

HB0534S01 compared with HB0534

~~{deleted text}~~ shows text that was in HB0534 but was deleted in HB0534S01.

inserted text shows text that was not in HB0534 but was inserted into HB0534S01.

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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;

{ _____ } County Recorder Standards Board;

- }
- Criminal Code Evaluation Task Force;
 - Decision and Action Committee;

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- 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;
- Sex Offense Management Board;
- State Instruction Materials Commission;
- Technology Initiative Advisory Board;
- Transportation Advisory Committee;
- the advisory board for motor vehicle business regulation;
- the advisory council to the Division of Services for the Blind and Visually Impaired; and
- the committee to review requests for the Charter School Revolving Account; ~~and~~

~~{~~ — ~~the county recorder appeal authority;~~

~~}~~

▶ as of October 1, 2024:

- renames the Physical Therapy Licensing Board as the Physical Therapies Licensing Board and modifies the board to include the duties of the Board of Occupational Therapy ~~{ and the Athletic Trainers Licensing Board }~~;
- renames the Board of Nursing as the Board of Nursing and Certified Nurse Midwives and modifies the board to include the duties of the Certified Nurse Midwife Board;
- renames the Architects Licensing Board to the Architects and Landscape Architects Licensing Board and modifies the board to include the duties of the Landscape Architects Board;
- renames the Plumbers Licensing Board as the Electricians and Plumbers Licensing Board and modifies the board to include the duties of the Electricians Licensing Board;
- modifies the membership of the Construction Services Commission;

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- renames the Board of Massage Therapy as the Board of Massage Therapy and Acupuncture and modifies the board to include the duties of the Acupuncture Licensing Board; and
- renames the Physicians Licensing Board as the Medical Licensing Board and modifies the board to include the duties of the Osteopathic Physician and Surgeon's Licensing Board and the Physician Assistant Licensing Board;
- ▶ repeals on October 1, 2024, the following boards:
 - Board of Occupational Therapy;
 - ~~Athletic Trainers Licensing Board;~~
 - Certified Nurse Midwife Board;
 - Landscape Architects Board;
 - Electricians Licensing Board;
 - Acupuncture Licensing Board;
 - Osteopathic Physician and Surgeon's Licensing Board;
 - Physician Assistant Licensing Board;
 - Utah Motor Vehicle Franchise Advisory Board;
 - Utah Powersport Vehicle Franchise Advisory Board;
 - Board of Bank Advisors; and
 - Board of Credit Union Advisors; and
- ▶ repeals on July 1, 2026, the following:
 - Cannabis Research Review Board; and
 - Title 53, Chapter 2c, COVID-19 Health and Economic Response Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

[This bill provides a coordination clause.](#)

Utah Code Sections Affected:

AMENDS:

4-35-102, as last amended by Laws of Utah 2020, Chapter 326

4-35-105, as last amended by Laws of Utah 2020, Chapter 326

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7-1-203, as last amended by Laws of Utah 2020, Chapter 352

13-14-102, as last amended by Laws of Utah 2020, Chapter 367

13-14-104, as last amended by Laws of Utah 2015, Chapter 268

13-14-106, as last amended by Laws of Utah 2008, Chapter 382

13-14-107, as last amended by Laws of Utah 2008, Chapter 382

13-14-201, as last amended by Laws of Utah 2023, Chapter 240

13-14-202, as last amended by Laws of Utah 2005, Chapter 249

13-14-203, as last amended by Laws of Utah 2005, Chapter 249

13-14-301, as last amended by Laws of Utah 2009, Chapter 318

13-14-302, as last amended by Laws of Utah 2015, Chapter 268

13-14-303, as last amended by Laws of Utah 2005, Chapter 249

13-14-304, as last amended by Laws of Utah 2015, Chapter 268

13-14-305, as last amended by Laws of Utah 2005, Chapter 249

13-14-306, as last amended by Laws of Utah 2015, Chapter 268

13-32a-102, as last amended by Laws of Utah 2022, Chapter 201

13-35-102, as last amended by Laws of Utah 2018, Chapter 166

13-35-104, as last amended by Laws of Utah 2008, Chapter 382

13-35-106, as last amended by Laws of Utah 2008, Chapter 382

13-35-107, as last amended by Laws of Utah 2008, Chapter 382

13-35-201, as last amended by Laws of Utah 2005, Chapter 268

13-35-202, as last amended by Laws of Utah 2005, Chapter 268

13-35-203, as last amended by Laws of Utah 2005, Chapter 268

13-35-301, as last amended by Laws of Utah 2005, Chapter 268

13-35-302, as last amended by Laws of Utah 2016, Chapter 414

13-35-303, as last amended by Laws of Utah 2005, Chapter 268

13-35-305, as last amended by Laws of Utah 2005, Chapter 268

13-35-306, as last amended by Laws of Utah 2005, Chapter 268

15A-1-204, as last amended by Laws of Utah 2023, Chapter 209

15A-1-206, as enacted by Laws of Utah 2011, Chapter 14

~~† **17-21-1**, as last amended by Laws of Utah 2023, Chapter 413~~

† **26B-1-239**, as enacted by Laws of Utah 2023, Chapter 2

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- 26B-1-421**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-3-303**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-4-219**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
- 26B-4-506**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-513**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 34-20-2**, as last amended by Laws of Utah 2016, Chapter 370
- 34-20-8**, as last amended by Laws of Utah 2016, Chapter 348
- 34-20-9**, as last amended by Laws of Utah 1987, Chapter 161
- 34A-1-202**, as last amended by Laws of Utah 2013, Chapter 413
- 35A-13-602**, as last amended by Laws of Utah 2019, Chapter 89
- 35A-13-604**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 35A-13-605**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 35A-13-606**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 35A-13-608**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 35A-13-609**, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 41-3-102**, as last amended by Laws of Utah 2023, Chapter 63
- 41-3-105**, as last amended by Laws of Utah 2022, Chapter 259
- 41-3-107**, as renumbered and amended by Laws of Utah 1992, Chapter 234
- 41-3-109**, as last amended by Laws of Utah 2008, Chapter 382
- 41-22-12**, as last amended by Laws of Utah 2015, Chapter 412
- 53B-6-105.7**, as last amended by Laws of Utah 2019, Chapter 444
- 53B-6-105.9**, as last amended by Laws of Utah 2020, Chapter 365
- 53B-26-301**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
- 53B-26-302**, as enacted by Laws of Utah 2020, Chapter 361
- 53E-4-403**, as last amended by Laws of Utah 2022, Chapter 377
- 53E-4-405**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-4-407**, as last amended by Laws of Utah 2019, Chapter 186
- 53E-4-408**, as last amended by Laws of Utah 2020, Chapter 408

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53F-2-403, as last amended by Laws of Utah 2021, Chapter 303
53F-9-203, as last amended by Laws of Utah 2020, Chapter 154
53G-10-206, as enacted by Laws of Utah 2023, Chapter 294
53G-10-402, as last amended by Laws of Utah 2020, Chapters 354, 408
58-3a-102, as last amended by Laws of Utah 2011, Chapter 14
58-3a-201, as enacted by Laws of Utah 1996, Chapter 260
58-17b-102, as last amended by Laws of Utah 2023, Chapters 223, 328
58-17b-605, as last amended by Laws of Utah 2020, Chapter 372
58-17b-610.8, as last amended by Laws of Utah 2022, Chapter 465
58-17b-625, as last amended by Laws of Utah 2023, Chapter 223
58-17b-1005, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-24b-102, as last amended by Laws of Utah 2014, Chapter 354
58-24b-201, as enacted by Laws of Utah 2009, Chapter 220
58-24c-104, as enacted by Laws of Utah 2017, Chapter 164
58-31b-102, as last amended by Laws of Utah 2023, Chapters 223, 329
58-31b-201, as last amended by Laws of Utah 2018, Chapter 318
58-31e-103, as enacted by Laws of Utah 2017, Chapter 26
58-37f-304, as last amended by Laws of Utah 2020, Chapter 147
58-38a-201, as last amended by Laws of Utah 2022, Chapter 415
~~† **58-40a-102**, as enacted by Laws of Utah 2006, Chapter 206~~
† **58-42a-102**, as last amended by Laws of Utah 2015, Chapter 432
58-44a-102, as last amended by Laws of Utah 2012, Chapter 285
58-47b-102, as last amended by Laws of Utah 2023, Chapter 225
58-47b-201, as last amended by Laws of Utah 1998, Chapter 159
58-53-102, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-54-201, as renumbered and amended by Laws of Utah 2011, Chapter 61
58-55-102, as last amended by Laws of Utah 2023, Chapter 223
58-55-103, as last amended by Laws of Utah 2020, Chapter 339
58-55-201, as last amended by Laws of Utah 2022, Chapters 32, 413
58-55-302, as last amended by Laws of Utah 2023, Chapter 223
58-67-102, as last amended by Laws of Utah 2023, Chapter 2

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- 58-67-201**, as last amended by Laws of Utah 2022, Chapter 284
- 58-68-102**, as last amended by Laws of Utah 2023, Chapter 2
- 58-70a-102**, as last amended by Laws of Utah 2023, Chapter 329
- 58-70b-101**, as enacted by Laws of Utah 2022, Chapter 284
- 58-71-102**, as last amended by Laws of Utah 2023, Chapters 249 ~~(and)~~ 311
- 58-72-102**, as last amended by Laws of Utah 2019, Chapter 485
- 58-88-205**, as enacted by Laws of Utah 2022, Chapter 353
- 63I-1-204**, as last amended by Laws of Utah 2023, Chapters 79, 210
- 63I-1-207**, as last amended by Laws of Utah 2023, Chapter 29
- 63I-1-213**, as last amended by Laws of Utah 2022, Chapters 244, 413
- 63I-1-219**, as last amended by Laws of Utah 2022, Chapter 194
- 63I-1-234**, as last amended by Laws of Utah 2020, Chapters 154, 332
- 63I-1-235**, as last amended by Laws of Utah 2023, Chapters 27, 52
- 63I-1-236**, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475
- 63I-1-241**, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335
- 63I-1-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
- 63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
- 63I-1-253 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
- 63I-1-258**, as last amended by Laws of Utah 2023, Chapter 303
- 63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
- 63I-1-265**, as enacted by Laws of Utah 2020, Chapter 154
- 63I-1-279**, as last amended by Laws of Utah 2023, Chapter 211
- 63I-2-204**, as last amended by Laws of Utah 2023, Chapters 33, 273
- 63I-2-209**, as last amended by Laws of Utah 2023, Chapter 33
- 63I-2-213**, as last amended by Laws of Utah 2023, Chapter 33
- 63I-2-226 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter

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63I-2-226 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329

63I-2-234, as last amended by Laws of Utah 2023, Chapter 364

63I-2-253 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467

63I-2-253 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

63I-2-258, as last amended by Laws of Utah 2020, Chapter 354

63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530

65A-8-302, as last amended by Laws of Utah 2009, Chapter 344

65A-8-304, as renumbered and amended by Laws of Utah 2007, Chapter 136

76-7-314, as last amended by Laws of Utah 2023, Chapters 301, 330

76-7-328, as enacted by Laws of Utah 2004, Chapter 272

79-2-201, as last amended by Laws of Utah 2023, Chapters 34, 205

79-4-102, as last amended by Laws of Utah 2021, Chapter 280

ENACTS:

63C-1-103, Utah Code Annotated 1953

63I-2-207, Utah Code Annotated 1953

REPEALS:

4-2-601, as enacted by Laws of Utah 2018, Chapter 51

4-2-602, as last amended by Laws of Utah 2022, Chapter 67

4-2-603, as enacted by Laws of Utah 2018, Chapter 51

4-2-604, as enacted by Laws of Utah 2018, Chapter 51

4-35-103, as last amended by Laws of Utah 2020, Chapter 326

13-32a-112, as last amended by Laws of Utah 2022, Chapter 201

~~† **17-50-340**, as enacted by Laws of Utah 2023, Chapter 413~~

† **19-2a-102**, as last amended by Laws of Utah 2021, Chapter 69

32B-2-210, as last amended by Laws of Utah 2022, Chapter 447

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34-20-3, as last amended by Laws of Utah 2020, Chapters 352, 373

34-20-4, as last amended by Laws of Utah 1997, Chapter 375

34-20-5, as last amended by Laws of Utah 2011, Chapter 297

34-20-6, as enacted by Laws of Utah 1969, Chapter 85

34-20-10, as last amended by Laws of Utah 2008, Chapter 382

34-20-11, as last amended by Laws of Utah 1997, Chapter 296

34-20-12, as enacted by Laws of Utah 1969, Chapter 85

34A-2-107.3, as enacted by Laws of Utah 2021, Chapter 82

35A-13-404, as renumbered and amended by Laws of Utah 2016, Chapter 271

35A-13-603, as last amended by Laws of Utah 2020, Chapter 365

36-29-108, as last amended by Laws of Utah 2023, Chapter 112

41-3-106, as last amended by Laws of Utah 2010, Chapters 286, 324

53B-6-105.5, as last amended by Laws of Utah 2020, Chapter 365

53B-26-303, as last amended by Laws of Utah 2021, Chapter 282

53E-4-402, as last amended by Laws of Utah 2019, Chapter 186

53E-4-404, as last amended by Laws of Utah 2019, Chapter 186

~~{ 63C-30-101, as enacted by Laws of Utah 2023, Chapter 413~~

~~— 63C-30-201, as enacted by Laws of Utah 2023, Chapter 413~~

~~— 63C-30-202, as enacted by Laws of Utah 2023, Chapter 413~~

‡ 63M-7-801, as enacted by Laws of Utah 2023, Chapter 155

63M-7-802, as enacted by Laws of Utah 2023, Chapter 155

63M-7-803, as enacted by Laws of Utah 2023, Chapter 155

65A-8-306, as last amended by Laws of Utah 2010, Chapter 286

79-4-301, as last amended by Laws of Utah 2021, Chapter 280

79-4-302, as last amended by Laws of Utah 2021, Chapter 280

79-4-303, as renumbered and amended by Laws of Utah 2009, Chapter 344

79-4-304, as last amended by Laws of Utah 2022, Chapter 140

79-4-305, as renumbered and amended by Laws of Utah 2009, Chapter 344

79-4-502, as last amended by Laws of Utah 2021, Chapter 280

Utah Code Sections Affected By Coordination Clause:

58-17b-605, as last amended by Laws of Utah 2020, Chapter 372

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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 plant pest population in the designated emergency area.

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

7-1-203. Board of Financial Institutions.

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

- (a) one representative from the commercial banking business;
- (b) one representative from the consumer lending, money services business, or escrow agency business;
- (c) one representative from the industrial bank business;
- (d) one representative from the credit union business; and
- (e) one representative of the general public who, as a result of education, training, experience, or interest, is well qualified to consider economic and financial issues and data as they may affect the public interest in the soundness of the financial systems of this state.

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(2) The commissioner shall act as chair.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The member shall:

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

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

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

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The board shall:

(a) advise the commissioner with respect to:

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

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

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

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

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

13-14-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

- (a) at which a franchisee conducts the business of a new motor vehicle dealer; and
- (b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

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

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

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

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

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

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

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

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

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

- (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;
- (b) an intermediate distributor; and
- (c) an agent, officer, or field or area representative of the franchisor.

~~[(12)]~~ (11) "Lead" means the referral by a franchisor to a franchisee of a potential

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customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.

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

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

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

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

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

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

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

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

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

~~[(15)]~~ (14) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

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

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

(ii) a travel trailer;

(iii) except as provided in Subsection ~~[(16)(b)]~~ (15)(b), a motor vehicle as defined in Section 41-3-102;

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

(v) a recreational vehicle.

(b) "Motor vehicle" does not include:

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

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

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- (iii) a small trailer;
- (iv) a trailer that:
 - (A) is not designed for human habitation; and
 - (B) has a gross vehicle weight rating of less than 26,000 pounds;
- (v) a mobile home as defined in Section 41-1a-102;
- (vi) a trailer of 750 pounds or less unladen weight; and
- (vii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product.

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

- (a) has never been titled or registered; and
- (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

~~[(18)]~~ (17) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1) to sell new motor vehicles.

~~[(19)]~~ (18) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

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

- (a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and
- (b) located within a county with a population of at least 225,000.

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

- (a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or
- (b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.

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

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

~~[(24)]~~ (23) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,

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primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(b) "Recreational vehicle" includes:

- (i) a travel trailer;
- (ii) a camping trailer;
- (iii) a motor home;
- (iv) a fifth wheel trailer; and
- (v) a van.

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

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

- (A) the county in which the existing dealership is located; and
- (B) the area within a 15-mile radius of the existing dealership; or

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

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

- (i) the county in which the dealership is to be established or relocated; and
- (ii) the area within a 35-mile radius from the site of the existing dealership.

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

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

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

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

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

(c) restricting the ability of the franchisee or, if the franchisee leases the dealership

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premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.

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

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

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

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

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

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

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

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

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

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

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

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

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

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

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

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

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(a) administer and enforce this chapter; and

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

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

(b) In an adjudicative proceeding under this chapter, any order issued by the executive director~~[-(4)]~~

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

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

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

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

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

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

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

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

(a) issue a cease and desist order; and

(b) assess an administrative fine.

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

(i) the gravity of the violation;

(ii) any history of previous violations; and

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

(b) In addition to any other action permitted under Subsection (1), the department may

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file an action with a court seeking to enforce the executive director's order and pursue the executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a person violates an order of the executive director.

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

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

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

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

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

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

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

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

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

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

- (1) A franchisor may not in this state:
- (a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;
 - (b) require a franchisee to:
 - (i) participate monetarily in any advertising campaign; or
 - (ii) contest, or purchase any promotional materials, display devices, or display

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decorations or materials;

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

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

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

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

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

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

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

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;

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

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

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

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in a timely manner from the franchisor on commercially reasonable terms;

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

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

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

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

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

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

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

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

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

(ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or

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line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

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

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

(q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;

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

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

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

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

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

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

(B) unreasonably require a dealer to:

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(I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or
(II) purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles; and

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

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

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

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

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

or

(iv) operate a motor vehicle service facility;

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

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

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

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

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

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

(y) if a franchisor provides personnel training to the franchisor's franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;

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

(aa) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the

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franchisor is a party, any confidential financial information regarding a franchisee, including:

- (i) monthly financial statements provided by the franchisee;
 - (ii) the profitability of a franchisee; or
 - (iii) the status of a franchisee's inventory of products;
- (bb) use any performance standard, incentive program, or similar method to measure

the performance of franchisees unless the standard or program:

- (i) is designed and administered in a fair, reasonable, and equitable manner;
- (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;

and

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

- (A) how the standard or program is designed;
- (B) how the standard or program will be administered; and
- (C) the types of data that will be collected and used in the application of the standard or

program;

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

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

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

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

(i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another

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franchisee in the state during a similar time period;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);

(hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or its affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;

(ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;

(jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the franchisor pays the franchisee;

(kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:

(i) imposing a fee, surcharge, or other charge on a franchisee;

(ii) reducing the compensation the franchisor owes to a franchisee;

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(iii) removing the franchisee from an incentive program; or

(iv) reducing the amount the franchisor owes to a franchisee under an incentive program;

(ll) directly or indirectly condition any of the following actions on the willingness of a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter into a site-control agreement:

(i) the awarding of a franchise to a prospective new franchisee;

(ii) the addition of a line-make or franchise to an existing franchisee;

(iii) the renewal of an existing franchisee's franchise;

(iv) the approval of the relocation of an existing franchisee's dealership facility, unless the franchisor pays, and the franchisee voluntarily accepts, additional specified cash consideration to facilitate the relocation; or

(v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the sale or transfer;

(mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or accessories that:

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

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

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

(II) are listed in the current parts catalog;

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

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

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

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

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

(oo) coerce a franchisee to establish, or provide by agreement, program, or incentive

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provision that a franchisee must establish, a price at which the franchisee is required to sell a product or service that is:

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

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

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

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

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

(ii) materially alter or remodel an existing dealer facility before the date that is 10 years after the date the previous alteration or remodeling at that location was completed, if the previous alteration or remodeling substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved;

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

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

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

(rr) when providing a new motor vehicle to a franchisee for offer or sale to the public, fail to provide to the franchisee a written disclosure that may be provided to a potential buyer

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of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the franchisor or affiliate through over the air or remote means, and the charge to the customer at the time of sale for such initiation, update, change, or maintenance; or

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

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

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

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

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) as to that line-make of motor vehicle, there are no more than four franchised new motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

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

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

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

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

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

(8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is

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functionally available to all competing franchisees of the same line-make in the state on substantially comparable terms.

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

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

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

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

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

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

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

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

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

(i) "Materially alter":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) subject to Subsection 13-14-305(2)(b); and

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(ii) unless exempted under Subsection (2).

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

(i) sale of a dealership;

(ii) contract for sale of a dealership;

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

(A) sale;

(B) transfer of the business; or

(C) stock transfer; or

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

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

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

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

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

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

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

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

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

(a) is of good moral character; and

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

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

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

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

(A) shall be approved; or

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

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

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

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

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

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

13-14-203. Succession to franchise.

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

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

(ii) the designated successor agrees to be bound by all of the terms and conditions of

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the franchise agreement; and

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

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

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

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

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

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

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

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

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

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

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

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

(6) (a) If a franchisor serves a notice of refusal to a designated successor pursuant to

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Subsection (3), the designated successor may, within the 180-day period provided in Subsection (4), file with the [~~advisory board~~] executive director an application for a hearing and a determination by the executive director regarding whether good cause exists for the refusal.

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

- (i) the requested hearing has been concluded;
- (ii) a decision is rendered by the executive director; and
- (iii) the applicable appeal period has expired following a decision by the executive director.

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

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

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

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

- (b) the franchisor has good cause for termination or noncontinuance; and
- (c) the franchisor is willing and able to comply with Section 13-14-307.

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

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

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

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

(b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may

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not become effective until:

- (i) final determination of the issue by the executive director; and
- (ii) the applicable appeal period has lapsed.

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

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

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

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

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

(b) relocate an existing motor vehicle franchisee.

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

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

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

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

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

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

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

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

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

(I) motor vehicle registration data;

(II) market penetration data; and

(III) demographic data;

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

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

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

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

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

(i) the documents would be privileged under the Utah Rules of Evidence;

(ii) the documents contain confidential proprietary information;

(iii) the documents are subject to federal or state privacy laws;

(iv) the documents are correspondence between the franchisor and existing franchisees in that line-make in the relevant market area; or

(v) the franchisor reasonably believes that disclosure of the documents would violate:

(A) the privacy of another franchisee; or

(B) Section 13-14-201.

(5) (a) Within 30 days of receiving notice required by Subsection (3), any franchisee that is required to receive notice under Subsection (3) may protest to the ~~[advisory board]~~ executive director the establishment or relocation of the dealership.

(b) No later than 10 days after the day on which a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

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(iii) the franchisor may not establish or relocate the proposed dealership until the [~~advisory board~~] executive director has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

(6) If multiple protests are filed under Subsection (5), hearings may be consolidated to expedite the disposition of the issue.

(7) Subsections (1) through (6) do not apply to a relocation of an existing or successor dealer to a location that is:

(a) within the same county and less than two miles from the existing location of the existing or successor franchisee's dealership; or

(b) further away from a dealership of a franchisee of the same line-make.

(8) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of two miles from the dealership's existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

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

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

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

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

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

If under Section 13-14-301 the executive director permits a franchisor to terminate or not continue a franchise and prohibits the franchisor from entering into a franchise for the sale of new motor vehicles of a line-make in a relevant market area, the franchisor may not enter

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into a franchise for the sale of new motor vehicles of that line-make in the specified relevant market area unless the executive director determines~~[, after a recommendation by the advisory board,]~~ that there has been a change of circumstances so that the relevant market area at the time of the establishment of the new franchise agreement can reasonably be expected to support the new franchisee.

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

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

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

- (i) enter an order designating the time and place for the hearing; and
- (ii) send a copy of the order by certified or registered mail, with return receipt requested, or by any form of reliable delivery through which receipt is verifiable to:
 - (A) the applicant;
 - (B) the franchisor; and
 - (C) if the application involves the establishment of a new franchise or the relocation of an existing dealership, each affected municipality and to each franchisee in the relevant market area engaged in the business of offering to sell or lease the same line-make.

(b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee at the place where the franchisee's business is conducted.

(2) An affected municipality and any other person who can establish an interest in the application may intervene as a party to the hearing, whether or not that person receives notice.

(3) Any person, including an affected municipality, may appear and testify on the question of the public interest in the termination or noncontinuation of a franchise or in the establishment of an additional franchise.

(4) (a) (i) Any hearing ordered under Subsection (1) shall be conducted no later than 90 days after the day on which the application for hearing is filed.

(ii) A final decision on the challenge shall be made by the executive director no later

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than 20 days after the day on which the hearing ends.

(b) Failure to comply with the time requirements of Subsection (4)(a) is considered a determination that the franchisor acted with good cause or, in the case of a protest of a proposed establishment or relocation of a dealer, that good cause exists for permitting the proposed additional or relocated new motor vehicle dealer, unless:

(i) the delay is caused by acts of the franchisor or the additional or relocating franchisee; or

(ii) the delay is waived by the parties.

(5) The franchisor has the burden of proof to establish by a preponderance of the evidence that under the provisions of this chapter it should be granted permission to:

(a) terminate or not continue the franchise;

(b) enter into a franchise agreement establishing an additional franchise; or

(c) relocate the dealership of an existing franchisee.

(6) Any party to the hearing may appeal the executive director's final decision in accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor, an existing franchisee of the same line-make whose relevant market area includes the site of the proposed dealership, or an affected municipality.

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

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

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

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

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

(c) the permanency of the investment;

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

(e) whether the franchisee has adequate motor vehicle sales and service facilities,

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equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumer for the new motor vehicles handled by the franchisee and has been and is rendering adequate services to the public;

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

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

- (i) reasonable;
- (ii) material; and
- (iii) not in violation of this chapter;

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

- (i) reasonable;
- (ii) material; and
- (iii) not in violation of this chapter;

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

(j) transfer of any ownership or interest in the franchise without first obtaining approval from the franchisor or the executive director [~~after receipt of the advisory board's recommendation~~]; and

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

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

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

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

(c) the fact that the franchisee has justifiably refused or declined to participate in any

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conduct covered by Section 13-14-201.

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

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

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

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

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

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

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

(4) whether it is injurious or beneficial to the public welfare or public interest for an additional franchise to be established, including:

(a) the impact on any affected municipality;

(b) population growth trends in any affected municipality;

(c) the number of dealerships in the primary market area of the new or relocated dealership compared to the number of dealerships in each primary market area adjacent to the new or relocated dealership's primary market area; and

(d) how the new or relocated dealership would impact the distance and time that an individual in the new or relocated dealership's primary market area would have to travel to access a dealership in the same line-make as the new or relocated dealership[?];

(5) whether the franchisees of the same line-make in that relevant market area are providing adequate service to consumers for the motor vehicles of the line-make, which shall include the adequacy of:

(a) the motor vehicle sale and service facilities;

(b) equipment;

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- (c) supply of vehicle parts; and
- (d) qualified service personnel; and
- (6) whether the relocation or establishment would cause any material negative economic effect on a dealer of the same line-make in the relevant market area.

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

13-32a-102. Definitions.

As used in this chapter:

- (1) "Account" means the Pawnbroker, Secondhand Merchandise, and Catalytic Converter Operations Restricted Account created in Section 13-32a-113.
- (2) "Antique item" means an item:
 - (a) that is generally older than 25 years;
 - (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
 - (c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and
 - (d) obtained from auctions, estate sales, other antique shops, and individuals.
- (3) "Antique shop" means a business operating at an established location that deals primarily in the purchase, exchange, or sale of antique items.
- (4) "Automated recycling kiosk" means an interactive machine that:
 - (a) is installed inside a commercial site used for the selling of goods and services to consumers;
 - (b) is monitored remotely by a live representative during the hours of operation;
 - (c) only engages in secondhand merchandise transactions involving wireless communication devices; and
 - (d) has the following technological functions:
 - (i) verifies the seller's identity by a live representative using the individual's identification;
 - (ii) generates a ticket; and
 - (iii) electronically transmits the secondhand merchandise transaction information to the central database.
- (5) "Automated recycling kiosk operator" means a person whose sole business activity is the operation of one or more automated recycling kiosks.

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

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

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

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

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

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

~~(iii) from another catalytic converter purchaser; or~~

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

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

~~[(10) (9) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.~~

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

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

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

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

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

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

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

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

~~[(16) (15) (a) "Commercial grade precious metals" or "precious metals" means ingots,~~

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monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

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

or

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

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

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

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

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

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

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

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

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

~~[(21)]~~ (20) "Identification" means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

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(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

~~[(22)]~~ (21) "IMEI number" means an International Mobile Equipment Identity number.

~~[(23)]~~ (22) "Indicia of being new" means property that:

- (a) is represented by the individual pawning or selling the property as new;
- (b) is unopened in the original packaging; or
- (c) possesses other distinguishing characteristics that indicate the property is new.

~~[(24)]~~ (23) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is located.

~~[(25)]~~ (24) "Numismatic item" means a coin, collectible paper money, or exonomia.

~~[(26)]~~ (25) "Original victim" means a victim who is not a party to the pawn or sale transaction or catalytic converter purchase and includes:

- (a) an authorized representative designated in writing by the original victim; and
- (b) an insurer who has indemnified the original victim for the loss of the described property.

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

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

- (a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;
- (b) a loan of money on one or more deposits of personal property;
- (c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or
- (d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

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

- (a) engages in a pawn transaction; or
- (b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of

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whether the person or business enters into pawn transactions or secondhand merchandise transactions.

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

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

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

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

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

- (a) for its gold, silver, or platinum content; and
- (b) for the purpose of reuse of the metal content.

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

- (i) engages in a secondhand merchandise transaction; and
- (ii) does not engage in a pawn transaction.

(b) "Secondhand merchandise dealer" includes a coin dealer and an automated recycling kiosk operator.

(c) "Secondhand merchandise dealer" does not include:

- (i) an antique shop when dealing in antique items;
- (ii) a person who operates an auction house, flea market, or vehicle, vessel, and

outboard motor dealers as defined in Section 41-1a-102;

(iii) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," "estate sales," "storage unit sales," or "storage unit auctions";

(iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:

- (A) card games;
- (B) table-top games; or
- (C) magic tricks;

(v) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no

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compensation is paid;

(vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;

(vii) a person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(viii) a person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(ix) an owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise ; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(x) an owner or operator of a business that contracts with other persons to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xi) any dealer as defined in Section 76-6-1402, that concerns scrap metal and secondary metals;

(xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale;

(xiii) the owner or operator of a children's product resale business;

(xiv) a consignment shop when dealing in consigned property; or

(xv) a catalytic converter purchaser.

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

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

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

(a) goods;

(b) services;

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(c) money; or

(d) anything else of value.

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

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

13-35-102. Definitions.

As used in this chapter:

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

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

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

(b) that is identified as a new powersport vehicle dealer's principal place of business

for registration purposes under Section 13-35-105.

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

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

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

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

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

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

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

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

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(ii) an intermediate distributor;

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

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

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

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

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

[~~(10)~~] (9) "New powersport vehicle dealer" means a person who is engaged in the business of buying, selling, offering for sale, or exchanging new powersport vehicles either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has established a place of business for the sale, lease, trade, or display of powersport vehicles.

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

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

- (i) an all-terrain type I, type II, or type III vehicle "ATV" defined in Section 41-22-2;
- (ii) a snowmobile as defined in Section 41-22-2;
- (iii) a motorcycle as defined in Section 41-1a-102;
- (iv) a personal watercraft as defined in Section 73-18-2;
- (v) except as provided in Subsection [~~(12)(b)~~] (11)(b), a motor-driven cycle as defined in Section 41-6a-102; or
- (vi) a moped as defined in Section 41-6a-102.

(b) "Powersport vehicle" does not include:

- (i) an electric assisted bicycle defined in Section 41-6a-102;
- (ii) a motor assisted scooter as defined in Section 41-6a-102; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) administer and enforce this chapter; and

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

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

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

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director[:~~(f)~~]

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

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

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

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

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

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

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

(a) issue a cease and desist order; and

(b) assess an administrative fine.

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

(i) the gravity of the violation;

(ii) any history of previous violations; and

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

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

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

(b) In issuing an emergency order under Subsection (3)(a), the executive director shall

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comply with the requirements of Subsections 63G-4-502(2) and (3).

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

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

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

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

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

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

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

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

- (1) A franchisor in this state may not:
- (a) except as provided in Subsection (2), require a franchisee to order or accept delivery of any new powersport vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;
 - (b) require a franchisee to:
 - (i) participate monetarily in any advertising campaign or contest; or
 - (ii) purchase any promotional materials, display devices, or display decorations or materials;
 - (c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;
 - (d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new powersport vehicles or related products, if the franchisee:

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

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

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

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

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

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable;

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

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

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

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

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

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

(A) strict liability;

(B) negligence;

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(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

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

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

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

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

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

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

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

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

(ii) on owned powersport vehicles by a person or government entity who has purchased

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new powersport vehicles pursuant to a franchisor's or manufacturer's fleet discount program;

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

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

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

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

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

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

(iv) operate a powersport vehicle service facility;

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

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

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

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

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

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

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

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

(z) make available for public disclosure, except with the franchisee's permission or

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under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:

- (i) monthly financial statements provided by the franchisee;
- (ii) the profitability of a franchisee; or
- (iii) the status of a franchisee's inventory of products;
- (aa) use any performance standard, incentive program, or similar method to measure

the performance of franchisees unless the standard or program:

- (i) is designed and administered in a fair, reasonable, and equitable manner;
- (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;

and

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

- (A) how the standard or program is designed;
- (B) how the standard or program will be administered; and
- (C) the types of data that will be collected and used in the application of the standard or

program;

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

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

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

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

(i) selling or offering to sell a new powersport vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the

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same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;

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

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

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

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

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

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

(3) Subsection (1)(d) does not prevent a franchisor from:

(a) requiring that a franchisee maintain separate sales personnel or display space; or

(b) refusing to permit a combination of new powersport vehicle lines, if justified by reasonable business considerations.

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

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

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

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

(ii) the franchisor is engaging in the activity listed in Subsection (1)(t) for the purpose of broadening the diversity of its dealer body and facilitating the ownership of a new

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powersport vehicle dealership by a person who:

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

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

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

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

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

(b) [~~After receipt of the advisory board's recommendation, the~~] The executive director may, for good cause shown, extend the time limit set forth in Subsection (5)(a) for an additional period not to exceed 12 months.

(c) Notwithstanding Subsection (1)(t), a franchisor may own, operate, or control a new powersport vehicle dealership trading in a line-make of powersport vehicle if:

(i) as to that line-make of powersport vehicle, there are no more than four franchised new powersport vehicle dealerships licensed and in operation within the state as of January 1, 2002;

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

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

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

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

(6) Subsection (1)(ee)(ii) does not prohibit a promotional or incentive program that is

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functionally available to all franchisees of the same line-make in the state on substantially comparable terms.

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

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

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

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

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

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

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

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

(ii) unless exempted under Subsection (2).

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

(i) sale of a dealership;

(ii) contract for sale of a dealership;

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

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

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

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

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

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

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proposed transferee;

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

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

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

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

(a) is of good moral character; and

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

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

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

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

(A) shall be approved; or

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

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

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

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

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

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

13-35-203. Succession to franchise.

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

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

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

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

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

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

(b) The designated successor shall supply the personal and financial data promptly upon the request.

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

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

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

(b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of the designated successor and the franchise agreement is considered amended to reflect the

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approval of the succession the day following the last day the franchisor can serve notice under Subsection (3)(a).

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

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

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

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

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

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

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

(i) the requested hearing has been concluded;

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

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

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

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

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

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

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for the termination or noncontinuance;

- (b) the franchisor has good cause for termination or noncontinuance; and
- (c) the franchisor is willing and able to comply with Section 13-35-105.

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

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

line-make;

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

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

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

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

- (i) final determination of the issue by the executive director; and
- (ii) the applicable appeal period has lapsed.

Section 26. Section **13-35-302** is amended to read:

13-35-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection (1)(b) if the franchisor seeks to:

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

- (ii) relocate an existing powersport vehicle dealership.

(b) (i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking the action, the franchisor shall in writing notify the [~~advisory board~~] executive director and each franchisee in that line-make in the relevant market area that the franchisor intends to take an action described in Subsection (1)(a).

- (ii) The notice required by Subsection (1)(b)(i) shall:

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

(B) be delivered by registered or certified mail or by any form of reliable delivery

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through which receipt is verifiable.

(c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that is required to receive notice under Subsection (1)(b) may protest to the [~~advisory board~~] executive director the establishing or relocating of the dealership. When a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the [~~advisory board~~] executive director has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

(d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to expedite the disposition of the issue.

(2) Subsection (1) does not apply to the relocation of a franchisee's dealership:

(a) less than two miles from the existing location of the franchisee's dealership; or

(b) farther away from all powersport dealerships that are:

(i) of the same line-make as the franchisee's dealership; and

(ii) in the franchisee's existing dealership's relevant market area.

(3) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of one mile from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

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

(c) (i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary additional place of business by a powersport vehicle franchisee is considered the establishment of an additional powersport vehicle dealership; and

(ii) the establishment of a temporary additional place of business by a powersport vehicle franchisee is not considered the establishment of an additional powersport vehicle

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dealership if the powersport vehicle franchisee is participating in a trade show where three or more powersport vehicle dealers are participating.

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

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

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

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

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

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

- (a) the amount of business transacted by the franchisee, as compared to business available to the franchisee;
- (b) the investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise agreement;
- (c) the permanency of the investment;
- (d) whether it is injurious or beneficial to the public welfare or public interest for the business of the franchisee to be disrupted;
- (e) whether the franchisee has adequate powersport vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumer for the new powersport vehicles handled by the franchisee and has been and is rendering adequate services to the public;
- (f) whether the franchisee refuses to honor warranties of the franchisor under which the warranty service work is to be performed pursuant to the franchise agreement, if the franchisor

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reimburses the franchisee for the warranty service work;

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

- (i) reasonable;
- (ii) material; and
- (iii) not in violation of this chapter;

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

- (i) reasonable;
- (ii) material; and
- (iii) not in violation of this chapter;

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

(j) transfer of any ownership or interest in the franchise without first obtaining approval from the franchisor or the executive director [~~after receipt of the advisory board's recommendation~~]; and

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

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

- (a) the sole fact that the franchisor desires:
 - (i) greater market penetration; or
 - (ii) more sales or leases of new powersport vehicles;

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

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

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

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

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

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

- (1) the amount of business transacted by other franchisees of the same line-make in that relevant market area, as compared to business available to the franchisees;
- (2) the investment necessarily made and obligations incurred by other franchisees of the same line-make in that relevant market area in the performance of their part of their franchisee agreements;
- (3) the permanency of the existing and proposed investment;
- (4) whether it is injurious or beneficial to the public welfare or public interest for an additional franchise to be established; and
- (5) whether the franchisees of the same line-make in that relevant market area are providing adequate service to consumers for the powersport vehicles of the line-make, which shall include the adequacy of:
 - (a) the powersport vehicle sale and service facilities;
 - (b) equipment;
 - (c) supply of vehicle parts; and
 - (d) qualified service personnel.

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

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

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

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

- (i) new construction is involved; and
- (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

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

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

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

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

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

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

(i) to the entire state; or

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

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

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

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

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

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

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

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

(4) (a) In accordance with Subsection (3), on or before September 1 of the year after

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the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

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

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

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

(i) study the recommendations; and

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

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

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

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

(i) on the commission's own initiative;

(ii) upon the recommendation of the division; or

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

(A) a local regulator;

(B) a state regulator;

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

(D) the Construction Services Commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the code adopted by a compliance agency is an approved code described in

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Subsection (7)(a), the compliance agency may:

- (i) adopt an ordinance requiring removal, demolition, or repair of a building;
- (ii) adopt, by ordinance or rule, a dangerous building code; or
- (iii) adopt, by ordinance or rule, a building rehabilitation code.

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

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

(a) enforce a federal law or regulation;

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

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

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

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

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

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

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

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

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the structure is located on land that is:

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

(B) within a subdivision for which the county has approved a subdivision plat under

Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

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

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

(i) the State Construction Code;

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

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

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

15A-1-206. Code amendment process.

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

(a) filed with the division;

(b) reviewed by the commission; and

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

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

(a) a local regulator;

(b) a state regulator;

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

(d) the Construction Services Commission;

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

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

~~[(g)]~~ (f) a recognized construction-related association.

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(3) (a) If one or more requests are received in accordance with this section, the division shall hold at least one public hearing before the commission concerning the requests.

(b) The commission shall conduct a public hearing under this Subsection (3) in accordance with the rules of the commission, which may provide for coordinating the public hearing with a meeting of the commission.

(c) After a public hearing described in this Subsection (3), the commission shall prepare a written report of its recommendations made on the basis of the public hearing. The commission shall include the information in the written report prepared under this Subsection (3)(c) in the commission's report to the Business and Labor Interim Committee under Section 15A-1-204.

(4) In making rules required by this chapter, the division shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 32. Section ~~{17-21-1}~~26B-1-239 is amended to read:

~~{~~ ~~17-21-1. Recorder -- Document custody responsibility.~~

~~— The county recorder:~~

~~— (1) is custodian of all recorded documents and records required by law to be recorded; and~~

~~— [(2) shall comply with rules made by the County Recorder Standards Board under Section 63C-30-202, including rules that govern:]~~

~~— [(a) the protection of recorded documents and records in the county recorder's custody;]~~

~~— [(b) the electronic submission of plats, records, and other documents to the county recorder's office;]~~

~~— [(c) the protection of privacy interests in the case of documents and records in the county recorder's custody; and]~~

~~— [(d) the formatting, recording, and redaction of documents and records in the county recorder's custody;]~~

~~— [(3) shall comply with the appeal authority established by the county legislative body in accordance with Section 17-50-340; and]~~

~~— [(4)] (2) may adopt policies and procedures governing the office of the county recorder that do not conflict with this chapter [or rules made by the County Recorder Standards Board~~

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~~under Section 63C-30-202].~~

~~Section 33. Section 26B-1-239 is amended to read:~~

† **26B-1-239. Systematic medical evidence review of hormonal transgender treatments.**

(1) As used in this section, "hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(2) The department, in consultation with the Division of Professional Licensing created in Section 58-1-103, the ~~[Physicians]~~ Medical Licensing Board created in Section 58-67-201, ~~[the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,]~~ the University of Utah, and a non-profit hospital system with multiple hospitals in Utah and experience in specialty pediatric care, shall conduct a systematic medical evidence review regarding the provision of hormonal transgender treatments to minors.

(3) The purpose of the systematic medical evidence review is to provide the Legislature with recommendations to consider when deciding whether to lift the moratorium described in Section 58-1-603.1.

(4) The systematic medical evidence review shall:

(a) analyze hormonal transgender treatments that are prescribed to a minor with gender dysphoria, including:

(i) analyzing any effects and side effects of the treatment; and

(ii) whether each treatment has been approved by the federal Food and Drug Administration to treat gender dysphoria;

(b) review the scientific literature regarding hormonal transgender treatments in minors, including short-term and long-term impacts, literature from other countries, and rates of desistence and time to desistence where applicable;

(c) review the quality of evidence cited in any scientific literature including to analyze and report on the quality of the data based on techniques such as peer review, selection bias, self-selection bias, randomization, sample size, and other applicable best research practices;

(d) include high quality clinical research assessing the short-term and long-term benefits and harms of hormonal transgender treatments prescribed to minors with gender dysphoria and the short-term and long-term benefits and harms of interrupting the natural puberty and development processes of the child;

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(e) specify the conditions under which the department recommends that a treatment not be permitted;

(f) recommend what information a minor and the minor's parent should understand before consenting to a hormonal transgender treatment;

(g) recommend the best practices a health care provider should follow to provide the information described in Subsection (4)(f);

(h) describe the assumptions and value determinations used to reach a recommendation; and

(i) include any other information the department, in consultation with the entities described in Subsection (2), determines would assist the Legislature in enacting legislation related to the provision of hormonal transgender treatment to minors.

(5) Upon the completion of the systematic medical evidence review, the department shall provide the systematic medical evidence review to the Health and Human Services Interim Committee.

Section ~~34~~33. Section **26B-1-421** is amended to read:

26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

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(3) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

- (i) three shall serve an initial term of two years; and
- (ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

- (i) each term is four years; and
- (ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical

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cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a qualified medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

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(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to:

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(a) the Cannabis Research Review Board; and

(b) the advisory board.

Section ~~35~~34. Section **26B-3-303** is amended to read:

26B-3-303. DUR Board -- Responsibilities.

The board shall:

(1) develop rules necessary to carry out its responsibilities as defined in this part;

(2) oversee the implementation of a Medicaid retrospective and prospective DUR program in accordance with this part, including responsibility for approving provisions of contractual agreements between the Medicaid program and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with this part;

(3) develop and apply predetermined criteria and standards to be used in retrospective and prospective DUR, ensuring that the criteria and standards are based on the compendia, and that they are developed with professional input, in a consensus fashion, with provisions for timely revision and assessment as necessary. The DUR standards developed by the board shall reflect the local practices of physicians in order to monitor:

(a) therapeutic appropriateness;

(b) overutilization or underutilization;

(c) therapeutic duplication;

(d) drug-disease contraindications;

(e) drug-drug interactions;

(f) incorrect drug dosage or duration of drug treatment; and

(g) clinical abuse and misuse;

(4) develop, select, apply, and assess interventions and remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature, in order to improve the quality of care;

(5) disseminate information to physicians and pharmacists to ensure that they are aware of the board's duties and powers;

(6) provide written, oral, or electronic reminders of patient-specific or drug-specific information, designed to ensure recipient, physician, and pharmacist confidentiality, and suggest changes in prescribing or dispensing practices designed to improve the quality of care;

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(7) utilize face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention;

(8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;

(9) create an educational program using data provided through DUR to provide active and ongoing educational outreach programs to improve prescribing and dispensing practices, either directly or by contract with other governmental or private entities;

(10) provide a timely evaluation of intervention to determine if those interventions have improved the quality of care;

(11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec. 712;

(12) develop a working agreement with related boards or agencies, including the State Board of Pharmacy, [~~Physicians~~] Medical Licensing Board, and SURS staff within the division, in order to clarify areas of responsibility for each, where those areas may overlap;

(13) establish a grievance process for physicians and pharmacists under this part, in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(14) publish and disseminate educational information to physicians and pharmacists concerning the board and the DUR program, including information regarding:

(a) identification and reduction of the frequency of patterns of fraud, abuse, gross overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and recipients;

(b) potential or actual severe or adverse reactions to drugs;

(c) therapeutic appropriateness;

(d) overutilization or underutilization;

(e) appropriate use of generics;

(f) therapeutic duplication;

(g) drug-disease contraindications;

(h) drug-drug interactions;

(i) incorrect drug dosage and duration of drug treatment;

(j) drug allergy interactions; and

(k) clinical abuse and misuse;

(15) develop and publish, with the input of the State Board of Pharmacy, guidelines

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and standards to be used by pharmacists in counseling Medicaid recipients in accordance with this part. The guidelines shall ensure that the recipient may refuse counseling and that the refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling include:

- (a) the name and description of the medication;
- (b) administration, form, and duration of therapy;
- (c) special directions and precautions for use;
- (d) common severe side effects or interactions, and therapeutic interactions, and how to avoid those occurrences;
- (e) techniques for self-monitoring drug therapy;
- (f) proper storage;
- (g) prescription refill information; and
- (h) action to be taken in the event of a missed dose; and
- (16) establish procedures in cooperation with the State Board of Pharmacy for

pharmacists to record information to be collected under this part. The recorded information shall include:

- (a) the name, address, age, and gender of the recipient;
- (b) individual history of the recipient where significant, including disease state, known allergies and drug reactions, and a comprehensive list of medications and relevant devices;
- (c) the pharmacist's comments on the individual's drug therapy;
- (d) name of prescriber; and
- (e) name of drug, dose, duration of therapy, and directions for use.

Section ~~36~~35. Section **26B-4-219** is amended to read:

26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

- (1) (a) A medical cannabis pharmacy:
 - (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;
 - (ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;
 - (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)

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works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

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(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy; or

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the [Physicians] Medical Licensing Board[; ~~and~~].

~~[(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.]~~

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in

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Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6) (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section ~~37~~36. Section **26B-4-506** is amended to read:

26B-4-506. Guidelines for dispensing a self-administered hormonal contraceptive.

(1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal contraceptive under Section 26B-4-504:

(a) shall obtain a completed self-screening risk assessment questionnaire, that has been approved by the division in collaboration with the Board of Pharmacy and the ~~[Physicians]~~ Medical Licensing Board, from the patient before dispensing the self-administered hormonal contraceptive;

(b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to

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dispense a self-administered hormonal contraceptive to a patient:

(i) may not dispense a self-administered hormonal contraceptive to the patient; and
(ii) shall refer the patient to a primary care or women's health care practitioner;
(c) may not continue to dispense a self-administered hormonal contraceptive to a patient for more than 24 months after the date of the initial prescription without evidence that the patient has consulted with a primary care or women's health care practitioner during the preceding 24 months; and

(d) shall provide the patient with:

(i) written information regarding:

(A) the importance of seeing the patient's primary care practitioner or women's health care practitioner to obtain recommended tests and screening; and

(B) the effectiveness and availability of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives; and

(ii) a copy of the record of the encounter with the patient that includes:

(A) the patient's completed self-assessment tool; and

(B) a description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

(a) the appropriate administration and storage of the self-administered hormonal contraceptive;

(b) potential side effects and risks of the self-administered hormonal contraceptive;

(c) the need for backup contraception;

(d) when to seek emergency medical attention; and

(e) the risk of contracting a sexually transmitted infection or disease, and ways to reduce the risk of contraction.

(3) The division, in collaboration with the Board of Pharmacy and the [Physicians] Medical Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire described in Subsection (1)(a).

Section ~~38~~37. Section **26B-4-513** is amended to read:

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26B-4-513. Coprescription guidelines.

(1) As used in this section:

(a) "Controlled substance prescriber" means the same as that term is defined in Section 58-37-6.5.

(b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

(2) The department shall, in consultation with the ~~[Physicians]~~ Medical Licensing Board created in Section 58-67-201, ~~[the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,]~~ and the Division of Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

Section ~~39~~38. Section **34-20-2** is amended to read:

34-20-2. Definitions.

As used in this chapter:

(1) "Affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce within the state.

(2) "Commerce" means trade, traffic, commerce, transportation, or communication within the state.

(3) "Election" means a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this chapter and includes elections conducted by the board or by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.

(4) (a) "Employee" includes any employee unless this chapter explicitly states otherwise, and includes an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment.

(b) "Employee" does not include an individual employed as an agricultural laborer, or in the domestic service of a family or person at his home, or an individual employed by his parent or spouse.

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(5) "Employer" includes a person acting in the interest of an employer, directly or indirectly, but does not include:

- (a) the United States;
- (b) a state or political subdivision of a state;
- (c) a person subject to the federal Railway Labor Act;
- (d) a labor organization, other than when acting as an employer;
- (e) a corporation or association operating a hospital if no part of the net earnings inures to the benefit of any private shareholder or individual; or
- (f) anyone acting in the capacity of officer or agent of a labor organization.

(6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.105, of the federal government.

(7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(10) "Labor dispute" means any controversy between an employer and the majority of the employer's employees in a collective bargaining unit concerning the right or process or details of collective bargaining or the designation of representatives.

(11) "Labor organization" means an organization of any kind or any agency or employee representation committee or plan in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

~~[(12) "Labor relations board" or "board" means the board created in Section 34-20-3.]~~

~~[(13)]~~ (12) "Person" includes an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

~~[(14)]~~ (13) "Representative" includes an individual or labor organization.

~~[(15)]~~ (14) "Secondary boycott" includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by:

- (a) withholding patronage, labor, or other beneficial business intercourse;
- (b) picketing;
- (c) refusing to handle, install, use, or work on particular materials, equipment, or supplies; or

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(d) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.

~~[(16)]~~ (15) "Unfair labor practice" means any unfair labor practice listed in Section 34-20-8.

Section ~~{40}~~39. Section 34-20-8 is amended to read:

34-20-8. Unfair labor practices.

(1) It shall be an unfair labor practice for an employer, individually or in concert with others:

(a) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 34-20-7.

(b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it~~;~~ ~~provided, that subject to rules and regulations made and published by the board pursuant to Section 34-20-6],~~ provided that an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.

(c) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this act shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Subsection 34-20-9(1) in the appropriate collective bargaining unit covered by such agreement when made.

(d) To refuse to bargain collectively with the representative of a majority of the employer's employees in any collective bargaining unit~~;~~ ~~provided, that, when two or more labor organizations claim to represent a majority of the employees in the bargaining unit, the employer shall be free to file with the board a petition for investigation of certification of representatives and during the pendency of the proceedings the employer may not be considered to have refused to bargain].~~

(e) To bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit.

(f) To discharge or otherwise discriminate against an employee because the employee

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has filed charges or given testimony under this chapter.

(2) It shall be an unfair labor practice for an employee individually or in concert with others:

(a) To coerce or intimidate an employee in the enjoyment of the employee's legal rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family, picket the employee's domicile, or injure the person or property of the employee or the employee's family.

(b) To coerce, intimidate or induce an employer to interfere with any of the employer's employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7, or to engage in any practice with regard to the employer's employees which would constitute an unfair labor practice if undertaken by the employer on the employer's own initiative.

(c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike.

(d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance.

(e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of materials, equipment or services, provided, however, that nothing herein shall prevent sympathetic strikes in support of those in similar occupations working for other employers in the same craft.

(f) To take unauthorized possession of property of the employer.

(3) It shall be an unfair labor practice for any person to do or cause to be done on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by Subsections (1) and (2) of this section.

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Section ~~{41}~~40. Section 34-20-9 is amended to read:

34-20-9. Collective bargaining -- Representatives .

(1) ~~[(a)]~~ Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for those purposes shall be the exclusive representatives of all the employees in that unit for the purposes of collective bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of employment.

~~[(b)]~~ (2) Any individual employee or group of employees may present grievances to their employer at any time.

~~[(2) The board shall decide in each case whether, in order to ensure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision of same.]~~

~~[(3) Whenever a question affecting intrastate commerce or the orderly operation of industry arises concerning the representation of employees, the board may investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designated or selected. In any such investigation, the board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under Section 34-20-10, or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain such representatives:]~~

~~[(4) (a) Whenever an order of the board made according to Section 34-20-10 is based in whole or in part upon facts certified following an investigation under Subsection (3), and there is a petition for the enforcement or review of such order, the certification and the record of the investigation shall be included in the transcript of the entire record required to be filed under Section 34-20-10:]~~

~~[(b) The decree of the court enforcing, modifying, or setting aside in whole or in part the order of the board shall be made and entered upon the pleadings, testimony, and proceedings set forth in the transcript.]~~

Section ~~{42}~~41. Section 34A-1-202 is amended to read:

34A-1-202. Divisions and office -- Creation -- Duties -- Appeals Board, councils, and panel.

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(1) There is created within the commission the following divisions and office:

- (a) the Division of Industrial Accidents that shall administer the regulatory requirements of this title concerning industrial accidents and occupational disease;
- (b) the Division of Occupational Safety and Health that shall administer the regulatory requirements of Chapter 6, Utah Occupational Safety and Health Act;
- (c) the Division of Boiler and Elevator Safety that shall administer the regulatory requirements of Chapter 7, Safety;
- (d) the Division of Antidiscrimination and Labor that shall administer the regulatory requirements of:
 - (i) Title 34, Labor in General, when specified by statute;
 - (ii) Chapter 5, Utah Antidiscrimination Act;
 - (iii) this title, when specified by statute; and
 - (iv) Title 57, Chapter 21, Utah Fair Housing Act;
- (e) the Division of Adjudication that shall adjudicate claims or actions brought under this title; and

(f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

(2) In addition to the divisions created under this section, within the commission are the following:

~~[(a) the Labor Relations Board created in Section 34-20-3;]~~

~~[(b)]~~ (a) the Appeals Board created in Section 34A-1-205; and

~~[(c)]~~ (b) the following program advisory councils:

- (i) the workers' compensation advisory council created in Section 34A-2-107;
- (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and
- (iii) the Coal Miner Certification Panel created in Section 40-2-204.

(3) In addition to the responsibilities described in this section, the commissioner may assign to a division a responsibility granted to the commission by law.

Section ~~{43}~~42. Section **35A-13-602** is amended to read:

35A-13-602. Definitions.

As used in this part:

~~[(1) "Advisory board" or "board" means the Interpreter Certification Board created in Section 35A-13-603;]~~

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~~[(2)]~~ (1) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

~~[(3)]~~ (2) "Certified interpreter" means an individual who is certified as meeting the certification requirements of this part.

~~[(4)]~~ (3) "Interpreter services" means services that facilitate effective communication between a hearing individual and an individual who is deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Section ~~{44}~~43. Section **35A-13-604** is amended to read:

35A-13-604. Powers and duties of the director.

~~[(1)]~~ ~~The board shall function as an advisory board to the director and under the director's direction shall perform the following duties concerning the certification of interpreters:]~~

~~[(a)]~~ ~~make recommendations to the director regarding:]~~

~~[(i)]~~ ~~appropriate rules;]~~

~~[(ii)]~~ ~~policy and budgetary matters;]~~

~~[(iii)]~~ ~~the appropriate passing score for applicant examinations; and]~~

~~[(iv)]~~ ~~standards of supervision for individuals in training to become certified interpreters;]~~

~~[(b)]~~ ~~screen applicants for certification and make written recommendations to the director regarding certification, renewal, reinstatement, and recertification actions; and]~~

~~[(c)]~~ ~~act as the presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders as designated by the director. ~~{}~~]~~

~~[(2)]~~ (1) The director~~[-with the collaboration and assistance of the advisory board,]~~ shall:

~~{}~~(a) ~~{}~~(1) prescribe certification qualifications;

~~{}~~(b) ~~{}~~(2) prescribe rules governing applications for certification;

~~{}~~(c) ~~{}~~(3) provide for a fair and impartial method for the examination of applicants;

~~{}~~(d) ~~{}~~(4) define unprofessional conduct, by rule, to supplement the definition under this part; and

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~~{45}~~(e) ~~{45}~~ establish conditions for reinstatement and renewal of certification.

~~[(3)(a) The advisory board shall designate one of its members on a permanent or rotating basis to:]~~

~~[(i) assist the director in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and]~~

~~[(ii) advise the director when investigating complaints.]~~

~~[(b) An advisory board member who has, under Subsection (3)(a), reviewed or investigated a complaint is disqualified from participating with the advisory board if the board serves as a presiding officer of an administrative proceeding concerning the complaint.]~~

Section ~~{45}~~44. Section **35A-13-605** is amended to read:

35A-13-605. Certification required -- Classes of certification.

(1) Except as specifically provided in Section 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

(2) The director shall issue a certification to an individual who qualifies under this chapter in classifications determined by the director [~~based upon recommendations from the advisory board~~].

Section ~~{46}~~45. Section **35A-13-606** is amended to read:

35A-13-606. Qualifications for certification.

Each applicant for certification under this part shall:

(1) submit an application in a form prescribed by the director;

(2) pay a fee determined by the director under Section 63J-1-504 to help offset the costs of implementing this part for the administration of examinations for certification and for the issuance of certificates;

(3) be of good moral character; and

(4) comply with any other qualifications for certification established by the director in accordance with [~~Subsection 35A-13-604(2)~~] Section 35A-13-604.

Section ~~{47}~~46. Section **35A-13-608** is amended to read:

35A-13-608. Continuing education.

(1) [~~(a)~~] As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of

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hours of qualified continuing professional education, as determined by the director, in accordance with standards defined by rule.

~~[(b) The director shall determine the number of hours based upon recommendations from the advisory board.]~~

(2) If the renewal cycle is extended or shortened under Section 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Section ~~{48}~~47. Section **35A-13-609** is amended to read:

35A-13-609. Exemptions from certification -- Temporary or restricted certification.

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agency and who is engaged in activities regulated under this part as a part of the individual's service or employment with that federal agency, if the individual holds a valid certificate or license to provide interpreter services issued by another state or jurisdiction recognized by the director;

(b) a student engaged in providing interpreter services while in training in a recognized school approved by the director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the director while under the supervision of a qualified individual;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;

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(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group and individuals who travel with the team or group, not including spectators; or

(g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

(2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to provide interpreter services.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3) (a) Upon the declaration of a national, state, or local emergency, the director~~[, in collaboration with the advisory board,]~~ may suspend the requirements for permanent or temporary certification of individuals who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The director~~[, after consulting with the advisory board,]~~ may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before ~~[a decision is made by the board]~~ the director makes a decision either to grant or deny the applicant a regular certification.

Section ~~{49}~~48. Section **41-3-102** is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates

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in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

~~[(5) "Board" means the advisory board created in Section 41-3-106.]~~

~~[(6)]~~ (5) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

~~[(7)]~~ (6) "Commission" means the State Tax Commission.

~~[(8)]~~ (7) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

~~[(9)]~~ (8) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

~~[(10)]~~ (9) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

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(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

~~[(11)]~~ (10) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

~~[(12)]~~ (11) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

~~[(13)]~~ (12) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

~~[(14)]~~ (13) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

~~[(15)]~~ (14) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

~~[(16)]~~ (15) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

~~[(17)]~~ (16) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;

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or

- (ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
- (c) manufactured by the person.

~~[(18)]~~ (17) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

~~[(19)]~~ (18) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

~~[(20)]~~ (19) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.

~~[(21)]~~ (20) (a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection ~~[(21)(a)]~~ (20)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

~~[(22)]~~ (21) (a) "Franchise holder" means a manufacturer who:

- (i) previously had a franchised dealer in the United States;
- (ii) currently has a franchised dealer in the United States;
- (iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;
- (iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;
- (v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or
- (vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

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(b) "Franchise holder" does not include a manufacturer described in Subsection [(22)(a)] (21)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

[(23)] (22) "Low-volume manufacturer" means a manufacturer who:

(a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:

(i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;

or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(ii) manufactured by the person; and

(b) constructs no more than 325 new motor vehicles in any 12-month period.

[(24)] (23) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

[(25)] (24) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

[(26)] (25) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections [(26)(a)] (25)(a) and (b).

[(27)] (26) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer;

(iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

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(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

~~[(28)]~~ (27) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

~~[(29)]~~ (28) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

~~[(30)]~~ (29) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

~~[(31)]~~ (30) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.

~~[(32)]~~ (31) (a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection ~~[(32)(a)]~~ (31)(a).

~~[(33)]~~ (32) "Remanufacturer" means a person who reconstructs used motor vehicles

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subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

~~[(34)]~~ (33) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

~~[(35)]~~ (34) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

~~[(36)]~~ (35) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

~~[(37)]~~ (36) "Small trailer" means a trailer that has an unladen weight of:

- (a) more than 750 pounds; and
- (b) less than 2,000 pounds.

~~[(38)]~~ (37) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

~~[(39)]~~ (38) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

~~[(40)]~~ (39) "Trailer" means the same as that term is defined in Section 41-1a-102.

~~[(41)]~~ (40) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

~~[(42)]~~ (41) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

~~[(43)]~~ (42) "Used motor vehicle" means a vehicle that:

- (a) has been titled and registered to a purchaser other than a dealer; or
- (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

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[~~(44)~~] (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section ~~(50)~~49. Section **41-3-105** is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

(i) this chapter;

(ii) [~~Title 41, Chapter 1a, Motor Vehicle Act~~] Chapter 1a, Motor Vehicle Act;

(iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

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(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a

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direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6) (a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

~~[(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.]~~

~~[(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.]~~

~~[(8)]~~ (7) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or ~~[Title 41, Chapter 1a, Motor Vehicle Act]~~ Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of ~~[Title 41, Chapter 1a, Motor Vehicle Act]~~ Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

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(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

~~[(9)]~~ (8) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

~~[(10)]~~ (9) The Office of the Attorney General shall provide prosecution of this chapter.

Section ~~{51}~~50. Section **41-3-107** is amended to read:

41-3-107. Attorney general -- Duty to render opinions and to represent or appear for administrator .

The attorney general shall:

(1) represent the administrator~~[, the division, and the board]~~ and the division;

(2) give opinions on all questions of law relating to the interpretation of this chapter or arising out of the administration of this chapter; and

(3) appear on behalf of the administrator~~[, the division, or the board]~~ or the division in all actions brought by or against the administrator~~[, the division, or board]~~ or the division, whether under the provisions of this chapter or otherwise.

Section ~~{52}~~51. Section **41-3-109** is amended to read:

41-3-109. Adjudicative proceedings -- Hearings.

~~[(1)]~~ The commission, the division, ~~[the board,]~~ and the administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted under the authority of this chapter and Sections 41-1a-1001 through 41-1a-1008.

~~[(2) The administrator may request the attendance of the board at any hearing, or the administrator may direct that any hearing be held before the board.]~~

Section ~~{53}~~52. Section **41-22-12** is amended to read:

41-22-12. Restrictions on use of public lands.

(1) Except as provided in ~~[Sections]~~ Section 79-4-203 ~~[and 79-4-304]~~, federal agencies are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open public land to responsible off-highway vehicle use and cross-country motor vehicle travel.

(2) A person may not tear down, mutilate, deface, or destroy:

(a) a sign, signboard, or other notice that prohibits or regulates the use of an off-highway vehicle on public land; or

(b) a fence or other enclosure or a gate or bars belonging to the fence or other

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enclosure.

(3) A violation of Subsection (2) is an infraction.

Section ~~{54}~~53. Section **53B-6-105.7** is amended to read:

53B-6-105.7. Initiative student scholarship program.

(1) Notwithstanding the provisions of this section, beginning on July 1, 2019, the board may not accept new applications for a scholarship described in this section.

(2) (a) There is established an engineering, computer science, and related technology scholarship program as a component of the initiative created in Section 53B-6-105.

(b) The program is established to recruit, retain, and train engineering, computer science, and related technology students to assist in providing for and advancing the intellectual and economic welfare of the state.

(3) (a) The board:

(i) may make rules for the overall administration of the scholarship program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall administer the program [~~in consultation with the Technology Initiative Advisory Board created in Section 53B-6-105.5~~].

(b) The board shall also use the following policies and procedures in administering the student scholarship program:

(i) students may use scholarship money at any institution within the state system of higher education that offers an engineering, computer science, or related technology degree;

(ii) scholarships shall be given to students who declare an intent to complete a prescribed course of instruction in one of the areas referred to in Subsection (3)(b)(i) and to work in the state after graduation in one of those areas; and

(iii) a scholarship may be cancelled at any time by the institution of attendance, if the student fails to make reasonable progress towards obtaining the degree or there appears to be a reasonable certainty that the student does not intend to work in the state upon graduation.

(4) The Legislature shall make an annual appropriation to the board to fund the student scholarship program created in this section.

Section ~~{55}~~54. Section **53B-6-105.9** is amended to read:

53B-6-105.9. Incentive program for engineering, computer science, and related technology faculty.

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(1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in engineering, computer science, and related technology fields under guidelines established by the board.

(3) (a) State institutions of higher education shall match the appropriation on a one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b) (i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The board shall make a summary report of the institutional matches.

~~[(iii) The annual report of the Technology Initiative Advisory Board required by Section 53B-6-105.5 shall include the summary report of the institutional matches.]~~

(4) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and distribute the state appropriation to qualifying institutions.

Section ~~56~~55. Section **53B-26-301** is amended to read:

53B-26-301. Definitions.

As used in this part:

~~[(1) "Advisory council" means the Deep Technology Talent Advisory Council created in Section 53B-26-303.]~~

~~[(2)]~~ (1) (a) "Deep technology" means technology that leads to new products and innovations based on scientific discovery or meaningful engineering innovation.

(b) "Deep technology" may include technology that leads to new products and innovations related to one or more of the following:

- (i) advanced materials;
- (ii) artificial intelligence;
- (iii) augmented and virtual reality;
- (iv) biotechnology;
- (v) photonics;
- (vi) quantum computing;
- (vii) robotics;

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(viii) secure computing; and

(ix) other emerging technologies as determined by the [~~advisory council~~] board.

~~(3)~~ (2) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Utah Tech University, Utah Valley University, or Salt Lake Community College.

Section ~~57~~56. Section **53B-26-302** is amended to read:

53B-26-302. Deep technology initiative.

(1) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee a deep technology talent initiative that includes providing funding for expanded programs in deep technology.

(2) The board shall facilitate collaborations that create expanded, multidisciplinary programs or stackable credential programs in both undergraduate and graduate studies that prepare students to be workforce participants in jobs requiring deep technology skills.

(3) An institution of higher education seeking to partner with one or more participating employers shall submit a proposal to the board, in a form approved by the board and in accordance with deadlines determined by the board, which contains the following elements:

(a) a description of the proposed program in deep technology that demonstrates the program will:

(i) be responsive to the deep technology talent needs of the state through industry involvement in the project's design;

(ii) be a partnership that includes at least one participating employer and at least one institution of higher education; and

(iii) address a previously unmet state need related to deep technology;

(b) an estimate of:

(i) student enrollment in the program;

(ii) what academic credit or credentials will be provided by the program; and

(iii) occupations for which graduates will be qualified;

(c) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of instruction, extensive workplace experience, or mentoring;

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(d) a description of any resources that will be provided by each participating employer in the program; and

(e) the amount of funding requested for the program, including justification for the funding.

(4) The board shall [~~provide all proposals to the advisory council and the advisory council shall~~] review and prioritize each proposal received and [~~recommend to the board~~] determine whether the proposal should be funded, including the recommended amount of funding, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3);

(b) to what extent the proposed program:

(i) would expand the capacity to meet state or regional workforce needs related to deep technology;

(ii) would integrate deep technology competency with disciplinary expertise;

(iii) identifies a faculty member or other individual who has expertise and a demonstrated willingness to lead the proposed program;

(iv) would incorporate internships or significant project experiences, including team-based experiences;

(v) identifies how industry professionals would participate in curriculum development and teaching;

(vi) would create partnerships with other higher education institutions and industry; and

(vii) would be cost effective; and

(c) other relevant criteria as determined by [~~the advisory council and~~] the board.

(5) Subject to Subsection (6) and the other provisions of this section, on or before September 1 of each fiscal year, the board [~~shall review the recommendations of the advisory council and~~] may provide funding for deep technology programs using the criteria described in Subsection (4).

(6) Before the board may provide funding for one or more deep technology programs for fiscal year 2021, on or before October 1, 2020, the board shall provide written information regarding the proposed funding to, and shall consider the recommendations of, the Higher

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Education Appropriations Subcommittee.

(7) (a) Each institution of higher education that receives funding under this section shall, in a form approved by the board, annually provide written information to the board regarding the activities, successes, and challenges related to administering the deep technology program, including:

- (i) specific entities that received funding under this section;
- (ii) the amount of funding provided to each entity;
- (iii) the number of participating students in each program;
- (iv) the number of graduates of the program; and
- (v) the number of graduates of the program employed in jobs requiring deep

technology skills.

(b) On or before November 1 of each year, the board shall provide a written report containing the information described in this Subsection (7) to the:

- (i) Education Interim Committee; and
- (ii) Higher Education Appropriations Subcommittee.

Section ~~58~~57. Section 53E-4-403 is amended to read:

Part 401 State Instructional Materials

53E-4-403. Evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually [~~after reviewing the evaluations of the commission~~], the state board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Sections 53G-10-103 and 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:

- (a) instructional materials recommended by the state board as provided in this section;

or

- (b) other instructional materials the school considers appropriate to teach the core

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standards for Utah public schools.

Section ~~{59}~~58. Section **53E-4-405** is amended to read:

53E-4-405. Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the [~~commission~~] state board.

(3) Each proposal must:

(a) be accompanied by sample copies of the instructional materials to be reviewed; and

(b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

Section ~~{60}~~59. Section **53E-4-407** is amended to read:

53E-4-407. Illegal acts -- Misdemeanor.

It is a class B misdemeanor for a member of [~~the commission or~~] the state board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Section ~~{61}~~60. Section **53E-4-408** is amended to read:

53E-4-408. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section 53E-3-501;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

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- (a) the state board;
- (b) the state superintendent or employees of the state board;
- ~~[(c) the State Instructional Materials Commission appointed pursuant to Section 53E-4-402;]~~

- ~~[(d)]~~ (c) a local school board or a school district; or
- ~~[(e)]~~ (d) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section ~~{62}~~ 61. Section **53F-2-403** is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades 7 through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the state board for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the state board, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The state board shall distribute transportation money to school districts based on:

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- (i) an allowance per mile for approved bus routes;
- (ii) an allowance per hour for approved bus routes; and
- (iii) a minimum allocation for each school district eligible for transportation funding.

(b) (i) Except as provided in Subsection (3)(b)(ii), the state board shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(ii) The state board shall distribute state appropriations for transportation for fiscal years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in Subsection 53F-2-402(3).

(c) The state board shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

~~[(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and state board employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.]~~

~~[(6)]~~ (5) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

Section ~~63~~62. Section **53F-9-203** is amended to read:

53F-9-203. Charter School Revolving Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The state board, in consultation with the State Charter School Board, shall

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administer the Charter School Revolving Account in accordance with rules adopted by the state board.

(3) The Charter School Revolving Account shall consist of:

- (a) money appropriated to the account by the Legislature;
- (b) money received from the repayment of loans made from the account; and
- (c) interest earned on money in the account.

(4) The state superintendent shall make loans to charter schools from the account to pay for the costs of:

- (a) planning expenses;
- (b) constructing or renovating charter school buildings;
- (c) equipment and supplies; or
- (d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) The state board shall:

(a) ~~[except as provided in Subsection (7)(a),]~~ review requests by charter schools for loans under this section; and

(b) in consultation with the State Charter School Board, approve or reject each request.

~~[(7)(a) The state board may establish a committee to:]~~

~~[(i) review requests under Subsection (6)(a); and]~~

~~[(ii) make recommendations to the state board and the State Charter School Board regarding the approval or rejection of a request.]~~

~~[(b)(i) A committee established under Subsection (7)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration:]~~

~~[(ii) Of the members appointed to a committee established under Subsection (7)(a):]~~

~~[(A) one member shall be nominated by the governor; and]~~

~~[(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.]~~

~~[(c) If the committee recommends approval of a loan application under Subsection (7)(a)(ii), the committee's recommendation shall include:]~~

~~[(i) the recommended amount of the loan;]~~

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~~[(ii) the payback schedule; and]~~

~~[(iii) the interest rate to be charged.]~~

~~[(d) A committee member may not:]~~

~~[(i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or]~~

~~[(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.]~~

~~[(8)]~~ (7) A loan under this section may not be made unless the state board, in consultation with the State Charter School Board, approves the loan.

~~[(9)]~~ (8) The term of a loan to a charter school under this section may not exceed five years.

~~[(10)]~~ (9) The state board may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.

~~[(11)]~~ (10) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the state board shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Section ~~{64}~~ 63. Section **53G-10-206** is amended to read:

53G-10-206. Educational freedom.

(1) As used in this section:

(a) (i) "Administrative personnel" means any LEA or state board staff personnel who have system-wide, LEA-wide, or school-wide functions and who perform management activities, including:

(A) developing broad policies for LEA or state-level boards; and

(B) executing developed policies through the direction of personnel at any level within the state or LEA.

(ii) "Administrative personnel" includes state, LEA, or school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, directors, executive directors, network directors, cabinet members, subject area directors, grant coordinators, specialty directors, career center directors, educational specialists, technology personnel, technology administrators, and others who perform management activities.

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(b) (i) "Instructional personnel" means an individual whose function includes the provision of:

(A) direct or indirect instructional services to students;

(B) direct or indirect support in the learning process of students; or

(C) direct or indirect delivery of instruction, training, coaching, evaluation, or professional development to instructional or administrative personnel.

(ii) "Instructional personnel" includes:

(A) the state board, LEAs, schools, superintendents, boards, administrators, administrative staff, teachers, classroom teachers, facilitators, coaches, proctors, therapists, counselors, student personnel services, librarians, media specialists, associations, affiliations, committees, contractors, vendors, consultants, advisors, outside entities, community volunteers, para-professionals, public-private partners, trainers, mentors, specialists, and staff; or

(B) any other employees, officials, government agencies, educational entities, persons, or groups for whom access to students is facilitated through, or not feasible without, the public education system.

(2) (a) Each LEA shall provide an annual assurance to the state board that the LEA's professional learning, administrative functions, displays, and instructional and curricular materials, are consistent with the following principles of individual freedom:

(i) the principle that all individuals are equal before the law and have unalienable rights; and

(ii) the following principles of individual freedom:

(A) that no individual is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of the individual's race, sex, or sexual orientation;

(B) that no race is inherently superior or inferior to another race;

(C) that no person should be subject to discrimination or adverse treatment solely or partly on the basis of the individual's race, color, national origin, religion, disability, sex, or sexual orientation;

(D) that meritocracy or character traits, including hard work ethic, are not racist nor associated with or inconsistent with any racial or ethnic group; and

(E) that an individual, by virtue of the individual's race or sex, does not bear

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responsibility for actions that other members of the same race or sex committed in the past or present.

(b) Nothing in this section prohibits instruction regarding race, color, national origin, religion, disability, or sex in a manner that is consistent with the principles described in Subsection (2)(a).

(3) The state board or an LEA may not:

(a) attempt to persuade a student or instructional or administrative personnel to a point of view that is inconsistent with the principles described in Subsection (2)(a); or

(b) implement policies or programs, or allow instructional personnel or administrative personnel to implement policies or programs, with content that is inconsistent with the principles described in Subsection (2)(a).

~~[(4) The State Instructional Materials Commission may not recommend to the state board instructional materials under Section 53E-4-403 that violate this section or are inconsistent with the principles described in Subsection (2)(a).]~~

~~[(5)]~~ (4) The state board and state superintendent may not develop or continue to use core standards under Section 53E-3-301 or professional learning that are inconsistent with the principles described in Subsection (2)(a).

Section ~~{65}~~64. Section **53G-10-402** is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

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(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

- (i) community and personal health;
- (ii) physiology;
- (iii) personal hygiene;
- (iv) prevention of communicable disease;
- (v) refusal skills; and
- (vi) the harmful effects of pornography.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

- (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
- (B) the advocacy of premarital or extramarital sexual activity; or
- (C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of

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instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) [~~after considering evaluations of instructional materials by the State Instructional Materials Commission~~].

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting.

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health and Human Services shall cooperate with the state board in developing programs to provide instruction in those areas.

(4) (a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323

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are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable them to

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understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection ~~[(7)]~~ (7)(b).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section ~~66~~ 65. Section **58-3a-102** is amended to read:

58-3a-102. Definitions.

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

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(1) "Architect" means a person licensed under this chapter as an architect.

(2) "Board" means the Architects and Landscape Architects Licensing Board created in Section 58-3a-201.

(3) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(4) "Complete construction plans" means a final set of plans and specifications for a building that normally includes:

- (a) floor plans;
- (b) elevations;
- (c) site plans;
- (d) foundation, structural, and framing detail;
- (e) electrical, mechanical, and plumbing design;
- (f) information required by the energy code;
- (g) specifications and related calculations as appropriate; and
- (h) all other documents required to obtain a building permit.

(5) "Fund" means the Architects Education and Enforcement Fund created in Section 58-3a-103.

(6) (a) "Practice of architecture" means rendering or offering to render the following services in connection with the design, construction, enlargement, or alteration of a building or group of buildings, and the space within and surrounding such buildings:

- (i) planning;
- (ii) facility programming;
- (iii) preliminary studies;
- (iv) preparation of designs, drawings, and specifications;
- (v) preparation of technical submissions and coordination of any element of technical submissions prepared by others including, as appropriate and without limitation, professional engineers, and landscape architects; and
- (vi) administration of construction contracts.

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(b) "Practice of architecture" does not include the practice of professional engineering as defined in Section 58-22-102, but a licensed architect may perform such professional engineering work as is incidental to the practice of architecture.

(7) "Principal" means a licensed architect having responsible charge of an organization's architectural practice.

(8) "Supervision of an employee, subordinate, associate, or drafter of an architect" means that a licensed architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee, subordinate, associate, or drafter under the direction of the architect, and may be further defined by rule by the division in collaboration with the board.

(9) "Unlawful conduct" as defined in Section 58-1-501 is further defined in Section 58-3a-501.

(10) "Unprofessional conduct" as defined in Section 58-1-501 may be further defined by rule by the division in collaboration with the board.

Section ~~{67}~~66. Section **58-3a-201** is amended to read:

58-3a-201. Board.

(1) There is created the Architects and Landscape Architects Licensing Board consisting of:

- (a) four architects [~~and~~];
- (b) two landscape architects; and
- (c) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 53, Landscape Architects Licensing Act. [~~In addition, the~~]

(4) The board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the [~~unlawful or unprofessional~~] conduct of [~~a licensee~~] an individual licensed under this chapter or Chapter 53, Landscape Architects Licensing Act; and

(b) advise the division in its investigation of these complaints.

~~(4)~~ (5) A board member who has, under Subsection [~~(3)~~] (4), reviewed a complaint or

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advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section ~~68~~67. Section **58-17b-102** is amended to read:

58-17b-102. Definitions.

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

(1) "Administering" means:

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

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

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

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

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

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

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

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time

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beyond which the contents of the prescription are not recommended to be used.

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

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

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

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

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

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

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

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

(ii) pharmaceutical administration and sterile product preparation facilities.

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

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

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

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

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

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in

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retail customers.

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

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

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

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

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

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

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

(b) "Compounding" does not include:

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

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

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

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

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

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

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

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

(a) currently licensed as:

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

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

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

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

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

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

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

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

(26) (a) "Drug" means:

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

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

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

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

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

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

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

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

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

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

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

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

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

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

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

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health

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and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

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

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

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

(35) (a) "Manufacturing" means:

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

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

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

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

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

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

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

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

(i) may be sold without a prescription; and

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

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(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) arresting or slowing a disease process.

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

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

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

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

(i) intracompany sales;

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

(A) hospitals;

(B) pharmacies;

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

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

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

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

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

(iv) the distribution of a prescription drug or device as a sample by representatives of a

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manufacturer; and

(v) the distribution of prescription drugs, if:

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

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

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

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

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

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

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

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

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

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

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

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

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

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

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

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

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

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

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

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

or

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

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

(58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

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

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

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

(ii) in accordance with written guidelines or protocols:

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

(B) approved by the division, in collaboration with the board and, when appropriate, the ~~[Physicians]~~ Medical Licensing Board, created in Section 58-67-201, if the prescription

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drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

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

(f) maintaining records of drugs and devices in accordance with state and federal law

and the standards and ethics of the profession;

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

(h) providing drug product equivalents;

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

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

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

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

(59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

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

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

(62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(63) "Prescription" means an order issued:

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

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

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

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

(66) "Repackage":

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

(b) does not include:

(i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

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

(67) "Research using pharmaceuticals" means research:

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

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

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

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

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(68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(69) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

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

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

(70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(72) "Supportive personnel" means unlicensed individuals who:

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

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

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

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

(75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

The following section is affected by a coordination clause at the end of this bill.

Section ~~69~~68. Section **58-17b-605** is amended to read:

58-17b-605. Drug product equivalents.

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(1) For the purposes of this section:

(a) (i) "Drug" is as defined in Section 58-17b-102.

(ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

(b) "Drug product equivalent" means:

(i) a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the United States Food and Drug Administration; and

(ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol designated by division rule made under Subsection (9).

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug by brand or proprietary name may substitute a drug product equivalent for the prescribed drug only if:

(a) the purchaser specifically requests or consents to the substitution of a drug product equivalent;

(b) the drug product equivalent is of the same generic type and is designated the therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration;

(c) the drug product equivalent is permitted to move in interstate commerce;

(d) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed drug, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;

(e) the prescribing practitioner has not indicated that a drug product equivalent may not be substituted for the drug, as provided in Subsection (6); and

(f) the substitution is not otherwise prohibited by law.

(3) (a) Each out-of-state mail service pharmacy dispensing a drug product equivalent as a substitute for another drug into this state shall notify the patient of the substitution either by telephone or in writing.

(b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to a drug product equivalent substituted for another drug, including

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labeling and record keeping.

(4) Pharmacists or pharmacy interns may not substitute without the prescriber's authorization on trade name drug product prescriptions unless the product is currently categorized in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration as a drug product considered to be therapeutically equivalent to another drug product.

(5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product equivalent under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

(6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner may indicate a prohibition on substitution either by writing "dispense as written" or signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted".

(b) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

(7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a prescribed drug shall communicate the substitution to the purchaser. The drug product equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug product equivalent dispensed in its place.

(8) (a) For purposes of this Subsection (8), "substitutes" means to substitute:

- (i) a generic drug for another generic drug;
- (ii) a generic drug for a nongeneric drug;
- (iii) a nongeneric drug for another nongeneric drug; or
- (iv) a nongeneric drug for a generic drug.

(b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a

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patient with a seizure disorder shall indicate a prohibition on substitution of a drug product equivalent in the manner provided in Subsection (6)(a) or (b).

(c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who cannot dispense the prescribed drug as written, and who needs to substitute a drug product equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the prescribing practitioner prior to the substitution.

(d) Notification under Subsection (8)(c) is not required if the drug product equivalent is paid for in whole or in part by Medicaid.

(9) (a) The division shall designate by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board[;] and the [Physicians] Medical Licensing Board created in Section 58-67-201, [~~and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,~~] appropriate substitutes for albuterol.

(b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product equivalent for albuterol.

(10) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

Section ~~{70}~~69. Section **58-17b-610.8** is amended to read:

58-17b-610.8. Prescription devices.

(1) The following documents from a prescribing practitioner shall be considered a prescription for purposes of dispensing of and payment for a device described in Subsection (3), if the device is prescribed or indicated by the document and the document is on file with a pharmacy:

- (a) a written prescription; or
- (b) a written record of a patient's:
 - (i) current diagnosis; or
 - (ii) treatment protocol.

(2) A pharmacist or pharmacy intern at a pharmacy at which a document that is considered a prescription under Subsection (1) is on file may dispense under prescription a device described in Subsection (3) to the patient in accordance with:

- (a) the document that is considered a prescription under Subsection (1); and

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(b) rules made by the division under Subsection (4).

(3) This section applies to:

(a) nebulizers;

(b) spacers for use with nebulizers or inhalers; and

(c) diabetic supplies.

(4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board~~[, the Physicians]~~ and the Medical Licensing Board created in Section 58-67-201~~[, and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,]~~ to implement this section.

Section ~~{71}~~70. Section **58-17b-625** is amended to read:

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

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

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

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

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

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

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

Section ~~{72}~~71. Section **58-17b-1005** is amended to read:

58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.

(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription

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drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;

(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(ii) a description of the epinephrine auto-injector dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the ~~[Physicians]~~ Medical Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

(2) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the stock albuterol;

(c) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(ii) a description of the stock albuterol dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the ~~[Physicians]~~

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Medical Licensing Board created in Section 58-67-201 and the board.

Section ~~{73}~~72. Section **58-24b-102** is amended to read:

58-24b-102. Definitions.

As used in this chapter:

(1) "Animal physical therapy" means practicing physical therapy or physiotherapy on an animal.

(2) "Board" means the [~~Utah Physical Therapy~~] Physical Therapies Licensing Board, created in Section 58-24b-201.

(3) "Consultation by telecommunication" means the provision of expert or professional advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care provider by telecommunication or electronic communication.

(4) "General supervision" means supervision and oversight of a person by a licensed physical therapist when the licensed physical therapist is immediately available in person, by telephone, or by electronic communication to assist the person.

(5) "Licensed physical therapist" means a person licensed under this chapter to engage in the practice of physical therapy.

(6) "Licensed physical therapist assistant" means a person licensed under this chapter to engage in the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).

(7) "Licensing examination" means a nationally recognized physical therapy examination that is approved by the division, in consultation with the board.

(8) "On-site supervision" means supervision and oversight of a person by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

- (a) continuously present at the facility where the person is providing services;
- (b) immediately available to assist the person; and
- (c) regularly involved in the services being provided by the person.

(9) "Physical impairment" means:

- (a) a mechanical impairment;
- (b) a physiological impairment;
- (c) a developmental impairment;

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- (d) a functional limitation;
 - (e) a disability;
 - (f) a mobility impairment; or
 - (g) a bodily malfunction.
- (10) (a) "Physical therapy" or "physiotherapy" means:
- (i) examining, evaluating, and testing an individual who has a physical impairment or injury;
 - (ii) identifying or labeling a physical impairment or injury;
 - (iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;
 - (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;
 - (v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;
 - (vi) reducing the risk of an injury or physical impairment;
 - (vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;
 - (viii) promoting and maintaining health and fitness;
 - (ix) the administration of a prescription drug pursuant to Section 58-24b-403;
 - (x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the requirements of Section 58-24b-405; and
 - (xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection (10)(a).
- (b) "Physical therapy" or "physiotherapy" does not include:
- (i) diagnosing disease;
 - (ii) performing surgery;
 - (iii) performing acupuncture;
 - (iv) taking x-rays; or
 - (v) prescribing or dispensing a drug, as defined in Section 58-37-2.
- (11) "Physical therapy aide" means a person who:

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(a) is trained, on-the-job, by a licensed physical therapist; and

(b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist's or licensed physical therapist assistant's license.

(12) "Recognized accreditation agency" means an accreditation agency that:

(a) grants accreditation, nationally, in the United States of America; and

(b) is approved by the division, in consultation with the board.

(13) (a) "Testing" means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.

(b) "Testing" includes measurement or evaluation of:

(i) muscle strength, force, endurance, or tone;

(ii) cardiovascular fitness;

(iii) physical work capacity;

(iv) joint motion, mobility, or stability;

(v) reflexes or autonomic reactions;

(vi) movement skill or accuracy;

(vii) sensation;

(viii) perception;

(ix) peripheral nerve integrity;

(x) locomotor skills, stability, and endurance;

(xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

(xii) posture;

(xiii) body mechanics;

(xiv) limb length, circumference, and volume;

(xv) thoracic excursion and breathing patterns;

(xvi) activities of daily living related to physical movement and mobility;

(xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

(xviii) neural muscular responses.

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(14) (a) "Trigger point dry needling" means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

(b) "Trigger point dry needling" does not include the stimulation of auricular or distal points.

(15) "Therapeutic intervention" includes:

- (a) therapeutic exercise, with or without the use of a device;
- (b) functional training in self-care, as it relates to physical movement and mobility;
- (c) community or work integration, as it relates to physical movement and mobility;
- (d) manual therapy, including:
 - (i) soft tissue mobilization;
 - (ii) therapeutic massage; or
 - (iii) joint mobilization, as defined by the division, by rule;
- (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;
- (f) airway clearance techniques, including postural drainage;
- (g) integumentary protection and repair techniques;
- (h) wound debridement, cleansing, and dressing;
- (i) the application of a physical agent, including:
 - (i) light;
 - (ii) heat;
 - (iii) cold;
 - (iv) water;
 - (v) air;
 - (vi) sound;
 - (vii) compression;
 - (viii) electricity; and
 - (ix) electromagnetic radiation;
- (j) mechanical or electrotherapeutic modalities;
- (k) positioning;
- (l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

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- (m) manual or mechanical traction;
- (n) correction of posture, body mechanics, or gait; and
- (o) trigger point dry needling, under the conditions described in Section 58-24b-505.

Section ~~{74}~~73. Section **58-24b-201** is amended to read:

Part 2. Physical Therapies Licensing Board

58-24b-201. Physical Therapies Licensing Board -- Creation -- Membership --

Duties.

- (1) There is created the Physical ~~[Therapy]~~ Therapies Licensing Board, consisting of:
 - ~~(a)~~ three licensed physical therapists~~[-];~~
 - ~~(b)~~ one physical therapist assistant~~[-, and];~~
 - ~~(c)~~ two licensed occupational therapists;
 - ~~(d)~~ one occupational therapy assistant;~~;~~
 - ~~(e)~~ two licensed athletic trainers;
 - ~~(f)~~ one representative of the directing physicians described in Subsection 58-40a-102(6); and
 - ~~(f)~~(g) one member of the general public.
- (2) Members of the board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board are described in Subsection (4) and Sections 58-1-201 through 58-1-203 with respect to this chapter~~[-, Chapter 40a, Athletic Trainer Licensing Act,]~~ or Chapter 42a, Occupational Therapy Practice Act.
- (4) The board shall designate a member of the board, on a permanent or rotating basis, to:
 - (a) assist the division in reviewing complaints ~~[of unlawful or unprofessional conduct of a licensee]~~ concerning the conduct of an individual licensed under this chapter~~[-, Chapter 40a, Athletic Trainer Licensing Act,]~~ or Chapter 42a, Occupational Therapy Practice Act; and
 - (b) advise the division during the division's investigation of the complaints described in Subsection (4)(a).
- (5) A board member who has reviewed a complaint or been involved in an investigation under Subsection (4) is disqualified from participating in an adjudicative proceeding relating to the complaint or investigation.

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Section ~~{75}~~74. Section **58-24c-104** is amended to read:

58-24c-104. Physical therapy licensing board.

As used in the compact, with reference to this state, "physical therapy licensing board" or "licensing board" means the [~~physical therapy licensing board~~] Physical Therapies Licensing Board created in Section 58-24b-201.

Section ~~{76}~~75. Section **58-31b-102** is amended to read:

58-31b-102. Definitions.

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

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

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

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

(4) "Board" means the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201.

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

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

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

(8) "Long-term care facility" means any of the following facilities licensed by the Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection:

(a) a nursing care facility;

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- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

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

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

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

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

(10) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

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

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

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

(i) includes:

(A) providing direct personal assistance or care; and

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

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

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education

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standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

- (a) maintenance and promotion of health and prevention of disease;
- (b) diagnosis, treatment, correction, consultation, and referral;
- (c) prescription or administration of prescription drugs or devices including:
 - (i) local anesthesia;
 - (ii) Schedule III-V controlled substances; and
 - (iii) Schedule II controlled substances; or
- (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:
 - (i) preanesthesia preparation and evaluation including:
 - (A) performing a preanesthetic assessment of the patient;
 - (B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and
 - (C) selecting, ordering, or administering appropriate medications;
 - (ii) anesthesia induction, maintenance, and emergence, including:
 - (A) selecting and initiating the planned anesthetic technique;
 - (B) selecting and administering anesthetics and adjunct drugs and fluids; and
 - (C) administering general, regional, and local anesthesia;
 - (iii) postanesthesia follow-up care, including:
 - (A) evaluating the patient's response to anesthesia and implementing corrective actions; and
 - (B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d);
 - (iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:
 - (A) emergency airway management;
 - (B) advanced cardiac life support; and
 - (C) the establishment of peripheral, central, and arterial invasive lines; and
 - (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care

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professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

- (a) initiating and maintaining comfort measures;
- (b) promoting and supporting human functions and responses;
- (c) establishing an environment conducive to well-being;
- (d) providing health counseling and teaching;
- (e) collaborating with health care professionals on aspects of the health care regimen;
- (f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;
- (g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and
- (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

(13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- (a) contributing to the assessment of the health status of individuals and groups;
- (b) participating in the development and modification of the strategy of care;

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(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(15) "Registered nurse apprentice" means an individual licensed under Subsection 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the indirect supervision of an individual licensed under:

(a) Subsection 58-31b-301(2)(c), (e), or (f);

(b) Chapter 67, Utah Medical Practice Act; or

(c) Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

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- (i) oral;
- (ii) sublingual;
- (iii) buccal;
- (iv) eye;
- (v) ear;
- (vi) nasal;
- (vii) rectal;
- (viii) vaginal;
- (ix) skin ointments, topical including patches and transdermal;
- (x) premeasured medication delivered by aerosol/nebulizer; and
- (xi) medications delivered by metered hand-held inhalers.

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

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

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

Section ~~{77}~~76. Section **58-31b-201** is amended to read:

58-31b-201. Board.

(1) There is created the Board of Nursing and Certified Nurse Midwives that consists of the following [~~++~~] members:

- (a) [~~nine~~] five nurses in a manner as may be further defined in division rule; [~~and~~]
- (b) two nurse midwives as defined in Section 58-44a-102; and
- [~~(b)~~] (c) two members of the public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The board shall [~~carry out the duties and responsibilities in Sections 58-1-202 and 58-1-203 and shall~~]:

- (a) carry out the duties and responsibilities described in Sections 58-1-202 and

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58-1-203 with respect to this chapter and Chapter 44a, Nurse Midwife Practice Act; and

~~[(a)] (b) [(i)]~~ recommend to the division minimum standards for educational programs qualifying a person for licensure or certification under this chapter and Chapter 44a, Nurse Midwife Practice Act;

~~[(ii)] (c)~~ recommend to the division denial, approval, or withdrawal of approval regarding educational programs that meet or fail to meet the established minimum standards; and

~~[(iii)] (d)~~ designate one of its members on a permanent or rotating basis to:

~~[(A)] (i)~~ assist the division in reviewing complaints concerning the ~~[unlawful or unprofessional]~~ conduct of ~~[a licensee]~~ an individual licensed under this chapter or Chapter 44a, Nurse Midwife Practice Act; and

~~[(B)] (ii)~~ advise the division in its investigation of these complaints.

~~[(b)] (4)~~ A board member who has, under Subsection ~~[(3)(a)(iii)]~~ (3)(d), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section ~~{78}~~77. Section **58-31e-103** is amended to read:

58-31e-103. Implementation and rulemaking authority.

(1) The term "head of the state licensing board," as used in Article VII b(1) of the Nurse Licensure Compact in Section 58-31e-102, means an individual who is an ex-officio member of the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201 and is appointed by the director to serve as the head of the state licensing board for purposes of Article VII b(1) of the Nurse Licensure Compact.

(2) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to implement the provisions of this chapter.

Section ~~{79}~~78. Section **58-37f-304** is amended to read:

58-37f-304. Database utilization.

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described in Section 58-17b-305, working under the supervision of a licensed

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pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2) (a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

(b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

(c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

(d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

(A) is connected to the database through a connection that has been approved by the division; and

(B) displays the information from the database in a prominent manner for the prescriber.

(ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

(e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

(i) is necessary due to an emergency situation;

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(ii) is caused by a suspension or disruption in the operation of the database; or

(iii) is caused by a failure in the operation or availability of the Internet.

(f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

(i) December 31, 2018; or

(ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

(5) (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

(i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;

(ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health and Human Services; or

(iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative

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Rulemaking Act, and in consultation with the [~~Physicians~~] Medical Licensing Board.

(b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

(c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

(d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

(e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

(6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

Section ~~{80}~~79. Section **58-38a-201** is amended to read:

58-38a-201. Controlled Substances Advisory Committee.

There is created within the Division of Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

(1) the director of the Department of Health and Human Services or the director's designee;

(2) the State Medical Examiner or the examiner's designee;

(3) the commissioner of the Department of Public Safety or the commissioner's designee;

(4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the director's designee;

(5) the director of the Utah Poison Control Center or the director's designee;

(6) one physician who is a member of the [~~Physicians~~] Medical Licensing Board and is designated by that board;

(7) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

(8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board

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and is designated by that board;

(9) one physician who is currently licensed and practicing in the state, to be appointed by the governor;

(10) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

(11) one individual with expertise in substance abuse addiction, to be appointed by the governor;

(12) one representative from the Statewide Association of Prosecutors, to be designated by that association;

(13) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;

(14) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; and

(15) one member of the public, to be appointed by the governor.

Section ~~{81}~~80. Section ~~{58-40a-102}~~58-42a-102 is amended to read:

~~{~~ ~~58-40a-102.~~ **Definitions.**

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

~~— (1) "Adequate records" means legible records that contain, at a minimum:~~

~~— (a) the athletic training service plan or protocol;~~

~~— (b) an evaluation of objective findings;~~

~~— (c) the plan of care and the treatment records; or~~

~~— (d) written orders.~~

~~— (2) "Athlete" means an individual, referee, coach, or athletic staff member who participates in exercises, sports, or games requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and the exercises, sports, or games are of a type generally conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.~~

~~— (3) "Athletic injury" means:~~

~~— (a) an injury sustained by an athlete that affects the individual's participation or performance in sports, games, recreation, or exercise; or~~

~~— (b) a condition that is within the scope of practice of an athletic trainer identified by a~~

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~~directing physician or physical therapist as benefitting from athletic training services:~~

~~—— (4) "Athletic trainer" means an individual who is licensed under this chapter and carries out the practice of athletic training.~~

~~—— (5) "Board" means the [Athletic Trainers Licensing Board created in Section 58-40a-201] Physical Therapies Licensing Board created in Section 58-24b-201.~~

~~—— (6) "Directing physician" means a physician and surgeon licensed under Section 58-67-301, an osteopathic physician and surgeon licensed under Section 58-68-301, a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act, or dentist licensed under Section 58-69-301 who, within the licensee's scope of practice and individual competency, is responsible for the athletic training services provided by the athletic trainer and oversees the practice of athletic training by the athletic trainer, as established by board rule.~~

~~—— (7) The "practice of athletic training" means the application by a licensed and certified athletic trainer of principles and methods of:~~

~~—— (a) prevention of athletic injuries;~~

~~—— (b) recognition, evaluation, and assessment of athletic injuries and conditions;~~

~~—— (c) immediate care of athletic injuries, including common emergency medical situations;~~

~~—— (d) rehabilitation and reconditioning of athletic injuries;~~

~~—— (e) athletic training services administration and organization; and~~

~~—— (f) education of athletes.~~

~~—— Section 82. Section ~~58-42a-102~~ is amended to read:~~

~~‡~~ **58-42a-102. Definitions.**

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

(1) "Board" means the [Board of Occupational Therapy created in Section 58-42a-201] Physical Therapies Licensing Board created in Section 58-24b-201.

(2) (a) "Individual treatment plan" means a written record composed for each client by a person licensed under this chapter to engage in the practice of occupational therapy.

(b) "Individual treatment plan" includes:

(i) planning and directing specific exercises and programs to improve sensory

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integration and motor functioning at the level of performance neurologically appropriate for the individual's stage of development;

(ii) establishing a program of instruction to teach a client skills, behaviors, and attitudes necessary for the client's independent productive, emotional, and social functioning;

(iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the client's optimal functioning in activities of daily living and to prevent further disability; and

(iv) planning and directing specific programs to evaluate and enhance perceptual, motor, and cognitive skills.

(3) "Occupational therapist" means a person licensed under this chapter to practice occupational therapy.

(4) "Occupational therapy aide" means a person who is not licensed under this chapter but who provides supportive services under the supervision of an occupational therapist or occupational therapy assistant.

(5) "Occupational therapy assistant" means a person licensed under this chapter to practice occupational therapy under the supervision of an occupational therapist as described in Sections 58-42a-305 and 58-42a-306.

(6) (a) "Practice of occupational therapy" means the therapeutic use of everyday life activities with an individual:

(i) that has or is at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and

(ii) to develop or restore the individual's ability to engage in everyday life activities by addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual's performance.

(b) "Practice of occupational therapy" includes:

(i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of an individual;

(ii) modifying or adapting an activity or environment to enhance an individual's performance;

(iii) maintaining and improving an individual's capabilities to avoid declining performance in everyday life activities;

(iv) promoting health and wellness to develop or improve an individual's performance

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in everyday life activities;

(v) performance-barrier prevention for an individual, including disability prevention;

(vi) evaluating factors that affect an individual's activities of daily living in

educational, work, play, leisure, and social situations, including:

(A) body functions and structures;

(B) habits, routines, roles, and behavioral patterns;

(C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity demands that affect performance; and

(D) motor, process, communication, interaction, and other performance skills;

(vii) providing interventions and procedures to promote or enhance an individual's safety and performance in activities of daily living in educational, work, and social situations, including:

(A) the therapeutic use of occupations and exercises;

(B) training in self-care, self-management, home-management, and community and work reintegration;

(C) the development, remediation, or compensation of behavioral skills and physical, cognitive, neuromuscular, and sensory functions;

(D) the education and training of an individual's family members and caregivers;

(E) care coordination, case management, and transition services;

(F) providing consulting services to groups, programs, organizations, or communities,

(G) modifying the environment and adapting processes, including the application of ergonomic principles;

(H) assessing, designing, fabricating, applying, fitting, and providing training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices;

(I) assessing, recommending, and training an individual in techniques to enhance functional mobility, including wheelchair management;

(J) driver rehabilitation and community mobility;

(K) enhancing eating and feeding performance; and

(L) applying physical agent modalities, managing wound care, and using manual therapy techniques to enhance an individual's performance skills, if the occupational therapist has received the necessary training as determined by division rule in collaboration with the

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board.

(7) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-501.

(8) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-502.

Section ~~{83}~~81. Section **58-44a-102** is amended to read:

58-44a-102. Definitions.

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

(1) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Board" means the [~~Certified Nurse Midwife Board created in Section 58-44a-201~~] Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201.

(3) "Consultation and Referral Plan" means a written plan jointly developed by a certified nurse midwife, as defined in Subsection (7), and a consulting physician that permits the certified nurse midwife to prescribe schedule II-III controlled substances in consultation with the consulting physician.

(4) "Consulting physician" means a physician and surgeon or osteopathic physician:

(a) with an unrestricted license as a physician;

(b) qualified by education, training, and current practice in obstetrics, gynecology, or both to act as a consulting physician to a nurse midwife practicing under this chapter and providing intrapartum care or prescribing Schedule II-III controlled substances; and

(c) who is available to consult with a nurse midwife, which does not include the consulting physician being present at the time or place the nurse midwife is engaged in practice.

(5) "Individual" means a natural person.

(6) "Intrapartum referral plan":

(a) means a written plan prepared by a nurse midwife describing the guidelines under which the nurse midwife will consult with a consulting physician, collaborate with a consulting physician, and refer patients to a consulting physician; and

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(b) does not require the nurse midwife to obtain the signature of a physician on the intrapartum referral plan.

(7) "Nurse midwife" means a person licensed under this chapter to engage in practice as a certified nurse midwife.

(8) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(9) "Practice as a certified nurse midwife" means:

(a) practice [~~as a registered nurse~~] of registered nursing as defined in Section 58-31b-102, and as consistent with the education, training, experience, and current competency of the licensee;

(b) practice of nursing within the generally recognized scope and standards of nurse midwifery as defined by rule and consistent with professionally recognized preparations and educational standards of a certified nurse midwife by a person licensed under this chapter, which practice includes:

(i) having a safe mechanism for obtaining medical consultation, collaboration, and referral with one or more consulting physicians who have agreed to consult, collaborate, and receive referrals, but who are not required to sign a written document regarding the agreement;

(ii) providing a patient with information regarding other health care providers and health care services and referral to other health care providers and health care services when requested or when care is not within the scope of practice of a certified nurse midwife; and

(iii) maintaining written documentation of the parameters of service for independent and collaborative midwifery management and transfer of care when needed; and

(c) the authority to:

(i) elicit and record a patient's complete health information, including physical examination, history, and laboratory findings commonly used in providing obstetrical, gynecological, and well infant services to a patient;

(ii) assess findings and upon abnormal findings from the history, physical examination, or laboratory findings, manage the treatment of the patient, collaborate with the consulting physician or another qualified physician, or refer the patient to the consulting physician or to another qualified physician as appropriate;

(iii) diagnose, plan, and implement appropriate patient care, including the

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administration and prescribing of:

- (A) prescription drugs;
- (B) schedule IV-V controlled substances; and
- (C) schedule II-III controlled substances in accordance with a consultation and referral

plan;

- (iv) evaluate the results of patient care;
- (v) consult as is appropriate regarding patient care and the results of patient care;
- (vi) manage the intrapartum period according to accepted standards of nurse midwifery

practice and a written intrapartum referral plan, including performance of routine episiotomy and repairs, and administration of anesthesia, including local, pudendal, or paracervical block anesthesia, but not including general anesthesia and major conduction anesthesia;

- (vii) manage the postpartum period;
- (viii) provide gynecological services;
- (ix) provide noncomplicated newborn and infant care to the age of one year; and
- (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use

the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

(10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.

(11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed certified nurse midwife in accordance with the standards of the profession as defined by rule.

(12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as may be further defined by rule.

Section ~~{84}~~82. Section **58-47b-102** is amended to read:

58-47b-102. Definitions.

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

(1) "Board" means the Board of Massage Therapy and Acupuncture created in Section 58-47b-201.

(2) "Breast" means the female mammary gland and does not include the muscles, connective tissue, or other soft tissue of the upper chest.

(3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular system.

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(4) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice.

(5) "Massage assistant" means an individual licensed under this chapter as a massage assistant.

(6) "Massage assistant in-training" means an individual licensed under this chapter as a massage assistant in-training.

(7) "Massage therapist" means an individual licensed under this chapter as a massage therapist.

(8) "Massage therapy supervisor" means:

(a) a massage therapist who has at least three years of experience as a massage therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(c) a physician licensed under Chapter 67, Utah Medical Practice Act;

(d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.

(9) (a) "Practice of limited massage therapy" means:

(i) the systematic manual manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, relaxation, or achieving homeostasis;

(ii) seated chair massage;

(iii) the use of body wraps;

(iv) aromatherapy;

(v) reflexology; or

(vi) in connection with an activity described in this Subsection (9), the use of:

(A) the hands;

(B) a towel;

(C) a stone;

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(D) a shell;

(E) a bamboo stick; or

(F) an herbal ball compress.

(b) "Practice of limited massage therapy" does not include work on an acute or subacute injury.

(10) "Practice of massage therapy" means:

(a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;

(b) the systematic manual or mechanical manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, or achieving homeostasis, or for any other purpose;

(c) the use of the hands or a mechanical or electrical apparatus in connection with this Subsection (10);

(d) the use of rehabilitative procedures involving the soft tissue of the body;

(e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;

(f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;

(g) manual traction and stretching exercise;

(h) correction of muscular distortion by treatment of the soft tissues of the body;

(i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;

(j) activities and modality techniques similar or related to the activities and techniques described in this Subsection (10);

(k) a practice described in this Subsection (10) on an animal to the extent permitted by:

(i) Subsection 58-28-307(12);

(ii) the provisions of this chapter; and

(iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(l) providing, offering, or advertising a paid service using the term massage or a

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derivative of the word massage, regardless of whether the service includes physical contact.

(11) "Soft tissue" means the muscles and related connective tissue.

(12) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-47b-501.

(13) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~85~~83. Section **58-47b-201** is amended to read:

58-47b-201. Board.

(1) There is created the Board of Massage Therapy and Acupuncture consisting of:

(a) four massage therapists; [~~and~~]

(b) two licensed acupuncturists as defined in Section 58-72-102; and

~~(b)~~ (c) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) (a) [~~The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203.~~] The board shall perform the duties and responsibilities described in Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 72, Acupuncture Licensing Act.

(b) In addition, the board shall designate one of its members on a permanent or rotating basis to:

~~(a)~~ (i) assist the division in reviewing complaints concerning the [~~unlawful or unprofessional~~] conduct of a [~~licensee~~] an individual licensed under this chapter or Chapter 72, Acupuncture Licensing Act; and

~~(b)~~ (ii) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section ~~86~~84. Section **58-53-102** is amended to read:

58-53-102. Definitions.

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

(1) "Board" means the [~~Landscape Architects~~] Architects and Landscape Architects

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Licensing Board created in Section [~~58-53-201~~] 58-3a-201.

(2) "Fund" means the Landscape Architects Education and Enforcement Fund created in Section 58-53-103.

(3) "Practice of landscape architecture" means rendering or offering to render any of the following services:

(a) production of a site plan which may include the design of any of the following:

- (i) sprinkler irrigation systems;
- (ii) landscape grading and drainage plans; or
- (iii) parking lots;

(b) design of any of the following structures incidental to the production of a site plan:

- (i) retaining walls; or
- (ii) raised platforms, decks, and walkways;

(c) design of any of the following structures incidental to the production of a site plan when the structure does not exceed 1,000 square feet:

- (i) covered pavilions;
- (ii) gazebos;
- (iii) restrooms;
- (iv) storage and maintenance facilities; or
- (v) other accessory structures; or

(d) collaboration with architects and professional engineers in the design of roads, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which they are to be placed.

(4) "Principal" means a licensed landscape architect having responsible charge of a landscape architectural practice.

(5) "Supervision" with respect to the supervision of an employee of a landscape architect, means that a licensed landscape architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee under the direction of the landscape architect, and may be further defined by rule of the division in collaboration with the board.

(6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-53-501.

(7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further

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defined by rule of the division in collaboration with the board.

Section ~~{87}~~85. Section **58-54-201** is amended to read:

58-54-201. Board created -- Membership -- Duties.

(1) There is created a Radiologic Technologist Licensing Board consisting of nine members as follows:

- (a) three licensed radiologic technologists;
- (b) one licensed radiology practical technician;
- (c) one licensed radiologist assistant;
- (d) two radiologists;
- (e) one physician licensed under this title who is not a radiologist, and who uses

radiologic services in the physician's practice; and

- (f) one member from the general public.
- (2) The board shall be appointed in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

(4) In accordance with Subsection 58-1-203(1)(f), there is established an advisory peer committee to the board consisting of eight members broadly representative of the state and including:

(a) one licensed physician and surgeon who is not a radiologist and who uses radiology equipment in a rural office-based practice, appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

(b) one licensed physician and surgeon who is not a radiologist and who uses radiology equipment in an urban office-based practice, appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

(c) one licensed physician and surgeon who is a radiologist practicing in radiology, appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

(d) one licensed osteopathic physician, appointed from among recommendations of the [~~Osteopathic Physicians~~] Medical Licensing Board;

(e) one licensed chiropractic physician, appointed from among recommendations of the Chiropractors Licensing Board;

(f) one licensed podiatric physician, appointed from among recommendations of the

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Podiatric Physician Board;

(g) one representative of the state agency with primary responsibility for regulation of sources of radiation, recommended by that agency; and

(h) one representative of a general acute hospital, as defined in Section 26B-2-201, that is located in a rural area of the state.

(5) (a) Except as required by Subsection (5)(b), members of the advisory peer committee shall be appointed to four-year terms by the director in collaboration with the board from among the recommendations.

(b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

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

(a) Section 63A-3-106;

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

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

(7) The duties, responsibilities, and scope of authority of the advisory peer committee are:

(a) to advise the board with respect to the board's fulfillment of its duties, functions, and responsibilities under Sections 58-1-202 and 58-1-203; and

(b) to advise the division with respect to the examination the division is to adopt by rule, by which a radiology practical technician may qualify for licensure under Section 58-54-302.

Section ~~88~~86. Section **58-55-102** is amended to read:

58-55-102. Definitions.

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

(1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,

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installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

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

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

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

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

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

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

(2) "Alarm company agent":

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

(b) does not include an individual who:

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

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

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

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(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

(7) (a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(11) (a) "Approved preclicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved preclicensure course provider" may only include a provider that, in

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addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(12) "Board" means the [~~Electrician Licensing Board,~~] Alarm System Security and Licensing Board, or Electricians and Plumbers Licensing Board created in Section 58-55-201.

(13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

(15) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(17) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

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(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (17) by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(18) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(19) "Elevator" means the same as that term is defined in Section 34A-7-202, except

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that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(24) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(26) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building

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contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(27) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following:

- (i) irrigation;
- (ii) drainage;
- (iii) water power;
- (iv) water supply;
- (v) flood control;
- (vi) an inland waterway;
- (vii) a harbor;
- (viii) a railroad;
- (ix) a highway;
- (x) a tunnel;
- (xi) an airport;

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- (xii) an airport runway;
- (xiii) a sewer;
- (xiv) a bridge;
- (xv) a refinery;
- (xvi) a pipeline;
- (xvii) a chemical plant;
- (xviii) an industrial plant;
- (xix) a pier;
- (xx) a foundation;
- (xxi) a power plant; or
- (xxii) a utility plant or installation.

(b) A general engineering contractor may not perform or superintend:

- (i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or
- (ii) performance of:
 - (A) plumbing work;
 - (B) electrical work; or
 - (C) mechanical work.

(29) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

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- (a) as the division specifies in rule;
- (b) by, as applicable, a qualified electrician or plumber;
- (c) as part of a planned program of training; and
- (d) to ensure that the end result complies with applicable standards.

(31) "Individual" means a natural person.

(32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(33) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(34) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(35) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(36) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(37) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

- (i) delivery of the water supply;
- (ii) discharge of liquid and water carried waste;
- (iii) building drainage system within the walls of the building; and
- (iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

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(38) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(39) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(40) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(41) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(42) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

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(43) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(44) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(45) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(46) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(47) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(48) "Responsible management personnel" means:

- (a) a qualifying agent;
- (b) an operations manager; or
- (c) a site manager.

(49) "Sensitive alarm system information" means:

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- (a) a pass code or other code used in the operation of an alarm system;
- (b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;
- (c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and
- (d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(50) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(51) "Unincorporated entity" means an entity that is not:

- (a) an individual;
- (b) a corporation; or
- (c) publicly traded.

(52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(53) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(54) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section ~~89~~87. Section **58-55-103** is amended to read:

**58-55-103. Construction Services Commission created -- Functions --
Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**

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-- Concurrence.

(1) (a) There is created within the division the Construction Services Commission.

(b) The commission shall:

(i) with the concurrence of the director, make reasonable rules under Title 63G,

Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:

(A) licensing of various licensees;

(B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;

(C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and

(D) standards of conduct for various licensees;

(ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

(iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;

(iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and certificate holders with the same authority as the division under Section 58-1-401;

(v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;

(vi) advise the director on matters affecting the division budget;

(vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and

(viii) perform other duties as provided by this chapter.

~~[(b)] (2) [(a)] Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.~~

~~[(b)] [(2)] [(a)]~~ The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.

~~[(c)] Beginning July 1, 2004, the [(c)]~~

(b) ~~[(Beginning July 1, 2004, the)]~~ The commission shall be comprised of ~~[nine]~~ the

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following members appointed by the executive director with the approval of the governor from the following groups:

- (i) one member shall be a licensed general engineering contractor;
- (ii) one member shall be a licensed general building contractor;
- (iii) two members shall be licensed residential and small commercial contractors;

~~[(iv) ~~{} three {} two~~ members shall be the ~~{} three {} two~~ chair persons from the ~~{} Electricians and {} Plumbers Licensing Board {}, {} and {} the Alarm System Security and Licensing Board {}, and the Electricians Licensing Board {};~~ and~~

~~— (v) ~~{} and~~~~

(iv) one member shall be a licensed plumber and a member of the Electricians and Plumbers Licensing Board;

(v) one member shall be a licensed electrician and a member of the Electricians and Plumbers Licensing Board;

(vi) one member shall be the chair person of the Alarm System Security and Licensing Board; and

~~[(v)] (vii) two members shall be ~~{} one member~~ from the general public.~~

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.

(c) A commission member may not serve more than two consecutive terms.

(4) The commission shall elect annually one of its members as chair, for a term of one year.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;

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(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The commission shall meet at least monthly unless the director determines otherwise.

(b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.

(8) (a) Five members constitute a quorum for the transaction of business.

(b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.

(9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

(10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(b) If a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(c) When this chapter requires concurrence between the director or division and the commission:

(i) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(ii) the commission shall review the report submitted by the director or division under this Subsection (10)(c) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the director or division.

Section ~~90~~88. Section **58-55-201** is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created the Electrician and Plumbers Licensing Board consisting of [~~seven members as follows~~] the following members:

(a) three members [~~shall be~~] licensed from among the license classifications of master

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or journeyman plumber, of whom at least one ~~[shall represent]~~ represents a union organization and at least one ~~[shall be selected having]~~ has no union affiliation;

(b) ~~[three members shall be]~~ two members who are licensed plumbing contractors, of whom at least one ~~[shall represent]~~ represents a union organization and at least one ~~[shall be selected having]~~ has no union affiliation; ~~[and]~~

(c) three members licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(d) two members who are licensed electrical contractors, of whom at least one represents a union organization and at least one has no union affiliation;

~~[(e)]~~ (e) one member ~~[shall be]~~ who is from the public at large with no history of involvement in the construction trades.

(2) (a) There is created the Alarm System Security and Licensing Board consisting of ~~[five members as follows]~~ the following members:

- (i) three individuals who are officers or owners of a licensed alarm business;
- (ii) one individual from among nominees of the Utah Peace Officers Association; and
- (iii) one individual representing the general public.

(b) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(ii) advise the division in its investigation of these complaints.

(c) A board member who has, under this Subsection (2)(c), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

~~[(3) There is created the Electricians Licensing Board consisting of seven members as follows:]~~

~~[(a) three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;]~~

~~[(b) three members shall be licensed electrical contractors, of whom at least one shall~~

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~~represent a union organization and at least one shall be selected having no union affiliation; and]~~

~~[(c) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.]~~

~~[(4)]~~ (3) The duties, functions, and responsibilities of each board described in Subsections (1) ~~[through (3)]~~ and (2) include the following:

- (a) recommending to the commission appropriate rules;
- (b) recommending to the commission policy and budgetary matters;
- (c) approving and establishing a passing score for applicant examinations;
- (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;
- (e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession the board represents; and
- (f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

Section ~~91~~89. Section **58-55-302** is amended to read:

58-55-302. Qualifications for licensure.

- (1) Each applicant for a license under this chapter shall:
 - (a) submit an application prescribed by the division;
 - (b) pay a fee as determined by the department under Section 63J-1-504;
 - (c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:
 - (i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;
 - (ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter,

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and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing

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contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

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(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this

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Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

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(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

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(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician;

or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall

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be in accordance with the following:

(i) ~~[A]~~ a licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who:

(A) is an alarm company officer, alarm company owner, alarm company proprietor, an alarm company trustee, or other responsible management personnel;

(B) demonstrates 6,000 hours of experience in the alarm company business;

(C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(D) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) provide the name, address, date of birth, social security number, fingerprint card, and consent to a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm company proprietor, alarm company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state;

(iii) document that none of the persons described in Subsection (3)(k)(ii):

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(A) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

(B) are currently suffering from habitual drunkenness or from drug addiction or dependence;

(iv) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(v) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and

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repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

(5) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has

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served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

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(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (6)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (6) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (6)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

(7) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage

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in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (7)(a)(i), an ownership status report containing the information that would be required under Subsection (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership status report described in Subsection (7)(a)(i) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section ~~58-67-102~~90. Section **58-67-102** is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in

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accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(6) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

- (a) sex and reproductive organ anatomy;
- (b) chromosomal makeup; and
- (c) endogenous hormone profiles.

(7) "Board" means the [~~Physicians~~] Medical Licensing Board created in Section 58-67-201.

(8) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

(9) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

(10) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (10)(a).

(11) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(12) "Diagnose" means:

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(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (12)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (12)(a); or

(d) to make an examination or determination as described in Subsection (12)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(13) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-67-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope

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of practice.

(18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(19) (a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or

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perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

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(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Section ~~93~~91. Section **58-67-201** is amended to read:

58-67-201. Board.

(1) There is created the [~~Physicians~~] Medical Licensing Board consisting of [~~nine physicians and surgeons and two members of the general public.~~] the following members:

(a) seven physicians and surgeons;

(b) two osteopathic physicians and surgeons;

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(c) a physician who is a board certified psychiatrist who currently works or previously worked collaboratively with a physician assistant;

(d) three physician assistants, one of whom is involved in the administration of an approved physician assistant education program in the state; and

(e) two members of the public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) (a) In addition to any duty or responsibility described in Section 58-1-202 or 58-1-203, the board shall regulate:

(i) anesthesiologist assistants licensed under [Chapter 70b, Anesthesiologist Assistant Licensing Act.] Chapter 70b, Anesthesiologist Assistant Licensing Act;

(ii) osteopathic physicians and surgeons licensed under Chapter 68, Utah Osteopathic Medical Practice Act; and

(iii) physician assistants licensed under Chapter 70a, Utah Physician Assistant Act.

(b) The board may also designate one of the board's members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the [~~unlawful or unprofessional~~] conduct of a licensee the board regulates; and

(ii) advise the division in the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the complaint's investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

Section ~~94~~92. Section **58-68-102** is amended to read:

58-68-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine imposed by the division for acts or

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omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "AOA" means the American Osteopathic Association.

(5) "Associate physician" means an individual licensed under Section 58-68-302.5.

(6) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(7) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(8) "Board" means the [~~Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201~~] Medical Licensing Board created in Section 58-67-201.

(9) "Collaborating physician" means an individual licensed under Section 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

(10) "Collaborative practice arrangement" means the arrangement described in Section 58-68-807.

(11) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (11)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (11)(a).

(12) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

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(13) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (13)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (13)(a); or

(d) to make an examination or determination as described in Subsection (13)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-68-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

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(18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(19) (a) "Practice of osteopathic medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part is based upon emphasis of the importance of the musculoskeletal system and manipulative therapy in the maintenance and restoration of health, by an individual in Utah or outside of the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed osteopathic physician, and if the party using the designation is not a licensed osteopathic physician, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of osteopathic medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person

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performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-68-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22) (a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an

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individual's attempted sex change.

(23) (a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

Section ~~95~~93. Section **58-70a-102** is amended to read:

58-70a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Physician Assistant Licensing Board created in Section 58-70a-201~~] Medical Licensing Board created in Section 58-67-201.

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(2) "Competence" means possessing the requisite cognitive, non-cognitive, and communicative abilities and qualities to perform effectively within the scope of practice of the physician assistant's practice while adhering to professional and ethical standards.

(3) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Physician" means the same as that term is defined in Section 58-67-102.

(6) "Physician assistant" means an individual who is licensed to practice under this chapter.

(7) "Practice as a physician assistant" means the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the provisions of this chapter.

(8) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(9) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-70a-502.

(10) "Unprofessional conduct" means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and

(b) as further defined by the division by rule.

Section ~~96~~94. Section **58-70b-101** is amended to read:

58-70b-101. Definitions.

As used in this chapter:

(1) "Anesthesiologist" means an individual who:

(a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) has completed a residency program in anesthesiology.

(2) "Anesthesiologist assistant" means an individual licensed under this chapter.

(3) "Board" means the [~~Physicians~~] Medical Licensing Board created in Section 58-67-201.

(4) "Practice of assisting an anesthesiologist" means personally performing the health

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care services delegated to the anesthesiologist assistant by the supervising anesthesiologist in accordance with the acceptable medical practice and the American Society of Anesthesiologists' guidance for best practice of anesthesia in a care team model.

(5) "Supervision standards" means standards established by the division through rule that:

(a) prohibit an anesthesiologist from supervising more than four anesthesiologist assistants at any one time; and

(b) comply with the rules and regulations for anesthesia service reimbursement created by the Centers for Medicare and Medicaid Services to the extent that the rules and regulations do not conflict with state law.

Section ~~{97}~~95. Section **58-71-102** is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" means the [~~same as that term is~~] practice of acupuncture as defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(4) "Diagnose" means:

(a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or

(d) to make an examination or determination as described in Subsection (4)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the

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presence of the individual the examination or determination concerns.

(5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

(6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

(7) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection (8)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection (7)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving nerves, veins, or arteries.

(8) "Natural medicine" means any:

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(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug

Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

(9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

(c) "Naturopathic childbirth" does not include the use of:

(i) forceps delivery;

(ii) general or spinal anesthesia;

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(iii) caesarean section delivery; or

(iv) induced labor or abortion.

(10) (a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier.

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Chapter 73, Chiropractic Physician Practice Act.

(11) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

(12) "Naturopathic physician" means an individual licensed under this chapter to engage in the practice of naturopathic medicine.

(13) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic

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physician will:

- (I) refer patients to the consulting physician; and
 - (II) consult with the consulting physician;
 - (ii) using naturopathic mobilization therapy;
 - (iii) using naturopathic physical medicine;
 - (iv) using minor office procedures;
 - (v) prescribing or administering natural medicine;
 - (vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;
 - (vii) prescribing barrier devices for contraception;
 - (viii) using dietary therapy;
 - (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;
 - (x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;
 - (xi) taking of a history from and conducting of a physical examination upon a human patient; and
 - (xii) administering local anesthesia during the performance of a minor office procedure;
 - (b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (13)(a), whether or not for compensation; or
 - (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.
- (14) "Prescribe" means to issue a prescription:

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(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(15) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

(16) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

(18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section ~~98~~96. Section **58-72-102** is amended to read:

58-72-102. Acupuncture licensing -- Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Acupuncture Licensing Board created in Section 58-72-201~~] Board of Massage Therapy and Acupuncture created in Section 58-47b-201.

(2) (a) "Injection therapy" means the use of a hypodermic needle, by a licensed acupuncturist who has obtained a clean needle technique certificate from the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM), to inject any of the following sterile substances in liquid form into acupuncture points on the body subcutaneously or intramuscularly:

(i) a nutritional substance;

(ii) a local anesthetic;

(iii) autologous blood, if the licensee holds a current phlebotomy certification to draw blood;

(iv) sterile water;

(v) dextrose;

(vi) sodium bicarbonate; and

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(vii) sterile saline.

(b) "Injection therapy" includes using ultrasound guidance to ensure that an injection is only a subcutaneous injection or an intramuscular injection.

(c) "Injection therapy" does not include injecting a substance into a vein, joint, artery, blood vessel, nerve, tendon, deep organ, or the spine.

(d) "Injection therapy" may not be performed on a pregnant woman or a child under the age of eight.

(3) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been licensed under this chapter to practice acupuncture.

(4) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture points of the body.

(5) (a) "Practice of acupuncture" means the insertion of acupuncture needles, the use of injection therapy, and the application of moxibustion to specific areas of the body based on traditional oriental medical diagnosis and modern research as a primary mode of therapy.

(b) Adjunctive therapies within the scope of the practice of acupuncture may include:

(i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based on traditional oriental medical diagnosis and modern research;

(ii) the recommendation, administration, or provision of dietary guidelines, herbs, supplements, homeopathics, and therapeutic exercise based on traditional oriental medical diagnosis and modern research according to practitioner training; and

(iii) the practice described in Subsections (5)(a) and (b) on an animal to the extent permitted by:

(A) Subsection 58-28-307(12);

(B) the provisions of this chapter; and

(C) division rule.

(c) "Practice of acupuncture" does not include:

(i) the manual manipulation or adjustment of the joints of the body beyond the elastic barrier; or

(ii) the "manipulation of the articulation of the spinal column" as defined in Section 58-73-102.

(6) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as

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may be further defined by division rule.

Section ~~{99}~~97. Section **58-88-205** is amended to read:

58-88-205. Operating standards -- Rulemaking.

(1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing practice licensed under this part which shall include, but is not limited to, standards for:

- (a) security;
- (b) labeling;
- (c) storage;
- (d) supervision;
- (e) inventory control; and
- (f) patient counseling.

(2) The division may designate individual medications and classes of medications that may not be dispensed at a licensed dispensing practice under this chapter.

(3) When making rules under this part, the division shall consult with a group consisting of:

(a) two members of the [~~Physicians~~] Medical Licensing Board created in Section 58-67-201; and

(b) two members of the Utah State Board of Pharmacy created in Section 58-17b-201.

Section ~~{100}~~98. Section **63C-1-103** is enacted to read:

63C-1-103. Appointment and terms of boards transitioning on October 1, 2024.

(1) As used in this section:

(a) "Enacted committee" means the following as constituted on or after October 1, 2024:

(i) the Physical Therapies Licensing Board created in Section 58-24b-201;

(ii) the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201;

(iii) the Architects and Landscape Architects Licensing Board created in Section 58-3a-201;

(iv) the Construction Services Commission created in Section 58-55-103;

(v) the Board of Massage Therapy and Acupuncture created in Section 58-47b-201;

and

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(vi) the Medical Licensing Board created in Section 58-67-201.

(b) "Expired committee" means:

(i) the following which, in accordance with Title 63I, Chapter 2, Repeal Dates by Title Act, are repealed on October 1, 2024:

~~{~~ ~~(A) the Athletic Trainers Licensing Board created in Section 58-40a-201;~~

~~}~~ ~~(B)~~^A the Board of Occupational Therapy created in Section 58-42a-201;

~~(C)~~^B the Certified Nurse Midwife Board created in Section 58-44a-201;

~~(D)~~^C the Landscape Architects Board created in Section 58-53-201;

~~(E)~~^D the Acupuncture Licensing Board created in Section 58-72-201;

~~(F)~~^E the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201; and

~~(G)~~^F the Physician Assistant Licensing Board created in Section 58-70a-201; and

(ii) the following as constituted before October 1, 2024:

(A) the Physical Therapy Licensing Board created in Section 58-24b-201;

(B) the Board of Nursing created in Section 58-31b-201;

(C) the Architects Licensing Board created in Section 58-3a-201;

(D) the Plumbers Licensing Board created in Section 58-55-201;

(E) the Electricians Licensing Board created in Section 58-55-201;

(F) the Board of Massage Therapy created in Section 58-47b-201; and

(G) the Physicians Licensing Board created in Section 58-67-201.

(2) An individual who is appointed as a member of an expired committee is removed from the expired committee after September 30, 2024.

(3) (a) On or after May 1, 2024, but before October 1, 2024:

(i) the appointing authority of an enacted committee may appoint a member to the enacted committee in accordance with the section governing appointment to the enacted committee; and

(ii) if applicable under the section governing appointment to the enacted committee, the Senate may provide advice and consent.

(b) A member described in Subsection (3)(a) may not begin the individual's term of service on the enacted committee before October 1, 2024.

(4) (a) Nothing in this section prevents an appointing authority from appointing an

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individual who is removed from an expired committee in accordance with Subsection (2) to an enacted committee if the individual's appointment meets the requirements of the section governing appointment to the enacted committee.

(b) If an individual is removed from an expired committee under Subsection (2) and is then appointed to an enacted committee under Subsection (3)(a), and the appointed position has limited terms an individual may serve, the appointment under Subsection (3)(a) does not count as an additional term.

Section ~~{101}~~99. Section **63I-1-204** is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

~~[(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.]~~

~~[(9)]~~ (8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

Section ~~{102}~~100. Section **63I-1-207** is amended to read:

63I-1-207. Repeal dates: Title 7.

~~[(1)]~~ Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, 2031.

~~[(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, 2032.]~~

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~~[(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, 2033.]~~

Section ~~{103}~~101. Section **63I-1-213** is amended to read:

63I-1-213. Repeal dates: Title 13.

(1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

~~[(2) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.]~~

~~[(3) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, 2032.]~~

~~[(4) (2) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2026.]~~

Section ~~{104}~~102. Section **63I-1-219** is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

~~[(2) Section 19-2a-102 is repealed July 1, 2026.]~~

~~[(3) Section 19-2a-104 is repealed July 1, 2022.]~~

~~[(4) (2) (a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.]~~

(b) Notwithstanding Subsection ~~[(4)(a)]~~ (2)(a), Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

~~[(5) (3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.]~~

~~[(6) (4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.]~~

~~[(7) (5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.]~~

~~[(8) (6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.]~~

~~[(9) (7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.]~~

~~[(10) (8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.]~~

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~~[(11)]~~ (9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

~~[(12)]~~ (10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section ~~{105}~~103. Section **63I-1-234** is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection ~~[34A-1-202(2)(c)(i)]~~ 34A-1-202(2)(b)(i), related to the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection ~~[34A-1-202(2)(c)(iii)]~~ 34A-1-202(2)(b)(iii), related to the Coal Miner Certification Panel, is repealed July 1, 2024.

(3) Section 34A-2-107, which creates the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(4) Section 34A-2-202.5 is repealed December 31, 2030.

Section ~~{106}~~104. Section **63I-1-235** is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2028.

(6) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

~~[(7) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.]~~

~~[(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.]~~

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Section ~~{107}~~105. Section **63I-1-236** is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
January 1, 2025.

~~[(3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1,
2028.]~~

~~[(4) (3) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.~~

Section ~~{108}~~106. Section **63I-1-241** is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), related to the Neuro-Rehabilitation Fund, is repealed
January 1, 2025.

~~[(2) Section 41-3-106, which creates an advisory board related to motor vehicle
business regulation, is repealed July 1, 2024.]~~

~~[(3) (2) The following subsections addressing lane filtering are repealed on July 1,
2027:~~

- ~~(a) the subsection in Section 41-6a-102 that defines "lane filtering";~~
- ~~(b) Subsection 41-6a-704(5); and~~
- ~~(c) Subsection 41-6a-710(1)(c).~~

~~[(4) (3) Subsection 41-6a-1406(6)(b)(iii), related to the Neuro-Rehabilitation Fund, is
repealed January 1, 2025.~~

~~[(5) (4) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council
that includes in the advisory council's duties addressing off-highway vehicle issues, are
repealed July 1, 2027.~~

~~[(6) (5) Subsection 41-22-8(3), related to the Neuro-Rehabilitation Fund, is repealed
January 1, 2025.~~

Section ~~{109}~~107. Section **63I-1-253 (Superseded 07/01/24)** is amended to read:

63I-1-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration
Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory

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Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

~~[(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.]~~

~~[(5) (4) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.]~~

~~[(6) (5) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.]~~

~~[(7) (6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.]~~

~~[(8) (7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.]~~

~~[(9) (8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.]~~

~~[(10) (9) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.]~~

~~[(11) (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.]~~

~~[(12) (11) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.]~~

~~[(13) (12) In relation to a standards review committee, on January 1, 2028:~~

~~(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and~~

~~(b) Section 53E-4-203 is repealed.~~

~~[(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.]~~

~~[(15) (13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.]~~

~~[(16) (14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.]~~

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~~[(17)]~~ (15) Section 53F-5-213 is repealed July 1, 2023.

~~[(18)]~~ (16) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

~~[(19)]~~ (17) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

~~[(20)]~~ (18) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

~~[(21)]~~ Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.]

~~[(22)]~~ (19) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(23)]~~ (20) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

~~[(24)]~~ (21) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section ~~{110}~~ 108. Section **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)** is amended to read:

63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25). Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

~~[(5)]~~ Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.]

~~[(6)]~~ (5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

~~[(7)]~~ (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is

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repealed July 1, 2028.

~~[(8)]~~ (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

~~[(9)]~~ (8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

~~[(10)]~~ (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

~~[(11)]~~ (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

~~[(12)]~~ (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

~~[(13)]~~ (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

~~[(14)]~~ (13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

~~[(15)] Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.]~~

~~[(16)]~~ (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

~~[(17)]~~ (15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

~~[(18)]~~ (16) Section 53F-5-213 is repealed July 1, 2023.

~~[(19)]~~ (17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

~~[(20)]~~ (18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

~~[(21)]~~ (19) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

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~~[(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.]~~

~~[(23) (20) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.~~

~~[(24) (21) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.~~

~~[(25) (22) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.~~

Section ~~{111}~~109. Section **63I-1-253 (Contingently Effective 01/01/25)** is amended to read:

63I-1-253 (Contingently Effective 01/01/25). Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

~~[(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.]~~

~~[(6) (5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.~~

~~[(7) (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.~~

~~[(8) (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.~~

~~[(9) (8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.~~

~~[(10) (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.~~

~~[(11) (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.~~

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~~[(12)]~~ (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

~~[(13)]~~ (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

~~[(14)]~~ (13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

~~[(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.]~~

~~[(16)]~~ (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

~~[(17)]~~ (15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

~~[(18)]~~ (16) Section 53F-5-213 is repealed July 1, 2023.

~~[(19)]~~ (17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

~~[(20)]~~ (18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

~~[(21)]~~ (19) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

~~[(22)]~~ (20) (a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

~~[(23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.]~~

~~[(24)]~~ (21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

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~~[(25)]~~ (22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

~~[(26)]~~ (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section ~~{112}~~ 110. Section **63I-1-258** is amended to read:

63I-1-258. Repeal dates: Title 58.

~~[(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.]~~

~~[(2)]~~ (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

~~[(3)]~~ (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

~~[(4)]~~ (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

~~[(5)]~~ (4) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

~~[(6)]~~ (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

~~[(7)]~~ (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

~~[(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.]~~

~~[(9)]~~ (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

~~[(10)]~~ (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

~~[(11)]~~ (9) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

~~[(12) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.]~~

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~~[(13)]~~ (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

~~[(14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.]~~

Section ~~{H3}~~111. Section **63I-1-263** is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

- (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.
- (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.
- (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.
- (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.
- (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.
- (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.
- (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.
- (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.
- (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.
- (13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.
- (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

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(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d)."

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

~~[(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1, 2026.]~~

~~[(24)]~~ (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

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~~[(25)]~~ (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

~~[(26)]~~ (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~[(27)]~~ (26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

~~[(28)]~~ (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

~~[(29)]~~ (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

~~[(30)]~~ (29) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

~~[(31)]~~ (30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

~~[(32)]~~ (31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section ~~{114}~~ 112. Section **63I-1-265** is amended to read:

63I-1-265. Repeal dates: Title 65A.

~~[Section 65A-8-306, which creates the Heritage Trees Advisory Committee, is repealed July 1, 2026.]~~

Section ~~{115}~~ 113. Section **63I-1-279** is amended to read:

63I-1-279. Repeal dates: Title 79.

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~~[(1) Subsection 79-2-201(2)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.]~~

~~[(2) (1) Subsection ~~[79-2-201(2)(q)]~~ 79-2-201(2)(o), related to the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.~~

~~[(3) (2) Subsection ~~[79-2-201(2)(r)(i)]~~ 79-2-201(2)(p)(i), related to an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.~~

~~[(4) (3) Subsection ~~[79-2-201(2)(s)]~~ 79-2-201(2)(q), related to the Wildlife Board Nominating Committee, is repealed July 1, 2028.~~

~~[(5) (4) Subsection ~~[79-2-201(2)(t)]~~ 79-2-201(2)(r), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2028.~~

~~[(6) (5) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.~~

~~[(7) (6) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.~~

Section ~~{116}~~ 114. Section **63I-2-204** is amended to read:

63I-2-204. Repeal dates: Title 4.

~~[(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.]~~

~~[(2) (1) Subsection 4-41a-102(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.~~

~~(2) Section 4-41a-102.1 is repealed January 1, 2024.~~

~~(3) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership, is repealed on July 1, 2024.~~

~~(4) Section 4-46-104, Transition, is repealed July 1, 2024.~~

Section ~~{117}~~ 115. Section **63I-2-207** is enacted to read:

63I-2-207. Repeal dates: Title 7.

~~(1) Section 7-3-40 is repealed October 1, 2024.~~

~~(2) Section 7-9-43 is repealed October 1, 2024.~~

Section ~~{118}~~ 116. Section **63I-2-209** is amended to read:

63I-2-209. Repeal dates: Title 9.

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~~{1}~~(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024. ~~{1}~~

~~{2}~~ Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.]

~~{3}~~ ~~{112}~~ Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

~~{4}~~ ~~{123}~~ Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

~~{5}~~ ~~{134}~~ Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section ~~{119}~~ 117. Section **63I-2-213** is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16 is repealed on July 1, 2024.

(2) Section 13-14-103 is repealed October 1, 2024.

(3) Section 13-35-103 is repealed October 1, 2024.

~~{2}~~ (4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

Section ~~{120}~~ 118. Section **63I-2-226 (Superseded 07/01/24)** is amended to read:

63I-2-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(9) Section 26B-1-420, which creates the Cannabis Research Review Board, is

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repealed July 1, 2026.

(10) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

~~[(9)]~~ (11) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

~~[(10)]~~ (12) Section 26B-3-142 is repealed July 1, 2024.

~~[(11)]~~ (13) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(14) Subsection 26B-4-201(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.

~~[(12)]~~ (15) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(16) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is repealed July 1, 2026.

~~[(13)]~~ (17) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

~~[(14)]~~ (18) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

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~~[(15)]~~ (19) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

~~[(16)]~~ (20) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section ~~{121}~~119. Section **63I-2-226 (Effective 07/01/24)** is amended to read:

63I-2-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) Section 26B-1-420, which creates the Cannabis Research Review Board, is repealed July 1, 2026.

(8) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

~~[(7)]~~ (9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

~~[(8)]~~ (10) Section 26B-3-142 is repealed July 1, 2024.

~~[(9)]~~ (11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) Subsection 26B-4-201(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.

(13) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is

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repealed July 1, 2026.

~~[(10)]~~ (14) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

~~[(11)]~~ (15) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

~~[(12)]~~ (16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

~~[(13)]~~ (17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section ~~{122}~~ 120. Section **63I-2-234** is amended to read:

63I-2-234. Repeal dates: Title 34A.

~~[(1) Section 34A-2-107.3 is repealed May 15, 2025. (2)]~~ Subsection 34A-3-113(7) relating to a study is repealed on January 1, 2025.

Section ~~{123}~~ 121. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:

63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

~~[(3)]~~ (4) Section 53-7-109 is repealed on July 1, 2024.

~~[(4)]~~ (5) Section 53-22-104 is repealed December 31, 2023.

~~[(5)]~~ (6) Section 53B-6-105.7 is repealed July 1, 2024.

~~[(6)]~~ (7) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

~~[(7)]~~ (8) Section 53B-8-114 is repealed July 1, 2024.

~~[(8)]~~ (9) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

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(d) Section 53B-8-204; and

(e) Section 53B-8-205.

~~[(9)]~~ (10) Section 53B-10-101 is repealed on July 1, 2027.

~~[(10)]~~ (11) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

~~[(11)]~~ (12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

~~[(12)]~~ (13) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

~~[(13)]~~ (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

~~[(14)]~~ (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

~~[(15)]~~ (16) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

~~[(16)]~~ (17) Section 53F-9-401 is repealed on July 1, 2024.

~~[(17)]~~ (18) Section 53F-9-403 is repealed on July 1, 2024.

~~[(18)]~~ (19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section ~~[(124)]~~ 122. Section **63I-2-253 (Effective 07/01/24)** is amended to read:

63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

~~[(4)]~~ (5) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July

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1, 2024.

~~[(5)]~~ (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

~~[(6)]~~ (7) Section 53-7-109 is repealed on July 1, 2024.

~~[(7)]~~ (8) Section 53-22-104 is repealed December 31, 2023.

~~[(8)]~~ (9) Section 53B-6-105.7 is repealed July 1, 2024.

~~[(9)]~~ (10) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

~~[(10)]~~ (11) Section 53B-8-114 is repealed July 1, 2024.

~~[(11)]~~ (12) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

~~[(12)]~~ (13) Section 53B-10-101 is repealed on July 1, 2027.

~~[(13)]~~ (14) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

~~[(14)]~~ (15) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

~~[(15)]~~ (16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

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~~[(16)]~~ (17) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

~~[(17)]~~ (18) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

~~[(18)]~~ (19) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

~~[(19)]~~ (20) Section 53F-9-401 is repealed on July 1, 2024.

~~[(20)]~~ (21) Section 53F-9-403 is repealed on July 1, 2024.

~~[(21)]~~ (22) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section ~~{125}~~ 123. Section **63I-2-258** is amended to read:

63I-2-258. Repeal dates: Title 58.

(1) Section ~~{58-40a-201}~~ 58-42a-201 is repealed October 1, 2024.

(2) Section ~~{58-42a-201}~~ 58-44a-201 is repealed October 1, 2024.

(3) Section ~~{58-44a-201}~~ 58-53-201 is repealed October 1, 2024.

(4) Section ~~{58-53-201}~~ 58-68-201 is repealed October 1, 2024.

(5) Section ~~{58-68-201}~~ 58-70a-201 is repealed October 1, 2024.

(6) Section ~~{58-70a-201}~~ 58-72-201 is repealed October 1, 2024.

~~{~~ (7) Section 58-72-201 is repealed October 1, 2024.

~~}~~ Section ~~{126}~~ 124. Section **63I-2-263** is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council, is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Section 63C-1-103 is repealed ~~{October}~~ January 1, ~~{2024}~~ 2025.

~~[(4)]~~ (5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

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~~[(5)]~~ (6) Section 63H-7a-303 is repealed July 1, 2024.

~~[(6)]~~ (7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

~~[(7)]~~ (8) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

~~[(8)]~~ (9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

~~[(9)]~~ (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section ~~{127}~~ 125. Section **65A-8-302** is amended to read:

65A-8-302. Definitions.

As used in this part:

(1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.

~~[(2)]~~ "Committee" means the Heritage Trees Advisory Committee.]

~~[(3)]~~ (2) "Division" means the Division of Forestry, Fire, and State Lands.

~~[(4)]~~ (3) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:

(a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;

(b) any tree or group of trees that has exceptional national, state, or local historic significance;

(c) any tree or group of trees which has an exceptional size or exceptional form for its species;

(d) any tree or group of trees which has an exceptional age for its species; or

(e) any tree or group of trees in the state which is the sole representative of its species.

~~[(5)]~~ (4) "Person" means any individual, partnership, corporation, or association.

Section ~~{128}~~ 126. Section **65A-8-304** is amended to read:

65A-8-304. Guidelines and standards for granting or denying applications to alter or remove trees.

~~[(1)]~~ The committee shall develop published guidelines and standards to be used by the

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~~board in granting or denying applications for the alteration or removal of heritage trees. (2) In addition to the guidelines and standards developed by the committee, the~~ The division shall consider the following criteria in granting or denying an application:

~~(a)~~ (1) the physical condition of the heritage tree or trees with respect to:

~~(i)~~ (a) insect infestation;

~~(ii)~~ (b) disease;

~~(iii)~~ (c) danger of falling;

~~(iv)~~ (d) proximity to existing or proposed structures; and

~~(v)~~ (e) interference with utility services;

~~(b)~~ (2) the necessity of alteration or removal of the heritage tree or trees in order to construct proposed improvements and allow economic enjoyment of property;

~~(c)~~ (3) the topography of the land and the effect of removal of the heritage tree or trees on:

~~(i)~~ (a) erosion;

~~(ii)~~ (b) soil retention; and

~~(iii)~~ (c) the diversion or increased flow of surface waters resultant upon alteration or removal;

~~(d)~~ (4) the number of heritage trees existing in the neighborhood on improved property;

~~(e)~~ (5) the effect alteration or removal would have on established standards and property values in the area; and

~~(f)~~ (6) the number of heritage trees the particular parcel can support according to good forestry practices.

Section ~~{129}~~127. Section **76-7-314** is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

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(5) The Department of Health and Human Services shall report a physician's violation of any provision of this part to the [~~Physicians~~] Medical Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the [~~Physicians~~] Medical Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section 26B-2-208 against a health care facility if a violation of this chapter occurs at the health care facility.

Section ~~{130}~~ 128. Section **76-7-328** is amended to read:

76-7-328. Hearing to determine necessity of physician's conduct.

(1) A physician accused of an offense under Section 76-7-326 may seek a hearing before the [~~Physicians~~] Medical Licensing Board created in [~~Section 58-67-201, or the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201~~] Section 58-67-201 on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon a motion from the physician, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Section ~~{131}~~ 129. Section **79-2-201** is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

~~{(c)}~~ ~~Board of State Parks, created in Section 79-4-301;~~

~~{(d)}~~ (c) Office of Energy Development, created in Section 79-6-401;

~~{(e)}~~ (d) Wildlife Board, created in Section 23A-2-301;

~~{(f)}~~ (e) Board of the Utah Geological Survey, created in Section 79-3-301;

~~{(g)}~~ (f) Water Development Coordinating Council, created in Section 73-10c-3;

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~~[(h)]~~ (g) Division of Water Rights, created in Section 73-2-1.1;

~~[(i)]~~ (h) Division of Water Resources, created in Section 73-10-18;

~~[(j)]~~ (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

~~[(k)]~~ (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

~~[(l)]~~ (k) Division of State Parks, created in Section 79-4-201;

~~[(m)]~~ (l) Division of Outdoor Recreation, created in Section 79-7-201;

~~[(n)]~~ (m) Division of Wildlife Resources, created in Section 23A-2-201;

~~[(o)]~~ (n) Utah Geological Survey, created in Section 79-3-201;

~~[(p)]~~ ~~Heritage Trees Advisory Committee, created in Section 65A-8-306;~~

~~[(q)]~~ (o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

~~[(r)]~~ (p) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

~~[(s)]~~ (q) Wildlife Board Nominating Committee, created in Section 23A-2-302;

~~[(t)]~~ (r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;

~~[(u)]~~ (s) Utah Watersheds Council, created in Section 73-10g-304;

~~[(v)]~~ (t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305;

and

~~[(w)]~~ (u) Public Lands Policy Coordinating Office created in Section 63L-11-201.

(3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.

Section ~~{132}~~ 130. Section **79-4-102** is amended to read:

79-4-102. Definitions.

~~[(1)]~~ ~~"Board" means the Board of State Parks.~~ ~~(2)~~ "Division" means the Division of State Parks.

Section ~~{133}~~ 131. **Repealer.**

This bill repeals:

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Section 4-2-601, Title.

Section 4-2-602, Local Food Advisory Council created.

Section 4-2-603, Duties.

Section 4-2-604, Duties -- Interim report.

Section 4-35-103, Decision and Action Committee created -- Members -- How appointed -- Duties of committee -- Per diem and expenses allowed.

Section 13-32a-112, Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board.

~~Section 17-50-340, Establishment of county recorder appeal authority.~~

Section 19-2a-102, Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

Section 32B-2-210, Alcoholic Beverage Services Advisory Board.

Section 34-20-3, Labor relations board.

Section 34-20-4, Labor relations board -- Employees -- Agencies -- Expenses.

Section 34-20-5, Labor relations board -- Offices -- Jurisdiction -- Member's participation in case.

Section 34-20-6, Labor relations board -- Rules and regulations.

Section 34-20-10, Unfair labor practices -- Powers of board to prevent --

Procedure.

Section 34-20-11, Hearings and investigations -- Power of board -- Witnesses --

Procedure.

Section 34-20-12, Willful interference -- Penalty.

Section 34A-2-107.3, Mental Health Protections for First Responders Workgroup.

Section 35A-13-404, Appointment of advisory council.

Section 35A-13-603, Board.

Section 36-29-108, Criminal Code Evaluation Task Force.

Section 41-3-106, Board -- Creation and composition -- Appointment, terms, compensation, and expenses of members -- Meetings -- Quorum -- Powers and duties -- Officers' election and duties -- Voting.

Section 53B-6-105.5, Technology Initiative Advisory Board -- Composition -- Duties.

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Section 53B-26-303, Deep Technology Talent Advisory Council.

Section 53E-4-402, Creation of commission -- Powers -- Payment of expenses.

Section 53E-4-404, Meetings -- Notice.

~~{ Section 63C-30-101, Definitions.~~

~~— Section 63C-30-201, County Recorder Standards Board created.~~

~~— Section 63C-30-202, Duties of the board -- Reporting.~~

‡ Section 63M-7-801, Definitions.

Section 63M-7-802, Sex Offense Management Board - Creation - Members
appointment - Qualifications - Terms.

Section 63M-7-803, Board duties.

Section 65A-8-306, Heritage Trees Advisory Committee -- Members -- Officers --
Expenses -- Functions.

Section 79-4-301, Board of State Parks -- Creation -- Functions.

Section 79-4-302, Board appointment and terms of members -- Expenses.

Section 79-4-303, Board meetings -- Quorum.

Section 79-4-304, Board rulemaking authority.

Section 79-4-305, Long-range plans.

Section 79-4-502, Violations of rules.

Section ~~{134}~~132. Effective date.

(1) Except as provided in Subsections (2) through (4), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 63I-1-253 (Effective 07/01/24) (Contingently Superseded 01/01/25);

(b) Section 63I-2-226 (Effective 07/01/24); and

(c) Section 63I-2-253 (Effective 07/01/24).

(3) The actions affecting the following sections take effect on October 1, 2024:

(a) Section 7-1-203;

(b) Section 13-14-102;

(c) Section 13-14-104;

(d) Section 13-14-106;

(e) Section 13-14-107;

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- (f) Section 13-14-201;
- (g) Section 13-14-202;
- (h) Section 13-14-203;
- (i) Section 13-14-301;
- (j) Section 13-14-302;
- (k) Section 13-14-303;
- (l) Section 13-14-304;
- (m) Section 13-14-305;
- (n) Section 13-14-306;
- (o) Section 13-35-102;
- (p) Section 13-35-104;
- (q) Section 13-35-106;
- (r) Section 13-35-107;
- (s) Section 13-35-201;
- (t) Section 13-35-202;
- (u) Section 13-35-203;
- (v) Section 13-35-301;
- (w) Section 13-35-302;
- (x) Section 13-35-303;
- (y) Section 13-35-305;
- (z) Section 13-35-306;
- (aa) Section 15A-1-204;
- (bb) Section 15A-1-206;
- (cc) Section 26B-1-239;
- (dd) Section 26B-3-303;
- (ee) Section 26B-4-219;
- (ff) Section 26B-4-506;
- (gg) Section 26B-4-513;
- (hh) Section 58-3a-102;
- (ii) Section 58-3a-201;
- (jj) Section 58-17b-102;

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- (kk) Section 58-17b-605;
- (ll) Section 58-17b-610.8;
- (mm) Section 58-17b-625;
- (nn) Section 58-17b-1005;
- (oo) Section 58-24b-102;
- (pp) Section 58-24b-201;
- (qq) Section 58-24c-104;
- (rr) Section 58-31b-102;
- (ss) Section 58-31b-201;
- (tt) Section 58-31e-103;
- (uu) Section 58-37f-304;
- (vv) Section 58-38a-201;
- (ww) Section ~~{58-40a-102}~~58-42a-102;
- (xx) Section ~~{58-42a-102}~~58-44a-102;
- (yy) Section ~~{58-44a-102}~~58-47b-102;
- (zz) Section ~~{58-47b-102}~~58-47b-201;
- (aaa) Section ~~{58-47b-201}~~58-53-102;
- (bbb) Section ~~{58-53-102}~~58-54-201;
- (ccc) Section ~~{58-54-201}~~58-55-102;
- (ddd) Section ~~{58-55-102}~~58-55-103;
- (eee) Section ~~{58-55-103}~~58-55-201;
- (fff) Section ~~{58-55-201}~~58-55-302;
- (ggg) Section ~~{58-55-302}~~58-67-102;
- (hhh) Section ~~{58-67-102}~~58-67-201;
- (iii) Section ~~{58-67-201}~~58-68-102;
- (jjj) Section ~~{58-68-102}~~58-70a-102;
- (kkk) Section ~~{58-70a-102}~~58-70b-101;
- (lll) Section ~~{58-70b-101}~~58-72-102;
- (mmm) Section ~~{58-72-102}~~;
- ~~(nnn) Section }58-88-205;~~
- ~~{ooo}~~nnn) Section 76-7-314; and

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~~(fppp7000)~~ Section 76-7-328.

(4) The actions affecting section 63I-1-253 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

Section 133. Coordinating H.B. 534 with H.B. 132.

If H.B. 534, Boards and Commissions Modifications, and H.B. 132, Pharmacy Amendments, both pass and become law, the Legislature intends that, on October 1, 2024, Subsection 58-17b-605(9)(b)(iii) enacted by H.B. 132 be deleted.