#), **Board of State Parks -- Creation -- Functions.**
- 7547 Section [79-4-302](#), **Board appointment and terms of members -- Expenses.**
- 7548 Section [79-4-303](#), **Board meetings -- Quorum.**
- 7549 Section [79-4-304](#), **Board rulemaking authority.**
- 7550 Section [79-4-305](#), **Long-range plans.**
- 7551 Section [79-4-502](#), **Violations of rules.**
- 7552 Section 132. **Effective date.**
- 7553 (1) Except as provided in Subsections (2) through (4), this bill takes effect on May 1,
- 7554 2024.
- 7555 (2) The actions affecting the following sections take effect on July 1, 2024:
- 7556 (a) Section [63I-1-253](#) (Effective 07/01/24) (Contingently Superseded 01/01/25);
- 7557 (b) Section [63I-2-226](#) (Effective 07/01/24); and
- 7558 (c) Section [63I-2-253](#) (Effective 07/01/24).

- 7559 (3) The actions affecting the following sections take effect on October 1, 2024:
- 7560 (a) Section 7-1-203;
- 7561 (b) Section 13-14-102;
- 7562 (c) Section 13-14-104;
- 7563 (d) Section 13-14-106;
- 7564 (e) Section 13-14-107;
- 7565 (f) Section 13-14-201;
- 7566 (g) Section 13-14-202;
- 7567 (h) Section 13-14-203;
- 7568 (i) Section 13-14-301;
- 7569 (j) Section 13-14-302;
- 7570 (k) Section 13-14-303;
- 7571 (l) Section 13-14-304;
- 7572 (m) Section 13-14-305;
- 7573 (n) Section 13-14-306;
- 7574 (o) Section 13-35-102;
- 7575 (p) Section 13-35-104;
- 7576 (q) Section 13-35-106;
- 7577 (r) Section 13-35-107;
- 7578 (s) Section 13-35-201;
- 7579 (t) Section 13-35-202;
- 7580 (u) Section 13-35-203;
- 7581 (v) Section 13-35-301;
- 7582 (w) Section 13-35-302;
- 7583 (x) Section 13-35-303;
- 7584 (y) Section 13-35-305;
- 7585 (z) Section 13-35-306;
- 7586 (aa) Section 15A-1-204;
- 7587 (bb) Section 15A-1-206;
- 7588 (cc) Section 26B-1-239;
- 7589 (dd) Section 26B-3-303;

- 7590 (ee) Section 26B-4-219;
- 7591 (ff) Section 26B-4-506;
- 7592 (gg) Section 26B-4-513;
- 7593 (hh) Section 58-3a-102;
- 7594 (ii) Section 58-3a-201;
- 7595 (jj) Section 58-17b-102;
- 7596 (kk) Section 58-17b-605;
- 7597 (ll) Section 58-17b-610.8;
- 7598 (mm) Section 58-17b-625;
- 7599 (nn) Section 58-17b-1005;
- 7600 (oo) Section 58-24b-102;
- 7601 (pp) Section 58-24b-201;
- 7602 (qq) Section 58-24c-104;
- 7603 (rr) Section 58-31b-102;
- 7604 (ss) Section 58-31b-201;
- 7605 (tt) Section 58-31e-103;
- 7606 (uu) Section 58-37f-304;
- 7607 (vv) Section 58-38a-201;
- 7608 (ww) Section 58-42a-102;
- 7609 (xx) Section 58-44a-102;
- 7610 (yy) Section 58-47b-102;
- 7611 (zz) Section 58-47b-201;
- 7612 (aaa) Section 58-53-102;
- 7613 (bbb) Section 58-54-201;
- 7614 (ccc) Section 58-55-102;
- 7615 (ddd) Section 58-55-103;
- 7616 (eee) Section 58-55-201;
- 7617 (fff) Section 58-55-302;
- 7618 (ggg) Section 58-67-102;
- 7619 (hhh) Section 58-67-201;
- 7620 (iii) Section 58-68-102;

7621 (jii) Section 58-70a-102;
7622 (kkk) Section 58-70b-101;
7623 (lll) Section 58-72-102;
7624 (mmm) Section 58-88-205;
7625 (nnn) Section 76-7-314; and
7626 (ooo) Section 76-7-328.
7627 (4) The actions affecting section 63I-1-253 (Contingently Effective 01/01/25)
7628 contingently take effect on January 1, 2025.
7629 **Section 133. Coordinating H.B. 534 with H.B. 132.**
7630 If H.B. 534, Boards and Commissions Modifications, and H.B. 132, Pharmacy
7631 Amendments, both pass and become law, the Legislature intends that, on October 1, 2024,
7632 Subsection 58-17b-605(9)(b)(iii) enacted by H.B. 132 be deleted.