

## SB0026S01 compared with SB0026

~~{deleted text}~~ shows text that was in SB0026 but was deleted in SB0026S01.

inserted text shows text that was not in SB0026 but was inserted into SB0026S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

### BEHAVIORAL HEALTH LICENSING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: {}Curtis S. Bramble**

House Sponsor: {}A. Cory Maloy

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#### LONG TITLE

~~{Committee Note:~~

~~———The Business and Labor Interim Committee recommended this bill.~~

~~———Legislative Vote: 12 voting for 1 voting against 8 absent~~

~~{General Description:~~

This bill amends behavioral health licensing provisions.

#### Highlighted Provisions:

This bill:

- ▶ requires the division to consider interstate portability and make recommendations regarding Utah's membership in any interstate licensing compacts;
- ▶ expands the types of licensees who may participate in the Utah Professionals Health Program, and removes the absolute requirement for formal proceedings to terminate a Utah Professionals Health Program contract and requires the division to make

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rules for probation after termination of a Utah Professionals Health Program contract;

- ▶ establishes that mental health disorders and substance use disorders qualify an individual licensee for the Utah Professionals Health Program's alternative path to public disciplinary action;
- ▶ creates the Behavioral Health Board, a multi-professional board to replace certain individual ~~{license}~~licensing boards;
- ▶ establishes ~~{who may supervise an applicant for licensure's supervised clinical hours;~~

~~→ expands the number of applicants for licensure a supervising licensee may supervise;~~

~~→ reduces the number of clinical hours an applicant for licensure must complete to obtain certain licensures;~~

~~→ increases the number of supervised clinical hours an applicant for licensure must complete to obtain certain licensures;~~training and certification requirements for clinical supervisors;

▶ changes supervision requirements for mental health therapists to include direct observation;

▶ defines direct client care, direct clinical supervision, and direct observation of mental health therapists;

▶ defines unlawful conduct to include failure to provide or disclose certain information to patients in a mental health therapy setting;

▶ requires a criminal background check for mental health therapists and authorizes the division to use the FBI Rap Back System;

▶ creates an alternative pathway to certain licensures through increased direct ~~{contact~~client care hours and supervised clinical hours, in lieu of examination requirements;

▶ creates the licenses of master addiction counselor and associate master addiction counselor;

▶ creates the license of behavioral health coach and certification of behavioral health technician;

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- ▶ expands the scope of practice of social service workers and advanced substance use disorder counselors to include drafting treatment plans and updates and providing manualized therapeutic interventions limited circumstances; and
- ▶ makes technical corrections.

### Money Appropriated in this Bill:

~~{None}~~ This bill appropriates in fiscal year 2025:

- ▶ to Utah Board of Higher Education - Talent Ready Utah - Talent Ready Utah as a one-time appropriation:
  - from the Grants and Contracts, One-time, \$2,900,000

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

26B-5-101, as last amended by Laws of Utah 2023, Chapter 308

26B-5-102, as last amended by Laws of Utah 2023, Chapter 177 and renumbered and amended by Laws of Utah 2023, Chapter 308

58-1-106, as last amended by Laws of Utah 2018, Chapter 318

58-1-201, as last amended by Laws of Utah 2023, Chapter 223

58-1-301.5, as last amended by Laws of Utah 2023, Chapters 222, 223 and 225

58-1-501, as last amended by Laws of Utah 2023, Chapters 223, 321 and 463

58-4a-102, as last amended by Laws of Utah 2023, Chapter 328

~~{58-4a-103}~~ 58-4a-107, as ~~{enacted}~~ last amended by Laws of Utah 2020, ~~{Chapter 107}~~

~~58-40-102~~, as renumbered and Fifth Special Session, Chapter 4

58-17b-102, as last amended by Laws of Utah 2023, Chapters 223, 328

58-40-302, as last amended by Laws of Utah ~~{2012}~~ 2020, Chapter ~~{82}~~ 339

58-60-102, as last amended by Laws of Utah 2021, Chapter 313

58-60-103.1, as enacted by Laws of Utah 2022, Chapter 466

58-60-106, as enacted by Laws of Utah 1994, Chapter 32

58-60-109, as last amended by Laws of Utah 2020, Chapter 339

58-60-110, as last amended by Laws of Utah 2019, Chapter 419

58-60-202, as last amended by Laws of Utah 2010, Chapters 78, 214

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58-60-205, as last amended by Laws of Utah 2023, Chapters 283, 339

58-60-207, as last amended by Laws of Utah 2023, Chapter 339

58-60-302, as enacted by Laws of Utah 1994, Chapter 32

58-60-305, as last amended by Laws of Utah 2023, Chapter 339

~~58-60-307, as last amended by Laws of Utah 2019, Chapter 393~~

58-60-402, as last amended by Laws of Utah 2012, Chapter 179

58-60-405, as last amended by Laws of Utah 2023, Chapter 339

58-60-407, as last amended by Laws of Utah 2020, Chapter 339

58-60-502, as last amended by Laws of Utah 2019, Chapter 393

58-60-504, as last amended by Laws of Utah 2012, Chapter 179

58-60-506, as last amended by Laws of Utah 2020, Chapter 339

58-61-102, as last amended by Laws of Utah 2013, Chapters 16, 123

58-61-301, as last amended by Laws of Utah 2001, Chapter 281

58-61-304, as last amended by Laws of Utah 2020, Chapter 339

58-61-304.1, as enacted by Laws of Utah 2020, Chapter 339

58-61-308, as enacted by Laws of Utah 2001, Chapter 281

58-61-502, as last amended by Laws of Utah 2001, Chapter 281

58-61-705, as last amended by Laws of Utah 2020, Chapter 339

58-84-102, as enacted by Laws of Utah 2014, Chapter 340

58-84-201, as last amended by Laws of Utah 2020, Chapter 339

### ENACTS:

58-60-102.5, Utah Code Annotated 1953

58-60-512, Utah Code Annotated 1953

58-60-601, Utah Code Annotated 1953

58-60-602, Utah Code Annotated 1953

58-60-603, Utah Code Annotated 1953

58-60-604, Utah Code Annotated 1953

### REPEALS:

~~58-40-201, as renumbered and amended by Laws of Utah 2012, Chapter 82~~

58-60-203, as last amended by Laws of Utah 2010, Chapter 214

58-60-303, as last amended by Laws of Utah 2000, Chapter 159

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58-60-307, as last amended by Laws of Utah 2019, Chapter 393

58-60-403, as last amended by Laws of Utah 2012, Chapter 179

58-60-503, as last amended by Laws of Utah 2012, Chapter 179

58-61-201, as last amended by Laws of Utah 2015, Chapter 367

58-78-101, as enacted by Laws of Utah 2009, Chapter 122

58-78-102, as enacted by Laws of Utah 2009, Chapter 122

58-78-201, as enacted by Laws of Utah 2009, Chapter 122

58-78-301, as enacted by Laws of Utah 2009, Chapter 122

58-78-302, as last amended by Laws of Utah 2020, Chapter 339

58-78-303, as last amended by Laws of Utah 2011, Chapter 367

58-78-304, as enacted by Laws of Utah 2009, Chapter 122

58-78-401, as enacted by Laws of Utah 2009, Chapter 122

58-78-501, as enacted by Laws of Utah 2009, Chapter 122

58-78-502, as enacted by Laws of Utah 2009, Chapter 122

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

Section 1. Section 26B-5-101 is amended to read:

**26B-5-101. Chapter definitions.**

As used in this chapter:

- (1) "Criminal risk factors" means a person's characteristics and behaviors that:
  - (a) affect the person's risk of engaging in criminal behavior; and
  - (b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.
- (2) "Director" means the director appointed under Section 26B-5-103.
- (3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-202.
- (4) "Local mental health authority" means a county legislative body.
- (5) "Local substance abuse authority" means a county legislative body.
- (6) "Mental health crisis" means:
  - (a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues

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could reasonably expect the absence of immediate attention or intervention to result in:

- (i) serious danger to the individual's health or well-being; or
- (ii) a danger to the health or well-being of others; or
- (b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

- (a) direct mental health services;
- (b) on-site intervention provided by a mobile crisis outreach team;
- (c) the provision of safety and care plans;
- (d) prolonged mental health services for up to 90 days after the day on which an

individual experiences a mental health crisis;

- (e) referrals to other community resources;
- (f) local mental health crisis lines; and
- (g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12) (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an

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annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

- (a) serve a child with or who is at risk for complex emotional and behavioral needs;
- (b) are community based;
- (c) are informed about trauma;
- (d) build meaningful partnerships with families and children;
- (e) integrate service planning, service coordination, and management across state and local entities;
- (f) include individualized case planning;
- (g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and
- (h) are guided by the type and variety of services needed by a child with or who is at

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risk for complex emotional and behavioral needs and by the child's family.

(17) "Targeted case management" means a service that assists Medicaid recipients in a target group to gain access to needed medical, social, educational, and other services.

Section 2. Section 26B-5-102 is amended to read:

### **26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.**

(1) (a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;



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(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c) (i) consult and coordinate with local substance abuse authorities and local mental

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health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

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(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection ~~[(2)(j)]~~ (2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use

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disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,

Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law

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enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j);  
and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and

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by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

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(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority

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or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

- (a) use of public funds;
- (b) oversight of public funds; and
- (c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at



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the State Board of Education who shall work with the State Board of Education to:

- (a) provide coordination between a local education agency and local mental health authority;
- (b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and
- (c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section ~~113~~3. Section **58-1-106** is amended to read:

### **58-1-106. Division -- Duties, functions, and responsibilities.**

- (1) The duties, functions, and responsibilities of the division include the following:
  - (a) prescribing, adopting, and enforcing rules to administer this title;
  - (b) investigating the activities of any person whose occupation or profession is regulated or governed by the laws and rules administered and enforced by the division;
  - (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum the production of any books, papers, documents, records, contracts, recordings, tapes, correspondence, or information relevant to an investigation upon a finding of sufficient need by the director or by the director's designee;
  - (d) taking administrative and judicial action against persons in violation of the laws and rules administered and enforced by the division, including the issuance of cease and desist orders;
  - (e) seeking injunctions and temporary restraining orders to restrain unauthorized activity;
  - (f) complying with Title 52, Chapter 4, Open and Public Meetings Act;
  - (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or otherwise acting upon any license;
  - (h) preparing and submitting to the governor and the Legislature an annual report of the division's operations, activities, and goals;
  - (i) preparing and submitting to the executive director a budget of the expenses for the division;
  - (j) establishing the time and place for the administration of examinations; ~~and~~
  - (k) preparing lists of licensees and making these lists available to the public at cost

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upon request unless otherwise prohibited by state or federal law[-]; and

(1) considering interstate portability and the preservation of licensing pathways that are specific to Utah when making recommendations regarding membership in interstate licensing compacts.

(2) The division may not include home telephone numbers or home addresses of licensees on the lists prepared under Subsection (1)(k), except as otherwise provided by rules of the division made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The division may provide the home address or home telephone number of a licensee on a list prepared under Subsection (1) upon the request of an individual who provides proper identification and the reason for the request, in writing, to the division.

(b) A request under Subsection (3)(a) is limited to providing information on only one licensee per request.

(c) The division shall provide, by rule, what constitutes proper identification under Subsection (3)(a).

(4) (a) Notwithstanding any contrary provisions in Title 63G, Chapter 2, Government Records Access and Management Act, the division may share licensee information with:

(i) the division's contracted agents when sharing the information in compliance with state or federal law; and

(ii) a person who is evaluating the progress or monitoring the compliance of an individual who has been disciplined by the division under this title.

(b) The division may make rules to implement the provisions of this Subsection (4).

(5) All rules made by the division under this title shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

(ii) In appointing the board members the executive director shall give consideration to

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recommendations by members of the respective professions and the professions' organizations.

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

(c) (i) The name of each individual appointed to a board shall be submitted to the governor for confirmation or rejection.

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

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

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

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director 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 board member may not serve more than two consecutive terms, and a board member who ceases to serve on a board may not serve again on that board until after the expiration of a two-year period beginning from that cessation of service.

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

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

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

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

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- (ii) the board member engages in unlawful or unprofessional conduct; or
  - (iii) if appointed to the board position as a licensed member of the board, the board member fails to maintain a license that is active and in good standing.
- (3) (a) A majority of the board members constitutes a quorum.
- (b) Except as provided in Subsection 58-1-109(3), a quorum is sufficient authority for the board to act.
- (4) A board member may not receive compensation or benefits for the board 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 under Sections 63A-3-106 and 63A-3-107.
- (5) Each board shall annually designate one of the board's members to serve as chair for a one-year period.
- (6) A board member may not be a member of the faculty of, or have a financial interest in, a vocational or professional college or school that provides continuing education to any licensee if that continuing education is required by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

### Section 5. Section 58-1-301.5 is amended to read:

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

- (1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure~~}, licensure renewal,~~ licensure}[, licensure] or certification, or with respect to a license or certification, renewal, [licensure] reinstatement, or relicensure or recertification, as required in:
- (a) Sections 58-17b-306 and 58-17b-307;
  - (b) Sections 58-24b-302 and 58-24b-302.1;
  - (c) Section 58-31b-302;
  - (d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;
  - (e) Section 58-44a-302.1;
  - (f) Sections 58-47b-302 and 58-47b-302.1;

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

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, [and] 58-60-405, and 58-60-506 of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) Sections 58-63-302 and 58-63-302.1;

(k) Sections 58-64-302 and 58-64-302.1;

(l) Sections 58-67-302 and 58-67-302.1;

(m) Sections 58-68-302 and 58-68-302.1; and

(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.

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

(a) shall meet the requirements of Section 53-10-108; and

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

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

Section 6. Section 58-1-501 is amended to read:

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

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

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any profession requiring licensure under this title, except the professions under Chapter 60, Mental Health Professional Practice Act, Part 6, Behavioral Health Coach and Technician Licensing Act, if the person is:

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

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

(b) (i) impersonating another licensee or practicing a profession under a false or

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assumed name, except as permitted by law; or

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

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any profession licensed under this title if the employee is not licensed to do so under this title;

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

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

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

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

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

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

(g) aiding or abetting any other person to violate any statute, rule, or order regulating a profession under this title.

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

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- (i) violating any statute, rule, or order regulating an a profession under this title;
- (ii) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;
- (iii) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime that, when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the profession;
- (iv) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;
- (v) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the profession;
- (vi) practicing or attempting to practice a profession regulated under this title despite being physically or mentally unfit to do so;
- (vii) practicing or attempting to practice a or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;
- (viii) practicing or attempting to practice a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;
- (ix) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;
- (x) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's license;
- (xi) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated

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by the licensee's license;

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

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

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

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

(xiv) violating a provision of Section 58-1-501.5;

(xv) violating the terms of an order governing a license; or

(xvi) violating Section ~~58-1-511~~ 58-1-511.

(b) "Unprofessional conduct" does not include:

(i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating from medical norms or established practices if the conditions described in Subsection (5) are met; and

(ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider deviates from medical norms or established practices, including the maladies the health care provider treats, if the health care provider:

(A) does not guarantee any results regarding any health care service;

(B) fully discloses on the health care provider's website that the health care provider deviates from medical norms or established practices with a conspicuous statement; and

(C) includes the health care provider's contact information on the website.

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



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(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(a)(iii):

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

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

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

(ii) the conviction was for:

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

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

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

(5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or established practices if:

(a) the health care provider does not deviate outside of the health care provider's scope of practice and possesses the education, training, and experience to competently and safely administer the alternative health care service;

(b) the health care provider does not provide an alternative health care service that is otherwise contrary to any state or federal law;

(c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the alternative health care service is to be given;

(d) the potential benefit of the alternative health care service outweighs the known harms or side effects of the alternative health care service;

(e) the alternative health care service is reasonably justified under the totality of the circumstances;

(f) after diagnosis but before providing the alternative health care service:

(i) the health care provider educates the patient on the health care services that are within the medical norms and established practices;

(ii) the health care provider discloses to the patient that the health care provider is

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recommending an alternative health care service that deviates from medical norms and established practices;

(iii) the health care provider discusses the rationale for deviating from medical norms and established practices with the patient;

(iv) the health care provider discloses any potential risks associated with deviation from medical norms and established practices; and

(v) the patient signs and acknowledges a notice of deviation; and

(g) before providing an alternative health care service, the health care provider discloses to the patient that the patient may enter into an agreement describing what would constitute the health care provider's negligence related to deviation.

(6) As used in this section, "notice of deviation" means a written notice provided by a health care provider to a patient that:

(a) is specific to the patient;

(b) indicates that the health care provider is deviating from medical norms or established practices in the health care provider's recommendation for the patient's treatment;

(c) describes how the alternative health care service deviates from medical norms or established practices;

(d) describes the potential risks and benefits associated with the alternative health care service;

(e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and

(f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

Section ~~2~~7. Section **58-4a-102** is amended to read:

### **58-4a-102. Definitions.**

As used in this chapter:

(1) "Diversion agreement" means a written agreement entered into by a licensee and the division that describes the requirements of the licensee's monitoring regimen and that was entered into before May 12, 2020.

(2) "Licensee" means an individual licensed to practice under:

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- (a) under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- (b) under Title 58, Chapter 17b, Pharmacy Practice Act;
- (c) under Title 58, Chapter 28, Veterinary Practice Act;
- (d) under Title 58, Chapter 31b, Nurse Practice Act;
- (e) ~~{Title 58, Chapter 40, Recreational Therapy Practice Act;~~

~~— (f) } mental health therapy under Title 58, Chapter 60, Mental Health Professional Practice Act;~~

~~(f) } mental health therapy under Title 58, Chapter 61, Psychologist Licensing Act;~~

~~{(f)} (f) } under { } Title 58, Chapter 67, Utah Medical Practice Act;~~

~~{(f)} (f) } under { } Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;~~

~~{(g)} (f) } under { } Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;~~

[or]

~~{(h)} (f) } under { } Title 58, Chapter 70a, Utah Physician Assistant Act { } . { } ;~~

~~{ — (l) Title 58, Chapter 78, Vocational Rehabilitation Counselors Licensing Act; or~~

~~— (m) Title 58, Chapter 84, State Certification of Music Therapists Act.~~

~~† (3) "Program" means the Utah Professionals Health Program.~~

(4) "Program contract" means a written agreement entered into by a licensee and the division that allows the licensee to participate in the program.

(5) "Substance use disorder" means the same as that term is defined in Section 26B-5-501.

Section ~~{3}~~8. Section ~~{58-4a-103}~~58-4a-107 is amended to read:

~~{ 58-4a-103. Program established.~~

~~— (1) The division, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall establish the Utah Professionals Health Program to provide an alternative to public disciplinary action for licensees who have [substance use] behavioral health disorders, including mental health or substance use disorders.~~

~~— (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the criteria for:~~

~~— (a) entry into and participation of licensees in the program;~~

~~— (b) successful completion of the program;~~

~~— (c) expulsion from the program; and~~

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- ~~———— (d) disqualifying a licensee from participation in the program;~~
- ~~———— (3) The division shall promote the program by:~~
  - ~~———— (a) engaging in wellness education and outreach to licensees, students, and the community in order to make them aware of the existence and purpose of the program;~~
  - ~~———— (b) partnering with health care organizations, universities, trade associations, and other stakeholder groups to promote professional awareness and wellness; and~~
  - ~~———— (c) providing guidance to employers, colleagues, and family members on initiating conversations with licensees about substance use.~~

### ‡ **58-4a-107. Violation of a program contract -- Adjudicative proceedings -- Penalties.**

(1) The division ~~shall~~ may serve an order to show cause on the licensee if the licensee:

- (a) violates any term or condition of the program contract or diversion agreement;
- (b) makes an intentional, material misrepresentation of fact in the program contract or diversion agreement; or

(c) violates any rule or law governing the licensee's profession.

(2) The order to show cause described in Subsection (1) shall:

- (a) describe the alleged misconduct;
- (b) set a time and place for a hearing ~~before an administrative law judge~~ to determine whether the licensee's program contract should be terminated; and

(c) contain all of the information required by a notice of agency action in Subsection 63G-4-201(2).

(3) Proceedings to terminate a program contract shall comply with ~~the rules for a formal proceeding described in~~ Title 63G, Chapter 4, Administrative Procedures Act, except the notice of agency action shall be in the form of the order to show cause described in Subsection (2).

~~(4) In accordance with Subsection 63G-4-205(1), the division shall make rules for discovery adequate to permit all parties to obtain all relevant information necessary to support their claims or defenses.~~

~~(5)~~ (4) During a proceeding to terminate a program contract, the licensee, the licensee's legal representative, and the division shall have access to information contained in

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the division's program file as permitted by law.

~~[(6)]~~ (5) The director shall terminate the program contract and place the licensee on probation ~~[for a period of five years, with probationary terms matching the terms of the program contract,]~~ in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rule Act if, during the administrative proceedings described in Subsection (3), the ~~[administrative law judge]~~ presiding officer finds that the licensee has:

- (a) violated the program contract;
- (b) made an intentional material misrepresentation of fact in the program contract; or
- (c) violated a law or rule governing the licensee's profession.

~~[(7)]~~ (6) If, during the proceedings described in Subsection (3), the ~~[administrative law judge]~~ presiding officer finds that the licensee has engaged in especially egregious misconduct, the director may revoke the licensee's license or take other appropriate disciplinary action.

~~[(8)]~~ (7) A licensee who is terminated from the program may have disciplinary action taken under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or after the licensee's participation in the program.

### Section 9. 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

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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 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

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(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 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

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(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.

(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.



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(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

(iv) substances intended for use as a component of any substance specified in Subsections ~~[(26)(a)(i), (ii), (iii), and (iv)]~~ [(26)(a)(i) through (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,

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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 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

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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.

(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:

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(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;

(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:

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- (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 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

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(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;

(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.

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(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 Licensing Board, created in Section 58-67-201, if the prescription 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

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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:

(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,



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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.

(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;

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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.

Section ~~{4}~~10. Section ~~{58-40-102}~~58-40-302 is amended to read:

~~{~~ ~~58-40-102.~~ **Definitions.**

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

~~————~~ (1) "Approved" means approval by the division in collaboration with the board when used to refer to a licensing requirement.

~~————~~ (2) (a) "Assessment" means:

~~————~~ (i) a systematic collection of data to identify the strengths and limitations of a person's physical, cognitive, social, behavioral, emotional, spiritual, and leisure capabilities; and

~~————~~ (ii) interpreting and analyzing collected data to identify and determine a course of action for recreational therapy services for a patient.

~~————~~ (b) "Assessment" includes:

~~————~~ (i) a record review;

~~————~~ (ii) the implementation of standardized and non-standardized instruments, tests, and measurements; and

~~————~~ (iii) the skilled observation and interview of a person.

~~————~~ (3) "Board" means the [Board of Recreational Therapy] Behavioral Health Board created in [Section 58-40-201] Section 58-60-102.5.

~~————~~ (4) "Practice of recreational therapy" means to engage in the paid performance of providing recreational therapy services according to the therapeutic recreation process to a person with an emotional, social, intellectual, or physical pathology.

~~————~~ (5) "Recreational therapy" or "therapeutic recreation" means a person-centered process

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~~that uses recreation and psychoeducational activities as intervention tools to improve the physical, cognitive, social, behavioral, emotional, or spiritual well-being of a person with an illness or a disability.~~

~~—— (6) (a) "Recreational therapy services" means using recreation and psychoeducational activities as intervention tools to improve or maintain the physical, cognitive, social, behavioral, emotional, or spiritual well-being of a person with an illness or a disability.~~

~~—— (b) "Recreational therapy services" include:~~

~~—— (i) assessing a person's need for recreational therapy treatment or intervention;~~

~~—— (ii) developing an individualized treatment or intervention plan that identifies goals, objectives, and treatment strategies for a person;~~

~~—— (iii) implementing the individualized treatment or intervention plan;~~

~~—— (iv) documenting a person's response to the individualized treatment or intervention plan, including documenting the overall outcome of the person's treatment;~~

~~—— (v) regularly evaluating a person's response to the individualized treatment or intervention plan and modifying the plan when appropriate;~~

~~—— (vi) in collaboration with a person, the person's family, or other team members, developing a discharge or transition plan for the person;~~

~~—— (vii) serving as a resource to help a person find recreation opportunities that will promote the person's physical, cognitive, social, behavioral, emotional, or spiritual health and well-being; and~~

~~—— (viii) organizing and managing recreational services according to a written plan of operation as defined by rule of the division.~~

~~—— (7) "Treatment or intervention plan" means a written record containing the information required by Section 58-40-602, which is composed for each patient by a person licensed under this chapter as a master therapeutic recreation specialist or a therapeutic recreation specialist.~~

~~—— (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-40-501.~~

~~—— (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-40-502.~~

### ‡ **58-40-302. Qualifications for licensure.**

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

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

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

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(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

- (a) complete an approved graduate degree;
- (b) complete 4,000 qualifying hours of paid experience as:
  - (i) a licensed therapeutic recreation specialist if completed in the state; or
  - (ii) a certified therapeutic recreation specialist certified in good standing by the

National Council for Therapeutic Recreation Certification if completed outside of the state; and

- (c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

- (a) complete an approved:
  - (i) bachelor's degree in therapeutic recreation or recreational therapy;
  - (ii) bachelor's degree with an approved emphasis, option, or concentration in

therapeutic recreation or recreational therapy; or

- (iii) graduate degree;

- (b) complete an approved practicum; ~~and~~

- (c) pass an approved examination~~[-]; and~~

(d) document proof of current certification in good standing as a Certified Therapeutic Recreation Specialist by the National Council for Therapeutic Recreation Certification, or an equivalence of that certification, as determined by division rule made in consultation with the board.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

- ~~[(a) have a high school diploma or GED equivalent;]~~

- ~~[(b)]~~ (a) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

- ~~[(c)]~~ (b) complete an approved practicum under the supervision of:

- (i) a licensed master therapeutic recreation specialist; or

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(ii) an on-site, full-time, employed therapeutic recreation specialist; and

~~[(d) pass an approved examination; and]~~

~~[(e)]~~ (c) complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section ~~{5}~~11. Section **58-60-102** is amended to read:

### **58-60-102. Definitions.**

~~[In addition to the definitions in Section 58-1-102, as]~~ As used in this chapter:

(1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

(2) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.

(3) "Clinical supervision" means work experience conducted under the supervision of a clinical supervisor, including:

(a) the practice of mental health therapy, direct client care, direct clinical supervision, direct observation, and other duties and activities completed in the course of the day-to-day job functions and work of a:

(i) certified social worker;

(ii) associate marriage and family therapist;

(iii) associate clinical mental health counselor; or

(iv) associate master addiction counselor, wherein the supervisor is available for consultation with the supervisee by personal face to face contact, or direct voice contact by telephone, radio, or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged:

(A) direct client care, including the practice of mental health therapy and the utilization of patient-reported progress and outcomes to inform care; and

(B) direct observation;

(4) "Clinical supervisor" means an individual who oversees and mentors one or more mental health therapists licensed under this chapter, and who:

(a) (i) is licensed, in good standing, as a mental health therapist;

(ii) is approved or certified in good standing as a supervisor by a national professional organization for social work, mental health counseling, addiction counseling, marriage and

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family therapy, psychology, medicine, or nursing, or other organization as approved by the division;

(A) has completed eight or more hours of supervision instruction that meets minimum standards established by the division in rule; or

(B) has completed a graduate course on clinical supervision from an accredited program;

(iii) completes continuing education in clinical supervision, as established by the division in rule; and

(iv) provides supervision to no more than the number of individuals to whom the supervisor can reasonably provide clinical supervision by performing the duties and responsibilities of a supervisor, including:

(A) being available to the supervisee for consultation by personal face-to-face contact, or by direct voice contact by telephone, videoconference, or some other means within a reasonable time frame;

(B) providing instruction, direction, oversight, observation, evaluation, and feedback, to enable the supervisee to acquire the knowledge, skills, techniques, and abilities necessary to engage in the practice of behavioral health care ethically, safely, and competently; and

(C) maintaining routine personal contact with the supervisee; or

(b) (i) is qualified and acting as a valid supervisor, in accordance with applicable law and division rules, as of April 30, 2024; and

(ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.

~~(2)~~ ~~(3)~~ ~~(5)~~ "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third

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persons other than those individuals:

- (i) present to further the interest of the client or patient in the consultation, examination, or interview;
- (ii) reasonably necessary for the transmission of the communications; or
- (iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

~~(3)~~ ~~(4)~~6 "Direct client care" means the practice of mental health therapy performed as an applicant for licensure.

~~(5)~~7 (a) "Direct clinical supervision" means an applicant for licensure and the applicant's direct clinical supervisor meeting in real time and in accordance with the applicant for licensure's supervision contract as defined by division rule.

(b) "Direct clinical supervision" includes group supervision.

~~(6)~~8 "Direct observation" means observation of an applicant for licensure's live or recorded direct client care:

(a) (i) by the applicant for licensure's ~~direct~~ clinical supervisor; or

(ii) ~~another mental health therapist supervisor that~~ a licensee under Subsection (4)(a) who the applicant for licensure's direct clinical supervisor approves; and

(b) after which the applicant for licensure and the observer under Subsection ~~(6)~~8(a) meet, in-person or electronically, to discuss the direct client care for the purpose of developing the applicant for licensure's clinical knowledge and skill.

(9) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.

(10) "Group supervision" means an applicant for licensure meeting with the applicant's direct clinical supervisor and at least one of the direct clinical supervisor's other supervised applicants for licensure:

(a) while the clinical supervisor and the applicants:

(i) can see and openly communicate with each other; and

(ii) are present in the same room or via electronic video; and

(b) for the purpose of developing the applicants' clinical knowledge and skill.

~~(7)~~11 "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a

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hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

~~[(4)]~~ ~~(8)~~12 "Individual" means a natural person.

~~[(5)]~~ ~~(9)~~13 "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

(a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) a psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) a physician assistant specializing in mental health care under Section 58-70a-501.1;

(g) a clinical social worker;

(h) a certified social worker;

(i) a marriage and family therapist;

(j) an associate marriage and family therapist;

(k) a clinical mental health counselor; ~~[or]~~

(l) an associate clinical mental health counselor~~[-]~~;

(m) a master addiction counselor; or

(n) an associate master addiction counselor.

~~[(6)]~~ ~~(10)~~14 "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection ~~[(5)]~~ ~~(9)~~13.

~~[(7)]~~ ~~(11)~~15 "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the



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professions of mental health therapy listed under Subsection [(5)] (~~(9)~~13);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection [(5)] (~~(9)~~13);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection [(5)] (~~(9)~~13).

[(8)] (~~(12)~~16) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

~~{ (13) "Group supervision" means an applicant for licensure meeting with the applicant's supervisor and at least one of the supervisor's other applicants for licensure:~~

~~— (a) while the supervisor and the applicants:~~

~~— (i) can see and openly communicate with each other; and~~

~~— (ii) are present in the same room or via electronic video; and~~

~~— (b) for the purpose of developing the applicants' clinical knowledge and skill.~~

† [(9)] (~~(14)~~17) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

[(10)] (~~(15)~~18) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Section ~~(6)~~12. Section **58-60-102.5** is enacted to read:

### **58-60-102.5. Behavioral Health Board -- Subcommittees.**

(1) There is created the Behavioral Health Board consisting of:

(a) no less than ~~(four)~~six behavioral health care providers licensed in Utah to practice

as a:

(i) clinical social worker;

(ii) marriage and family therapist;

(iii) clinical mental health counselor;

(iv) master addiction counselor; ~~(or)~~

(v) psychologist under Chapter 61, Psychologist Licensing Act; or

(vi) behavior analyst or specialist;

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(b) no less than ~~three~~ two other behavioral health care providers licensed in Utah to practice as:

- (i) a certified social worker;
- (ii) a social service worker;
- (iii) an associate marriage and family therapist;
- (iv) an associate clinical mental health counselor;
- (v) an associate master addiction counselor;
- (vi) an advanced substance use disorder counselor;
- ~~{~~ (vii) a certified advanced substance use disorder counselor;
- ~~}~~ (~~viii~~vii) a substance use disorder counselor;
- ~~{~~ (~~ix~~) a certified substance use disorder counselor;
- ~~—~~ (~~x~~viii) a certified psychology resident; or
- ~~{~~ (~~xi~~ix) ~~{a}~~ an assistant behavior analyst or specialist;
- ~~—~~ (xii) an assistant behavior analyst or specialist;
- ~~—~~ (xiii) a master therapeutic recreation specialist;
- ~~—~~ (xiv) a therapeutic recreation specialist;
- ~~—~~ (xv) a therapeutic recreation technician; or
- ~~—~~ (xvi) a certified music therapist;
- ~~}~~ (c) no less than four public members:
  - (i) who comprise no less than 1/3 of the total membership of the board;
  - (ii) who are not licensed to practice under:
    - (A) this chapter; or
    - ~~(B) Chapter 40, Recreational Therapy Practice Act,~~
    - ~~(C) Chapter 61, ~~{Psychologist}~~ Psychologist Licensing Act; ~~{or~~~~
    - ~~(D) Chapter 84, State Certification of Music Therapists Act; }and~~
  - (iii) two of whom shall, at the time of appointment to the board, hold a leadership position with:

- (A) a behavioral health consumer advocacy organization;
- (B) a behavioral health employer;
- (C) a behavioral health payor;
- (D) an academic institution conducting research related to the behavioral health

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licenses under Subsection (3)(b), including public health, epidemiology, economics, and the health care workforce;

(E) a training institution providing education credentials required for a license under Subsection (3)(b);

(F) a licensed health care facility as defined in Section 26B-2-201; or

(G) a licensed human services program as defined in Section 26B-2-101; ~~and~~

(d) one of whom the executive director of the Department of Health and Human Services appoints ~~;~~

~~;~~ and

(e) one of whom is licensed in Utah to practice as a:

(i) physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) physician assistant under Chapter 70a, Utah Physician Assistant Act; or

(iii) nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised.

(2) Board members shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.

(3) The board shall:

(a) operate in accordance with ~~Sections~~ Section 58-1-202 ~~and 58-1-203~~, unless otherwise provided in this section;

(b) regulate licenses under:

(i) this chapter; and

(ii) Chapter ~~40, Recreational Therapy Practices Act~~ 61, Psychologist Licensing Act;

(c) recommend to the appropriate legislative committee statutory changes to:

(i) ensure that regulation supports an adequate workforce to meet consumer demand for behavioral health services; and

(ii) prevent harm to the health, safety, and financial welfare of the public;

(d) recommend to the appropriate legislative committee statutory changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce; and

(e) disqualify any member from acting as a presiding officer in any administrative

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procedure in which that member has previously reviewed the complaint or advised the division.

(4) (a) There are created the following advisory committees to the board:

(i) the Qualifications and Professional Development Advisory Committee;

(ii) the Background and Investigations Advisory Committee; and

(iii) the Probation and Compliance Advisory Committee.

(b) Each advisory committee shall consist of:

(i) a committee chair who is a member of the Behavioral Health Board;

(ii) a member of each profession regulated under this chapter;

(iii) Chapter 61, Psychologist Licensing Act; and

(iv) ~~Chapter 84, State Certification of Music Therapists Act;~~

~~\_\_\_\_\_~~ (c) designate one or more of its members on a permanent or rotating basis to:

~~\_\_\_\_\_~~ (i) assist ~~as determined by~~ the division in ~~review of complaints concerning unlawful or unprofessional practice by a licensee in any~~ rule, additional members from the professions licensed under this chapter or Chapter 61, Psychologist Licensing Act.

(c) In addition to the requirements of Subsection (3)(b):

(i) the Qualifications and Professional Development Advisory Committee shall also consist of an educator for each profession regulated ~~by the board; and~~

~~\_\_\_\_\_~~ (ii) under this chapter and Chapter 61, Psychologist Licensing Act; and

(ii) the Background and Investigations Advisory Committee shall also consist of a criminal justice professional.

(d) The Qualifications and Professional Development Advisory Committee shall:

(i) advise the division regarding ~~the conduct of investigations of the complaints; and~~

~~\_\_\_\_\_~~ (d) ~~disqualify any member from acting as a presiding officer in any~~ qualifications for licensure, including passing scores for applicant examinations and standards of supervision for students or persons in training to become licensed;

(ii) recommend evidence-based ongoing professional development requirements for licensure that:

(A) ensure an adequate workforce to meet consumer demand; and

(B) prevent harm to the health, safety, and financial welfare of the public;

(iii) advise the division on the licensing, renewal, reinstatement, and relicensure of:

(A) internationally trained applicants;

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(B) applicants applying via licensure by endorsement; and

(C) applicants applying using an alternate pathway to licensure including a non-exam or equivalent field degree path;

(iv) draw on additional profession-specific advisors as needed;

(v) make policy recommendations to the board regarding qualifications for licensure or renewal for a specific profession, including the committee chair assigning at least one committee member licensed under that profession to serve as a subject matter expert; and

(vi) make recommendations to the board related to an individual applicant for a specific license, including the committee chair assigning at least one committee member licensed under the same profession as the applicant to serve as a subject matter expert.

(e) The Background and Investigations Advisory Committee shall:

(i) advise the division on establishing criteria for licensure for those with a criminal conviction according to Section 58-1-401;

(ii) advise the division on establishing criteria for referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program.

(iii) screen applicants with a criminal history for licensing, renewal, reinstatement, and relicensure and recommending licensing, renewal, reinstatement, and relicensure actions to the division;

(iv) advise the division on investigative practices and procedures and administrative {procedure in which that member has previously reviewed the complaint or advised the division.

~~— (4) (a) The division may by rule~~ sanctions for consistency and fairness across relevant occupations;

(v) make recommendations to the board for sanctions against individual licensees and certificate holders and referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program;

(vi) draw on additional profession-specific advisors as needed; and

(vii) make recommendations to the board related to the disposition for any specific applicant or licensee, including the committee chair assigning at least one committee member licensed under the same profession as the applicant or licensee to serve as a subject matter expert.

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(f) The Probation and Compliance Advisory Committee shall:

(i) review compliance with probationary orders;

(ii) review early termination and make any recommendations as requested by the board;

(iii) advise the board regarding the screening of applicants previously sanctioned for licensing, renewal, reinstatement, and relicensure, including recommending licensing, renewal, reinstatement, and relicensure actions to the board;

(iv) establish procedures for monitoring sanctioned licensees or certificate holders;

(v) draw on additional profession-specific advisors as needed; and

(vi) make recommendations to the board related to the disposition for any specific licensee or certification holder, including the committee chair assigning a committee member licensed under the same profession as the licensee or certification holder to serve as a subject-matter expert related to that disposition.

(5) The division, in consultation with the board, may establish one or more standing or ad hoc subcommittees to consider and advise the board regarding any aspect of licensing, including:

(~~fi~~a) client or patient access to qualified licensees;

(~~fi~~b) education, examination, and supervision of applicants for licensure;

(~~fi~~c) verification of applicant for licensure qualifications;

(~~fi~~d) continuing education requirements;

(~~fi~~e) alternate pathways to licensure; and

(~~fi~~f) probation and recovery assistance.

(6) The division may consult with licensed psychologists on matters specific to the oversight of doctoral-level licensed psychologists.

(7) Members of the board and any subcommittees created under this section 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 under Sections 63A-3-106 and 63A-3-107.

Section 13. Section 58-60-103.1 is amended to read:

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### 58-60-103.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

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

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation, including the use of the Rap Back System, regarding the application and the applicant's future status as a license holder.

(2) The division shall:

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

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

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

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

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

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

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

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the

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division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the Counseling Compact under Chapter 60a, Counseling Compact, until the criminal background check described in this section is completed.

Section 14. Section 58-60-106 is amended to read:

**58-60-106. Status of licenses held on the effective date of this chapter ==**

### Grandfather provisions.

(1) An individual holding a valid Utah license as a clinical social worker, certified social worker, social service worker, or marriage and family therapist under any licensing or practice acts in this title in effect immediately prior to July 1, 1994, is on and after July 1, 1994, considered to hold a current license under this chapter in the comparable classification as a clinical social worker, certified social worker, social service worker, or marriage and family therapist.

(2) (a) supervised training

(b) An individual who is acting as a supervisor, or working toward qualification to act as a supervisor, under qualification requirements that change, may continue to qualify to act as a supervisor under the unchanged qualification requirements, for three years after the date on which the qualification requirements changed.

Section ~~{7}~~15. Section 58-60-109 is amended to read:

**58-60-109. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

(1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:

- (a) mental health therapy;
- (b) clinical social work;
- (c) certified social work;
- (d) marriage and family therapy;
- (e) clinical mental health [counselor] counseling;
- (f) [~~practice as a social service worker; or~~] social service work; ~~{;}~~
- (g) master addiction counseling; ~~{or}~~



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~~[(g)]~~ (h) substance use disorder ~~[counselor]~~ counseling; or ~~{}~~

(i) advanced substance use disorder counseling;

(2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)(e); or

(3) representing oneself as, or using the title of, the following:

(a) unless currently licensed in a license classification under this title:

(i) psychiatrist;

(ii) psychologist;

(iii) registered psychiatric mental health nurse specialist;

(iv) mental health therapist;

(v) clinical social worker;

(vi) master addiction counselor;

~~[(vi)]~~ (vii) certified social worker;

~~[(vii)]~~ (viii) marriage and family therapist;

~~[(viii)]~~ (ix) clinical mental health counselor;

~~[(ix)]~~ (x) social service worker;

~~{~~ (xi) associate master addiction counselor;

~~}~~ ~~[(x)]~~ ~~(~~xi~~)~~ (~~xii~~) substance use disorder counselor;

~~[(xi)]~~ ~~(~~xiii~~)~~ (~~xii~~) associate clinical mental health counselor; or

~~[(xii)]~~ ~~(~~xiv~~)~~ (~~xiii~~) associate marriage and family therapist;

(xiv) associate master addiction counselor; or

(b) unless currently in possession of the credentials described in Subsection (4), social worker.

(4) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the ~~[Social Work Licensing Board]~~ board, verifying satisfactory completion of an education and an earned degree as follows:

(a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(b) a doctoral degree that contains a clinical social work concentration and practicum

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approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

Section 16. Section 58-60-110 is amended to read:

### **58-60-110. Unprofessional conduct.**

(1) As used in this chapter, "unprofessional conduct" includes:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;

(b) failure to confine practice conduct to those acts or practices:

(i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and

(ii) which are within applicable scope of practice laws of this chapter;

(c) disclosing or refusing to disclose any confidential communication under Section 58-60-114 or 58-60-509; ~~and~~

(d) a pattern of failing to offer a patient the opportunity to waive the patient's privacy rights under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164~~†~~.

~~†~~[-];

(e) a pattern of failing to provide to patients in a mental health setting:

(i) information regarding the license holder, including the name under which the license holder is licensed, the type of license held, the license number, and the license holder's contact information;

(ii) if the individual's license requires the license holder to be supervised by another licensed provider, information regarding the supervisor, including the name under which the supervisor is licensed, the type of license held, the license number, and the supervisor's contact information;

(iii) information regarding standards of appropriate care and ethical boundaries, including a plain language statement that in a professional relationship with a mental health practitioner, a dual relationship between a client and a provider, or one that is romantic, financially motivated, or otherwise risks impacting the provider's judgment or the quality of the services provided, is never appropriate and should be reported to the Division of Professional

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### Licensing:

(iv) information regarding the client's rights, including that the client has the right to seek a second opinion, to ask for additional information, and to terminate treatment at any time; or

(v) the contact information for the Division of Professional Licensing, including how to file a complaint; or

(f) a pattern of failing to provide to patients, upon request, in a mental health setting;

(i) information about the license holder's qualifications and experience, including a listing of any degrees, credentials, certifications, registrations, and licenses held or completed by the license holder, the name of the granting school or institution, and the continuing education that the licensee is required to complete in order to retain the license;

(ii) information regarding standards of appropriate care and ethical boundaries, including a copy of the statutory and administrative rule definitions of unprofessional conduct, or a copy of the generally recognized professional or ethical standards;

(iii) for any course of treatment, the method of treatment recommended, the reasoning supporting the method of treatment, the techniques used, the expected duration of the treatment, if known, and the fee structure; or

(iv) information regarding the individuals who have or have had access to confidential data related to the care of the patient, including evaluations, assessments, diagnoses, prevention or treatment plans, reports, progress notes, discharge summaries, treatment or documentation of treatment, including video recording, live stream, or in-person observations of psychotherapy or other treatment methods.

(2) "Unprofessional conduct" under this chapter may be further defined by division rule.

(3) Notwithstanding Section 58-1-401, the division may not act upon the license of a licensee for unprofessional conduct under Subsection (1)(d).

Section ~~{8}~~17. Section **58-60-202** is amended to read:

### **58-60-202. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

~~[(1) "Board" means the Social Worker Licensing Board created in Section 58-60-203.]~~

~~[(2)]~~ (1) (a) "Practice as a social service worker" means performance of general entry

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level services under general supervision of a mental health therapist through the application of social work theory, methods, and ethics in order to enhance the social or psychosocial functioning of an individual, a couple, a family, a group, or a community, including:

(i) conducting:

(A) a non-clinical psychosocial assessment; or

(B) a home study;

(ii) collaborative planning and goal setting~~(f)~~~~[-]~~, including drafting initial treatment plans, if:

(A) the treatment plan is for a client with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist;

(B) before treatment begins, the mental health therapist has reviewed and approved the treatment plan, and the client has been given an opportunity to consult with the mental health therapist; and

(C) the social service worker is authorized in writing by a licensed health facility, as defined in Section 26B-2-201, or a licensed human service program, as defined in Section 26B-2-101;

(iii) ongoing case management;

(iv) progress monitoring, including drafting treatment plan reviews and updates, if the requirements of Subsections (1)(a)(ii)(A) through (C) have been met;

(v) supportive counseling~~(f)~~ and psychosocial education, including:

(A) providing individual and group support and psychosocial education related to behavioral health literacy, wellness education and promotion, goal setting, life skills, and coping skills;

(B) providing evidence-based, manualized therapeutic interventions according to a treatment plan approved by a mental health therapist, while under the supervision of a mental health therapist, in the treatment of mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by the mental health therapist; and

(C) co-facilitating group therapy with a mental health therapist;

(vi) information gathering;

(vii) making referrals, including crisis referrals; [and]

(viii) engaging in advocacy~~[-]~~;

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(ix) care navigation; and

(x) the supervision and training of social work students of an accredited institution who are seeking bachelor's degrees in social work, if the social service worker has two years of post-licensure work experience.

(b) "Practice as a social service worker" does not include:

(i) diagnosing or treating mental illness; or

(ii) providing psychotherapeutic services to an individual, couple, family, group, or community.

~~[(3)]~~ (2) "Practice of clinical social work" includes:

(a) the practice of mental health therapy by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(b) the application of generally recognized psychotherapeutic and social work principles and practices requiring the education, training, and clinical experience of a clinical social worker; and

(c) supervision of the practice of a certified social worker or social service worker as the supervision is required under this chapter and as further defined by division rule.

~~[(4)]~~ (3) "Practice of certified social work" includes:

(a) the supervised practice of mental health therapy by a clinical social worker by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunctions, the symptoms of any of these, or maladaptive behavior;

(b) the supervised or independent and unsupervised application of generally recognized professional social work principles and practices requiring the education, training, and experience of a certified social worker; and

(c) supervision of the practice of a social service worker as the supervision is required under this chapter and as further defined by division rule.

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~~[(5)]~~ (4) "Program accredited by the Council on Social Work Education" means a program that:

(a) was accredited by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program; or

(b) was in candidacy for accreditation by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program.

~~[(6)]~~ (5) "Supervision of a social service worker" means supervision conducted by an individual licensed as a mental health therapist under this title in accordance with division rules made in collaboration with the board.

Section ~~(9)~~ 18. Section **58-60-205** is amended to read:

**58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.**

(1) An applicant for licensure as a clinical social worker shall:

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

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

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

~~[(d)]~~ ~~{ }~~ have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203: { document successful completion of not less than 1,200 direct client care hours:

~~—— (i) obtained after completion of the education requirements under Subsection (1)(c);~~

~~[(i)]~~ ~~{ }~~ ~~(ii)~~ ~~{ }~~ under the supervision of a supervisor approved by the division in collaboration with the board who is a { not less than 100 of which are direct clinical supervision hours under the supervision of a:

~~—— }:]~~

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~~[(A) clinical mental health counselor;]~~

~~[(B) psychiatrist;]~~

~~[(C) psychologist;]~~

~~[(D) registered psychiatric mental health nurse practitioner;]~~

~~[(E) marriage and family therapist; {} or]~~

~~[(F) clinical social worker; {} and] {} or~~

~~[(G) master addiction counselor]~~

[(ii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;]

(d) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (2)(d)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours accrued concurrently with ~~only~~ more than one other applicant for licensure; {} and;

{ ~~—~~ (v) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

~~— [(ii)] (e) [including a minimum of] document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;~~

~~{ (e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(i);]~~

(e) document successful completion of not less than two hours of training in suicide prevention, obtained after completion of the education requirements under Subsection (2)(c) via a course that the division designates as approved;

(f) if required for the applicant to qualify as an eligible professional under CMS rules

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for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which may include hours accrued under Subsection (2)(d); or

(ii) not less than two years of clinical supervision;

~~[(f)]~~ (g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203;

~~[(g)]~~ (h) (i) pass the examination requirement established by rule under Section 58-1-203; ~~[and]~~ or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

~~{(A)}B~~ document successful completion of not less than 500 additional direct client care hours, at least 25 of which are direct clinical supervision hours, and at least five of which are direct observation hours;

~~{(B)}C~~ submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

~~{(C)}D~~ submit to the division a recommendation letter from another licensed ~~{supervisor}~~ mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

~~{(D)}~~ submit to the division a portfolio of work demonstrating clinical competence as defined by rule; and

~~\_\_\_\_\_}~~ [(h)] (i) [if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact,] shall consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(2)]~~ (3) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social



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Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203~~f~~

~~(3)~~ (3); and

(d) shall consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(3)~~ (4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection

~~(4)~~ (5); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum.

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~~[(4)]~~1(5) The division shall ensure that the rules for an examination described under Subsection ~~[(1)(g)]~~ ~~(~~11~~2)(~~fg~~h)(i)~~ allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section ~~{10}~~19. Section **58-60-207** is amended to read:

### **58-60-207. Scope of practice -- Limitations.**

(1) ~~[(a)]~~ A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

~~[(b)] A clinical social worker may not supervise more than ~~{}~~ six ~~{10}~~ individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.]~~

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection ~~[58-60-205(1)(d)(i)]~~ 58-60-205(2)(d)(ii) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section ~~{11}~~20. Section **58-60-302** is amended to read:

### **58-60-302. Definitions.**

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In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

(1) "Assess" means the use of diagnostic procedures, tests, and interview techniques generally accepted as standard in mental health therapy to diagnose any condition related to mental, emotional, behavioral, and social disorders or dysfunctions.

~~[(2) "Board" means the Marriage and Family Therapist Licensing Board created in Section 58-60-303.]~~

~~[(3)]~~ (2) "Practice of marriage and family therapy" includes:

(a) the process of providing professional mental health therapy including psychotherapy to individuals, couples, families, or groups;

(b) utilizing established principles that recognize the interrelated nature of individual problems and dysfunctions in family members to assess, diagnose, and treat mental, emotional, and behavioral disorders;

(c) individual, premarital, relationship, marital, divorce, and family therapy;

(d) specialized modes of treatment for the purpose of diagnosing and treating mental, emotional, and behavioral disorders, modifying interpersonal and intrapersonal dysfunction, and promoting mental health; and

(e) assessment utilized to develop, recommend, and implement appropriate plans of treatment, dispositions, and placement related to the functioning of the individual, couple, family, or group.

Section ~~{12}~~21. Section **58-60-305** is amended to read:

### **58-60-305. Qualifications for licensure.**

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

~~[(d) have completed a minimum of 3,000 hours of marriage and family therapy training~~

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as defined by division rule under Section 58-1-203;]

~~[(i) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;]~~

~~[(ii) obtained after completion of the education requirement in Subsection (1)(c); and]~~

~~(d) document successful completion of not less than 1,200 direct client care hours;~~

~~(i) obtained after completion of the education requirements under Subsection (1)(c);~~

~~[(i)] (ii) subject to Subsection (2)(d)(iii), not less than 100 of which shall be are direct clinical supervision hours under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;~~

~~[(iii)] clinical supervisor obtained after completion of the education requirements under Subsection (1)(c);~~

~~(iii) of which 75 of the direct clinical supervision hours under Subsection (2)(d)(ii) are supervised by the applicant's direct clinical supervisor;~~

~~(iv) not less than 25 of which are direct observation hours;~~

~~[(iv)] not more than 25 of which are group supervision hours concurrently with only one other applicant for licensure;~~ and

~~(v) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;~~

~~[(iii)] (e) [including a minimum of] document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;~~

~~[(e)] document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(c), which training may be included as part of the 3,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;]~~

~~[(f)] (f) if required for the applicant to qualify as an eligible professional under CMS rules for Medicare payment, document successful completion of:~~

~~(i) not less than 3,000 hours of clinical supervision, which may include hours accrued under Subsection (2)(d); or~~

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(ii) not less than two years of clinical supervision;

~~[(f)]~~ (g) (i) pass the examination requirement established by division rule under Section 58-1-203; ~~[and]~~ or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

~~{A}~~B document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a mental health therapist or supervisor ~~who~~who meets the requirements of Section 58-60-307;

~~{B}~~C submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

~~{C}~~D submit to the division a recommendation letter from another licensed ~~{supervisor}~~mental health therapist who has directly observed the applicant's direct client care hours and who is not the ~~{candidate's}~~applicant's direct clinical supervisor; and

~~{D}~~ submit to the division a portfolio of work demonstrating clinical competence as defined by rule; and

~~—~~ ~~{(g)}~~ (h) ~~[if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact,]~~ consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) ~~[(a) All]~~ Subject to Subsection (2)(b), all applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a) through (c) ~~[-]~~ and (h):

~~[(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two years from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed four years past the date the minimum supervised clinical training requirement has been completed. {~~

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~~Section 13. Section 58-60-307 is amended to read:~~

~~58-60-307. Supervisors of marriage and family therapists -- Qualifications.~~

~~(1) Each person acting as a supervisor of a marriage and family therapist shall:~~

~~(a) have at least two years of clinical experience, since the date of first licensure, as a:~~

~~(i) clinical mental health counselor;~~

~~(ii) psychiatrist;~~

~~(iii) psychologist;~~

~~(iv) registered psychiatric mental health nurse practitioner;~~

~~(v) marriage and family therapist; [or]~~

~~(vi) clinical social worker; or~~

~~(vii) master addiction counselor;~~

~~(b) either:~~

~~(i) be approved as a supervisor by a national marriage and family therapist professional organization; or~~

~~(ii) meet the criteria established by rule; and~~

~~(c) provide supervision for no more than [six] 10 individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.~~

~~(2) Persons who act as a supervisor without meeting the requirements of this section are subject to discipline for unprofessional conduct.~~

~~Section 14}]~~

Section 22. Section 58-60-402 is amended to read:

### **58-60-402. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this ~~{}~~ part[:], ~~{}~~

~~[(1) "Board" means the Clinical Mental Health Counselor Licensing Board created in Section 58-60-403.]~~

~~[(2) 1(1) ["Practice"] ~~"{practice}"~~ Practice of clinical mental health counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized clinical mental health counseling principles, methods, and~~

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procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

Section ~~{15}~~23. Section **58-60-405** is amended to read:

### **58-60-405. Qualifications for licensure.**

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i);

~~[(d) have completed a minimum of 3,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203;]~~

~~[(ii) obtained after completion of the education requirement in Subsection (1)(c); and]~~

~~(d) document successful completion of not less than 1,200 direct client care hours:~~

~~(i) obtained after completion of the education requirements under Subsection (1)(c);~~

~~[(i)] (ii) {not less than 100 of which are direct clinical supervision hours} [under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, {} or {} marriage and family therapist {} supervisor {}, or master addiction counselor} approved by the division in collaboration with the board;] subject to Subsection (1)(d)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;~~

~~(iii) not less than 25 of which are direct observation hours;{~~

~~— (iv) not more than 25 of which are group supervision hours concurrently with only one other applicant for licensure;}~~ and

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~~(fv)iv~~ not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

~~[(iii)] (e) [including a minimum of] document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;~~

~~[(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule;]~~

~~{(f)}~~ (f) if required for the applicant to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which may include hours accrued under Subsection (1)(d); or

(ii) not less than two years of clinical supervision;

~~[(f)] (g) (i) pass the examination requirement established by division rule under Section 58-1-203; [and] or~~

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

~~{(A)}(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a mental health therapist supervisor who meets the requirements of Section 58-60-307;~~

~~—(B) clinical supervisor;~~

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

~~{(C)}(D) submit to the division a recommendation letter from another licensed supervisor mental health therapist who has directly observed the applicant's direct client care hours and who is not the candidate's applicant's direct clinical supervisor; and~~

~~{(D) submit to the division a portfolio of work demonstrating clinical competence as~~



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~~defined by rule; and~~

~~}[(g)](h) [if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact,] consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

(2) (a) ~~[An]~~ Subject to Subsection (2)(b), an applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a) through (c) and (h).

~~[(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two year from the date the minimum requirement for training is completed.]~~

~~[(c) The time period under Subsection (2)(b) may be extended to a maximum of four years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the {} appropriate {} board that the individual is:]~~

~~[(i) making reasonable progress toward passing of the qualifying examination for that profession; or]~~

~~[(ii) otherwise on a course reasonably expected to lead to licensure.]~~

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score that is valid and in good standing on:

(i) the National Counselor Examination; and

(ii) the National Clinical Mental Health Counseling Examination.

Section ~~{16}~~ 24. Section **58-60-407** is amended to read:

**58-60-407. Scope of practice -- Limitations.**

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(1) ~~[(a)]~~ A licensed clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

~~[(b) A licensed clinical mental health counselor may not supervise more than ~~{}~~ six ~~{}~~ ~~10~~ individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.]~~

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(c), a licensed associate clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling if the practice is:

(i) within the scope of employment as a licensed clinical mental health counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(b) A licensed associate clinical mental health counselor may not engage in the independent practice of clinical mental health counseling.

Section ~~{17}~~25. Section **58-60-502** is amended to read:

### **58-60-502. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

~~[(1) "Board" means the Substance Use Disorder Counselor Licensing Board created in Section 58-60-503.]~~

~~[(2)]~~ (1) (a) "Counseling" means a collaborative process that facilitates the client's progress toward mutually determined treatment goals and objectives.

(b) "Counseling" includes:

(i) methods that are sensitive to an individual client's characteristics, to the influence of significant others, and to the client's cultural and social context; and

(ii) an understanding, appreciation, and ability to appropriately use the contributions of various addiction counseling models as the counseling models apply to modalities of care for individuals, groups, families, couples, and significant others.

~~[(3)]~~ (2) "Direct supervision" means:

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(a) a minimum of one hour of supervision by a supervisor of the substance use disorder counselor for every 40 hours of client care provided by the substance use disorder counselor, which supervision may include group supervision;

(b) the supervision is conducted in a face-to-face manner, unless otherwise approved on a case-by-case basis by the division in collaboration with the board; and

(c) a supervisor is available for consultation with the counselor at all times.

~~[(4)]~~ (3) "General supervision" shall be defined by division rule.

~~[(5)]~~ (4) "Group supervision" means more than one counselor licensed under this part meets with the supervisor at the same time.

~~[(6)]~~ (5) "Individual supervision" means only one counselor licensed under this part meets with the supervisor at a given time.

~~[(7)]~~ (6) "Practice as a certified advanced substance use disorder counselor" and "practice as a certified advanced substance use disorder counselor intern" means providing services described in Subsection ~~[(9)]~~ (8) under the direct supervision of a mental health therapist or licensed advanced substance use disorder counselor.

~~[(8)]~~ (7) "Practice as a certified substance use disorder counselor" and "practice as a certified substance use disorder counselor intern" means providing the services described in Subsections ~~[(10)(a)]~~ (9)(a) and (b) under the direct supervision of a mental health therapist or licensed advanced substance use disorder counselor.

~~[(9)]~~ (8) "Practice as ~~a licensed~~ an advanced substance use disorder counselor" means:

(a) providing the services described in Subsections ~~[(10)(a)]~~ (9)(a) and (b);

(b) screening and assessing of individuals, including identifying substance use disorder symptoms and behaviors and co-occurring mental health issues;

(c) treatment planning for substance use disorders, including initial planning, reviewing and updating treatment plans for substance use disorders, ongoing intervention, continuity of care, discharge planning, planning for relapse prevention, and long term recovery support; and

(d) supervising a ~~certified substance use disorder counselor, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, certified advanced substance use disorder counselor intern, or licensed~~ substance use disorder

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counselor in accordance with Subsection 58-60-508(2)~~f~~.

~~— [(10)] (9);~~ and

(e) conducting supportive counseling and psychosocial education for substance use disorders and co-occurring mental health disorders, including:

(i) providing individual and group support;

(ii) providing individual and group psychosocial education; and

(iii) providing manualized therapeutic interventions if:

(A) conducted under the supervision of a mental health therapist;

(B) for the treatment of mild to moderate behavioral health symptoms or disorders, as diagnosed by a mental health therapist; and

(C) consistent with the client's treatment plan approved by a mental health therapist.

(9) "Practice as a master addiction counselor" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by:

(a) the application of generally recognized substance use disorder counseling and addiction counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior; and

(b) the supervision of advanced substance use disorder counselor or substance use disorder counselor.

(10) "Practice as an associate master addiction counselor" means the same as the practice as a master addiction counselor, except while under the supervision of a clinical supervisor.

~~[(10)]~~ (11) (a) "Practice as a substance use disorder counselor" means providing services as an employee of a substance use disorder agency under the general supervision of a licensed mental health therapist to individuals or groups of persons, whether in person or remotely, for conditions of substance use disorders consistent with the education and training of a substance use disorder counselor required under this part, and the standards and ethics of the profession as approved by the division in collaboration with the board.

(b) "Practice as a substance use disorder counselor" includes:

(i) administering the screening process by which a client is determined to need

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substance use disorder services, which may include screening, brief intervention, and treatment referral;

(ii) conducting the administrative intake procedures for admission to a program;

(iii) conducting orientation of a client, including:

(A) describing the general nature and goals of the program;

(B) explaining rules governing client conduct and infractions that can lead to

disciplinary action or discharge from the program;

(C) explaining hours during which services are available in a nonresidential program;

(D) treatment costs to be borne by the client, if any; and

(E) describing the client's rights as a program participant;

(iv) conducting assessment procedures by which a substance use disorder counselor gathers information related to an individual's strengths, weaknesses, needs, and substance use disorder symptoms for the development of the treatment plan;

(v) participating in the process of treatment planning, including recommending specific interventions to support existing treatment goals and objectives developed by the substance use disorder counselor, the mental health therapist, and the client to:

(A) identify and rank problems needing resolution;

(B) establish agreed upon immediate and long term goals; and

(C) decide on a treatment process and the resources to be utilized;

(vi) monitoring compliance with treatment plan progress;

(vii) providing substance use disorder counseling services to alcohol and drug use disorder clients and significant people in the client's life as part of a comprehensive treatment plan, including:

(A) leading specific task-oriented groups, didactic groups, and group discussions;

(B) cofacilitating group therapy with a licensed mental health therapist; and

(C) engaging in one-on-one interventions and interactions coordinated by a mental health therapist;

(viii) performing case management activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;

(ix) providing substance use disorder crisis intervention services;

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(x) providing client education to individuals and groups concerning alcohol and other substance use disorders, including identification and description of available treatment services and resources;

(xi) identifying the needs of the client that cannot be met by the substance use disorder counselor or substance use disorder agency and referring the client to appropriate services and community resources;

(xii) developing and providing effective reporting and recordkeeping procedures and services, which include charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data; and

(xiii) consulting with other professionals in regard to client treatment and services to assure comprehensive quality care for the client.

(c) "Practice as a substance use disorder counselor" does not include:

(i) the diagnosing of mental illness, including substance use disorders, as defined in Section 58-60-102;

(ii) engaging in the practice of mental health therapy as defined in Section 58-60-102; or

(iii) the performance of a substance use disorder diagnosis, other mental illness diagnosis, or psychological testing.

~~[(11)]~~ ~~(~~10~~;12)~~ "Program" means a substance use disorder agency that provides substance use disorder services, including recovery support services.

~~[(12)]~~ ~~(~~11~~;13)~~ "Recovery support services" means services provided to an individual who is identified as having need of substance use disorder preventive or treatment services, either before, during, or after an episode of care that meets the level of care standards established by division rule.

~~[(13)]~~ ~~(~~12~~;14)~~ "Substance use disorder agency" means a public or private agency, health care facility, or health care practice that:

(a) provides substance use disorder services, recovery support services, primary health care services, or substance use disorder preventive services; and

(b) employs qualified mental health therapists in sufficient number to:

(i) evaluate the condition of clients being treated by each counselor licensed under this part and employed by the substance use disorder agency; and

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(ii) ensure that appropriate substance use disorder services are being given.

~~[(14)]~~ ~~(~~13~~;~~15~~)~~ "Substance use disorder education program" means a formal program of substance use disorder education offered by an accredited institution of higher education that meets standards established by division rule.

Section ~~18~~26. Section 58-60-504 is amended to read:

### 58-60-504. License classification.

The division shall issue substance use disorder counselor licenses to individuals qualified under this part in the classification of:

(1) master addiction counselor;

(2) associate master addiction counselor;

~~[(1)]~~ (3) licensed advanced substance use disorder counselor;

~~[(2)]~~ ~~(~~4~~)~~ ~~certified advanced substance use disorder counselor;~~

~~[(3)]~~ ~~(~~5~~)~~ ~~certified advanced substance use disorder counselor intern;~~

~~(~~4~~)~~ ~~(~~6~~)~~ licensed substance use disorder counselor;

~~[(5)]~~ ~~(~~7~~)~~ ~~certified substance use disorder counselor; and~~

~~[(6)]~~ ~~(~~8~~)~~ ~~certified substance use disorder counselor intern.~~

Section ~~19~~27. Section 58-60-506 is amended to read:

### 58-60-506. Qualifications for licensure.

~~[(1)]~~ ~~An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:~~

~~[(a)]~~ ~~submit an application in a form prescribed by the division;~~

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

~~[(c)]~~ ~~satisfy the requirements of Subsection (2), (3), (4), (5), (6), ~~(~~7~~)~~ or ~~(~~7~~)~~ ~~(~~8~~), or~~~~  
~~(~~9~~),~~ respectively; and

~~[(d)]~~ ~~except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.~~

~~(~~2~~1)~~ ~~An~~ Subject to Subsection (2), an applicant for licensure as a ~~master~~  
~~addiction counselor~~ shall produce:

~~(a)~~ based on education, training, and experience shall:

(a) submit an application on a form provided by the division;

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

(c) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(d) via a course that the division designates as approved;

(d) produce a certified transcript from an accredited institution of higher education that meets standards established by division rule under Section 58-1-203, verifying the satisfactory completion of a doctoral or ~~{master's}~~ masters degree in:

(i) substance use disorders or addiction counseling and treatment; or

(ii) (A) a counseling subject approved by the division in collaboration with the board, which may include social work, mental health counseling, marriage and family therapy, psychology, or medicine;

~~{(b) documentation of successful completion of at least 1,200 hours of supervised experience}~~ (B) an associate's degree or higher, or 18 credit hours, in substance use disorder ~~{and addiction treatment}~~ or addiction counseling and treatment from a regionally accredited institution of higher education;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education ~~{requirement described in}~~ requirements under Subsection ~~{2}~~(a) demonstrating at least 75 of the supervised hours were obtained:

~~(i) during direct, personal supervision, as defined by division rule;~~

~~(ii) ~~{1}(d)(ii)(B);~~~~

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical ~~{mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse practitioner, marriage and family therapist, clinical social worker, or master addiction counselor approved by the division in collaboration with the board; and~~

~~(iii) at least 25}~~ supervisor;

(iii) of which, 75 of the direct clinical supervision hours ~~{shall be obtained through direct observation by either the direct clinical supervisor or by another fully licensed clinician who is authorized to practice mental health therapy and who is approved}~~ under Subsection (2)(d)(ii) are supervised by the ~~{applicant for licensure's}~~ applicant's direct clinical supervisor; ~~{~~ and



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~~(c)~~

(iv) not less than 25 of which are direct observation hours; and

(v) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(f) if the applicant for licensure produces a transcript described in Subsection ~~(2)1~~(a)(ii)(B), evidence ~~of~~ completion of an additional 200 hours of ~~supervised experience~~ direct client care hours in substance use disorder ~~and~~ or addiction treatment ~~;~~

~~(3) (a);~~

(g) if required for the applicant to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which may include hours accrued under Subsection (1)(e); or

(ii) not less than two years of clinical supervision;

(h) (i) pass the examination requirement established by division rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor;

(i) if the applicant for licensure produces a transcript described in Subsection (1)(d)(ii), document completion of an additional 200 hours of supervised experience in substance use disorder and addiction treatment; and

(j) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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(2) In lieu of the requirements under Subsection (1)(d) through (i), an applicant for licensure as master addiction counselor may document current certification in good standing as:

(a) a master addiction counselor by the National Certification Commission for Addiction Professionals;

(b) a master addiction counselor by the National Board for Certified Counselors; or

(c) an equivalent certification as under Subsections (2)(a) and (b), as determined in rule made by the division in collaboration with the board.

(3) An applicant for licensure as an associate master addiction counselor shall ~~comply with the provisions of Subsections (2)(a):~~

~~\_\_\_\_\_ (b) An individual's} satisfy the requirements under Subsections (1)(a) through (c) and (i)~~

(4) Subject to Subsection (5), an applicant for licensure as an ~~associate master} advanced substance use disorder counselor shall:~~

(a) submit an application on a form provided by the division;

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

(c) (i) produce certified transcripts verifying satisfactory completion of:

(A) a bachelor's degree or higher, from a regionally accredited institution of higher learning, in substance use disorders, addiction, or related counseling subjects, including social work; mental health counseling; marriage and family counseling; or psychology; or

(B) two academic years of study in a master's of addiction ~~counselor:~~

~~\_\_\_\_\_ (i) is limited to the period of time necessary to complete the hours described in Subsections (2)(a)(ii) and (iii); and~~

~~\_\_\_\_\_ (ii) except as provided in Subsection (3)(c), expires no more than two years after the day on which the minimum time for training passes.~~

~~\_\_\_\_\_ (c) The division may extend the time period} counseling curriculum and practicum approved by the National Addictions Studies Accreditation Commission;~~

(ii) document completion of at least 500 hours of supervised experience while licensed as a substance use disorder counselor under this section, which the applicant may complete while completing the education requirements under Subsection (~~{3}~~(b) up to four years past the day on which the minimum time for training passes if the applicant presents satisfactory evidence to the division that the applicant is:

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~~(i) making reasonable progress toward the relevant examination; or~~

~~(ii) otherwise on a course reasonably expected to lead to licensure.~~

~~[(2)] (4) 1(c); and~~

(iii) satisfy examination requirements established by the division in rule; and

(d) consent to a criminal background check in accordance with Section 58-60-103.1

and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The requirements of Subsection (4)(c) may be satisfied by providing official verification of current certification in good standing as:

(a) a National Certified Addiction Counselor Level II (NCAC II) from the National Certification Commission for Addiction Professionals (NCC AP); or

(b) an Advanced Alcohol & Drug Counselor (AADC), from the International Certification and Reciprocity Consortium.

~~[(2)] In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:~~

~~[(a) certified transcripts from an accredited institution of higher education that:~~

~~[(i) meet division standards;~~

~~[(ii) verify the satisfactory completion of a baccalaureate or graduate degree; and~~

~~[(iii) verify the completion of prerequisite courses established by division rules;~~

~~[(b) documentation of the applicant's completion of a substance use disorder education program that includes:~~

~~[(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and~~

~~[(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and~~

~~[(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:~~

~~[(i) meets division standards; and~~

~~[(ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined~~

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by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.]

~~[(3) ~~(5)~~ An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections ~~(2)(a)~~ ~~(4)(a)~~ and (b).]~~

~~[(4) ~~(6)~~ (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections ~~(2)(a)~~ ~~(4)(a)~~ and (b).]~~

~~[(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:]~~

~~[(i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or]~~

~~[(ii) six months after the certified advanced substance use disorder counselor intern license is issued.]~~

~~[(5) ~~(7;6)~~ In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:~~

~~(a) certified transcripts from an accredited institution that:~~

~~(i) meet division standards;~~

~~(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and~~

~~(iii) verify the completion of prerequisite courses established by division rules;~~

~~(b) documentation of the applicant's completion of a substance use disorder education program that includes:~~

~~(i) completion of at least 200 hours of substance use disorder related education;~~

~~(ii) included in the 200 hours described in Subsection ~~(5)(b)(i)~~ ~~(7;6)(b)(i)~~, a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and~~

~~(iii) completion of a supervised practicum of at least 200 hours; and~~

~~(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:~~

~~(i) meets division standards; and~~

~~(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection ~~(5)(b)~~ ~~(7;6)(b)~~, unless, as~~

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determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

~~[(6) (8)] An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) (7)(a) and (b).~~

~~[(7) (9)] (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) (7)(a) and (b).~~

~~[(b) A certified substance use disorder counselor intern license expires at the earlier of:~~

~~[(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or~~

~~[(ii) six months after the certified substance use disorder counselor intern license is issued.]~~

Section ~~(20)~~28. Section **58-60-512** is enacted to read:

### **58-60-512. Scope of practice -- Limitations.**

(1) An individual who is licensed as a master addiction counselor:

(a) may engage in practice as a licensed master addiction counselor without supervision, in private and independent practice or as an employee of another person, limited only by the licensee's education, training, and competence; and

(b) may engage in the practice of mental health therapy.

(2) To the extent an individual ~~is professionally prepared by the education and training track completed while earning a degree according to~~has completed the educational requirements of Subsection ~~(58-60-506); 58-60-305(2)1)(a)c~~, a licensed associate master addiction counselor may engage in ~~practice as~~the practice of licensed master addiction counselor and licensed advanced substance use disorder counselor if the practice is:

(a) within the scope of employment as a licensed master addiction counselor or a licensed advanced substance use disorder counselor ~~consistent with the licensee's education, clinical training, experience, and competence:~~

~~(a) with, as defined by the division in rule, a public agency or private clinic; and~~

(b) under supervision of ~~an individual described in Subsection 58-60-506(2)(b) and as an employee of another person when engaged in practice as a licensed advanced substance use disorder counselor;~~

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~~(b) without supervision and in private practice or as an employee of another person, if not engaged in practice as a licensed advanced substance use disorder counselor or in the practice}~~ a qualified licensed mental health therapist as defined in Section 58-60-102.

(3) A licensed associate master addiction counselor may not engage in the unsupervised practice of master addiction counseling.

Section 29. Section 58-60-601 is enacted to read:

### Part 6. Behavioral Health Coach and Technician Licensing Act

#### 58-60-601. Definitions

As used in this part:

(1) "Designated examiner" means the same as that term is defined in Section 26B-5-301.

(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(3) "Human services program" means the same the same as that term is defined in Section 26B-2-101.

(4) "Practice of mental health therapy~~;~~

~~(c) including engaging in private, independent, unsupervised practice as a licensed advanced substance use disorder counselor or practice of}~~ " means the same as that term is defined in Section 58-60-102.

(5) "Practice as a behavioral health coach" means, subject to Subsection (6), working under the general supervision of a mental health {therapy as a self-employed individual, in partnership with other} therapist and includes:

(a) providing services under the definition of practice as a behavioral health technician in Subsection (2);

(b) conducting administrative and care coordination activities, including:

(i) providing targeted case management;

(ii) providing care navigation services, including:

(A) connecting individuals to behavioral health resources and social services;

(B) facilitating communication with other behavioral health providers;

(iii) providing referrals and crisis referrals, including:

(A) providing emotional support to individuals;

(B) engaging in warm handoffs with other behavioral health providers;

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(C) adhering to a standardized protocol in responding to a crisis or risk of crisis within a behavioral health facility, program, or other entity;

(iv) Providing additional support to other behavioral health providers, facilities, programs, and entities, including

(A) conducting administrative activities; and

(B) extending non-clinical or clinical behavioral health support;

(v) providing discharge, post-treatment referral, and after-care services;

(c) conducting patient assessment, monitoring, and planning activities, including:

(i) conducting non-clinical psychosocial assessments and screenings;

(ii) conducting collaborative planning, care planning, and goal setting;

(iii) information gathering to inform a mental health therapist's:

(A) diagnostic evaluations;

(B) initial treatment plans; and

(C) treatment plan reviews and updates;

(iv) monitoring client progress and tracking outcomes to inform mental health

therapists, as a professional corporation, or in any other capacity or business entity, so long as the individual does not practice unsupervised psychotherapy, and

~~(d) supervising};~~

(A) diagnostic evaluations; and

(B) treatment plan reviews and updates;

(v) drafting initial treatment plans, only:

(A) in the treatment of clients with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist;

(B) with sign-off on the treatment plan from a mental health therapist before treatment begins;

(C) with confirmation that the client has been given the opportunity to consult with a mental health therapist before treatment begins; and

(D) at the discretion of and with prior documented authorization from a licensed health care facility, or from a licensed human services program;

(vi) reviewing and updating treatment plans, only:

(A) in the treatment of clients with mild to moderate behavioral health symptoms or

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disorders, as assessed or diagnosed by a mental health therapist;

(B) with sign-off from a mental health therapist before subsequent treatment begins;

(C) with confirmation that the client has been given the opportunity to consult with a mental health therapist before subsequent treatment begins; and

(D) at the discretion of and with prior documented authorization from a licensed health facility or a licensed human service program;

(d) conducting intervention and treatment activities, including:

(i) providing individual and group support and psychosocial education related to behavioral health literacy, wellness education and promotion, goal setting, life skills, and coping skills;

(ii) providing other treatment interventions to enhance clients social skills, emotional well-being, and overall functioning, including:

(A) supportive counseling;

(B) motivational interviewing;

(C) habilitation services; and

(D) activity-based therapeutic programs;

(iii) providing evidence-based, manualized therapeutic interventions, only:

(A) under the supervision of a mental health therapist;

(B) in the treatment of mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist; and

(C) according to a treatment plan approved by a mental health therapist; and

(iv) co-facilitating group therapy with a mental health therapist.

(6) "Practice as a behavioral health coach" does not include:

(a) engaging in the practice of mental health therapy; or

(b) serving as a designated examiner.

(7) (a) "Practice as a behavioral health technician" means working under the general supervision of a mental health therapist and includes:

(i) supporting administrative and care coordination activities, including:

(A) maintaining accurate and confidential client records, progress notes, incident reports, and treatment plans, in compliance with applicable legal and ethical standards; and

(B) assisting in discharge, referral, and after care documentation, coordination, and



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### administration;

(ii) supporting patient non-clinical assessment, monitoring, and care planning activities, including:

(A) collecting intake and non-clinical psychosocial assessment information;

(B) gathering information to support diagnostic and treatment planning activities

conducted by a mental health therapist; and

(C) observing, documenting, and reporting on clients behaviors, treatment interventions, progress, and outcomes to a mental health therapist;

(iii) supporting intervention and treatment activities, including:

(A) supporting licensed professionals in implementing interventions designed to address behavioral health issues;

(B) facilitating therapeutic activities and recreational programs to enhance clients social skills, emotional well-being, and overall functioning;

(C) providing education and support to clients and their families on behavioral health issues, treatment options, and community resources;

(D) implementing behavioral management strategies including de-escalation techniques and crisis intervention as needed; and

(E) implementing crisis intervention strategies in accordance with established protocols, and ensuring the safety and well-being of clients during emergencies.

(b) "Practice as a behavioral health technician" does not include:

(i) engaging in the practice of mental health therapy; or

(ii) serving as a designated examiner.

(8) Notwithstanding any other provision of this article, no behavioral health coach is authorized to practice outside of or beyond his or her area of training, experience, or competence.

(9) Notwithstanding any other provision of this part, no behavioral health technician is authorized to practice outside of or beyond his or her area of training, experience, or competence.

Section 30. Section 58-60-602 is enacted to read:

**58-60-602. Limitation on state licensure and certification.**

Nothing in this title shall be construed to prevent a person from lawfully engaging in

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the:

- (1) practice as a behavioral health coach without licensure; or
- (2) practice as a behavioral health technician without certification.

Section 31. Section 58-60-603 is enacted to read:

### **58-60-603. Qualification for licensure -- Ongoing development requirements.**

- (1) The division shall grant licensure to a person who qualifies under this chapter to practice as a behavioral health coach.
- (2) The division shall grant state certification to a person who qualifies under this chapter to practice as a behavioral health technician.
  - (3) An applicant for state certification as a behavioral health technician shall:
    - (a) submit an application in a form prescribed by the division;
    - (b) pay a fee determined by the department under Section 63J-1-504; and
    - (c) provide certified transcripts verifying satisfactory completion of:
      - (i) a one-year academic certificate relevant to practice as a behavioral health technician from a regionally accredited institution of higher learning, or an equivalence of that certification as determined by the division in rule; or
      - (ii) an associates degree or higher in a field determined by the division to be relevant to practice as a behavioral health technician, from a regionally accredited institution of higher learning, including:
        - (A) human and social services;
        - (B) counseling;
        - (C) psychology;
        - (D) social, behavioral, and health sciences; and
        - (E) education and human development.
    - (4) An applicant for licensure as a behavioral health coach by:
      - (a) the higher education pathway shall:
        - (i) submit an application in a form prescribed by the division;
        - (ii) pay a fee determined by the department under Section 63J-1-504; and
        - (iii) provide certified transcripts verifying satisfactory completion of a bachelors degree or higher in a field determined by the division to be relevant to practice as a behavioral health coach from a regionally accredited institution of higher learning, or an equivalence of that

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degree or higher, as determined by the division in rule, including:

- (A) human and social services;
- (B) counseling
- (C) psychology;
- (D) social, behavioral, and health sciences; and
- (E) education and human development; and

(iv) provide certified transcripts verifying satisfactory completion of no less than nine credit hours in applied skills relevant to practice as a behavioral health coach, including:

- (A) ethical, legal, and professional issues in behavioral health;
- (B) therapeutic, counseling, or direct practice skills and methods;
- (C) clinical documentation;
- (D) case management;
- (E) supervised internship experience;
- (F) supervised practicum experience, as defined by the division in rule; and

(v) provide a letter of recommendation from an individual with direct knowledge of the applicant's competency to practice as a behavioral health coach, who is qualified to evaluate the applicant's competency, including:

- (A) licensed mental health therapist;
- (B) a supervisor from a current or past work experience, internship, or practicum

relevant practice as a behavioral health coach; or

- (C) an instructor of an applied skills course relevant to practice as a behavioral health

coach.

(b) the stacked credentials and experience pathway shall:

- (i) submit an application in a form prescribed by the division;
- (ii) pay a fee determined by the department under Section 63J-1-504;
- (iii) provide certified transcripts verifying satisfactory completion of an associates

degree or higher in a field determined by the division to be relevant to practice as a behavioral health coach from a regionally accredited institution of higher learning, including:

- (A) human and social services;
- (B) counseling;
- (C) psychology;

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(D) social, behavioral, and health sciences; and

(E) education and human development;

(iv) provide certified transcripts verifying satisfactory completion of no less than nine credit hours in applied skills relevant to practice as a behavioral health coach, including:

(A) ethical, legal, and professional issues in behavioral health;

(B) therapeutic, counseling, or direct practice skills and methods;

(C) clinical documentation;

(D) case management; and

(E) supervised internship or practicum experience;

(v) provide documentation of two years full-time work experience, or equivalent, in a context or role determined by the division to be relevant to practice as a behavioral health coach, including as a:

(A) certified behavioral health technician;

(B) certified peer support specialist;

(C) certified case manager;

(D) certified crisis worker; or

(E) substance use disorder ~~}{counselors as provided by division rule.~~

~~Section 21}~~counselor; and

(vi) provide a letter of recommendation from an individual with direct knowledge of the applicant's competency to practice as a behavioral health coach, who is qualified to evaluate the applicants competency, including:

(A) a licensed mental health therapist;

(B) a supervisor from a current or past work experience, internship, or practicum relevant to practice as a behavioral health coach; or

(C) an instructor of an applied skills course relevant to practice as a behavioral health coach.

(5) (a) Subject to Subsection (5)(b), Section 58-60-104 governs the term, expiration, and renewal of licenses and certifications the division grants under this chapter.

(b) At the time of renewal, an applicant for renewal shall provide satisfactory documentation that the applicant has completed any ongoing professional development requirements, as established by the division in rule made in consultation with the board.

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Section 32. Section 58-60-604 is enacted to read:

**58-60-604. Unlawful conduct.**

It is unlawful for a person who is not licensed or certified under this chapter to:

(1) use the titles:

(a) state certified behavioral health technician; or

(b) licensed behavioral health coach; or

(2) represent that the person is, in connection with the person's name or business:

(a) a state certified behavioral health technician; or

(b) or licensed behavioral health coach.

Section 33. Section 58-61-102 is amended to read:

**58-61-102. Definitions.**

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

(1) "Board" means the [~~Psychologist Licensing Board created in Section 58-61-201~~]

Behavioral Health Board created in Section 58-60-102.5.

(2) "Client" or "patient" means an individual who consults or is examined or interviewed by a psychologist acting in his professional capacity.

(3) "Confidential communication" means information, including information obtained by the psychologist's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and a psychologist in the course of that relationship; or

(ii) transmitted among the client or patient, the psychologist, and individuals who are participating in the diagnosis or treatment under the direction of the psychologist, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the psychologist, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the psychologist.

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(4) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by which one individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

(5) "Individual" means a natural person.

(6) "Mental health therapist" means an individual licensed under this title as a:

(a) physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) clinical social worker;

(g) certified social worker;

(h) marriage and family therapist;

(i) an associate marriage and family therapist;

(j) a clinical mental health counselor; or

(k) an associate clinical mental health counselor.

(7) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection [~~(6)~~] (5).

(8) "Practice of mental health therapy" means the treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder;

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection [~~(6)~~] (5);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or

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emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection [~~(6)~~] (5).

(9) (a) "Practice of psychology" includes:

(i) the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional psychological principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(ii) the observation, description, evaluation, interpretation, or modification of human behavior by the application of generally recognized professional principles, methods, or procedures requiring the education, training, and clinical experience of a psychologist, for the purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health;

(iii) psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis, and behavior analysis and therapy;

(v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; and

(vi) psychoeducational evaluation, therapy, remediation, and consultation.

(b) An individual practicing psychology may provide services to individuals, couples, families, groups of individuals, members of the public, and individuals or groups within organizations or institutions.

(10) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

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(11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-61-501.

(12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-61-502, and may be further defined by division rule.

Section 34. Section 58-61-301 is amended to read:

### **58-61-301. Licensure required -- Certifications.**

(1) (a) A license is required to engage in the practice of psychology, except as specifically provided in Section 58-1-307.

(b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be certified under this chapter as a psychology resident in order to engage in a residency program of supervised clinical training necessary to meet licensing requirements as a psychologist under this chapter.

(2) The division shall issue to ~~[a person]~~ an individual who qualifies under this chapter:

(a) a license in the classification of:

~~[(a)]~~ (i) psychologist; ~~[or]~~

~~[(b)]~~ (ii) certified psychology resident~~[-];~~ or

(b) a certification in the classification of:

(i) certified prescribing psychologist; and

(ii) provisional prescribing psychologist.

Section ~~{22}~~ 35. Section 58-61-304 is amended to read:

### **58-61-304. Qualifications for licensure by examination or endorsement.**

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(d) have completed a minimum of 4,000 hours of psychology training as defined by



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division rule under Section 58-1-203 in not less than two years and under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

(e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203;

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

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

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially

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equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3) (a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), (g), and (h).

(b) (i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the [Psychologist Licensing Board] board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

(4) An applicant for certification as a certified prescribing psychologist based upon education, clinical training, and examination shall:

(a) have authority to engage in the practice of psychology under Subsection 58-61-301;

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

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

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(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or prior to enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule; and

(iii) as defined by division rule made in consultation with the board, has postdoctoral supervised training in prescribing psychology, under the direction of a qualified supervisor:

(A) sufficient to attain competency in the psychopharmacological treatment of a diverse patient population;

(B) completed throughout a period of at least one year; and

(C) to no less than 100 individual patients to whom the applicant provides psychopharmacological treatment;

(d) have passed:

(i) the Psychopharmacology Examination for Psychologists developed by the Association of State and Provincial Psychology Boards, or its successor organization; or

(ii) an equivalent examination as defined by the division in rule;

(e) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(f) consent to a criminal background check in accordance with Section 58-61-304.1

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and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist;

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(5) An applicant for certification as a certified prescribing psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

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

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed as a prescribing psychologist in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced as a prescribing psychologist in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that the applicant has satisfied the education, supervised experience, examination, and all other requirements for licensure as a prescribing psychologist in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a certified prescribing psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist; and

(j) meet with the board, upon request for good cause, for the purpose of evaluating the

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applicant's qualifications for licensure.

(6) An applicant for certification as a provisional prescribing psychologist shall:

(a) have authority to engage in the practice of psychology under Subsection 58-61-301;

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

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or prior to enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule; and

(d) have no disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(e) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) commit to maintaining professional liability insurance while acting as a provisional prescribing psychologist;

(g) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure; and

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(h) satisfy any further requirements, as established by the division in rule.

Section 36. Section 58-61-304.1 is amended to read:

### **58-61-304.1. Criminal background check.**

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

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

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation, including the use of the Rap Back System, regarding the application and the applicant's future status as a license holder.

(2) The division shall:

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

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

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

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

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

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

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

(4) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this

## SB0026S01 compared with SB0026

section.

Section 37. Section 58-61-308 is amended to read:

### **58-61-308. Scope of practice -- Limitations.**

(1) (a) [A] Subject to Subsections (1)(b) and (c), a psychologist may engage in all acts and practices defined as the practice of psychology without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) Only a certified prescribing psychologist may prescribe, administer, discontinue, and distribute without charge, drugs or controlled substances recognized in or customarily used in the diagnosis, treatment, and management of individuals with psychiatric, mental, cognitive, nervous, emotional, developmental, or behavioral disorders, including:

(i) laboratory tests;

(ii) diagnostic examinations; and

(iii) procedures that are:

(A) necessary to obtain laboratory tests or diagnostic examinations;

(B) relevant to the practice of psychology; and

(C) in accordance with division rule made in consultation with the board.

(c) When prescribing a psychotropic medication for a patient, a certified prescribing psychologist shall maintain a collaborative relationship with a health care practitioner who oversees the patient's general medical care to ensure that:

(i) necessary medical examinations are conducted;

(ii) the psychotropic medication is appropriate for the patient's medical condition; and

(iii) significant changes in the patient's medical or psychological conditions are discussed.

(2) An individual certified as a psychology resident may engage in all acts and practices defined as the practice of psychology only under conditions of employment as a psychology resident and under the supervision of a licensed psychologist who is an approved psychology training supervisor as defined by division rule. A certified psychology resident shall not engage in the independent practice of psychology.

Section 38. Section 58-61-502 is amended to read:

### **58-61-502. Unprofessional conduct.**

## SB0026S01 compared with SB0026

(1) As used in this chapter, "unprofessional conduct" includes:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;

(b) failure to confine practice conduct to those acts or practices:

(i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and

(ii) which are within applicable scope of practice laws of this chapter; ~~and~~

(c) disclosing or refusing to disclose any confidential communication under Section 58-61-602~~†~~.

~~†~~[-]:

(d) a pattern of failing to provide to patients:

(i) information regarding the license holder, including the name under which the license holder is licensed, the type of license held, the license number, and the license holder's contact information;

(ii) if the an individual's license requires the license holder to be supervised by another licensed provider, information regarding the supervisor, including the name under which the supervisor is licensed, the type of license held, the license number, and the supervisor's contact information;

(iii) information regarding standards of appropriate care and ethical boundaries, including a plain language statement that in a professional relationship with a mental health practitioner, a dual relationship between a client and a provider, or one that is romantic, financially motivated, or otherwise risks impacting the provider's judgment or the quality of the services provided, is never appropriate and should be reported to the Division of Professional Licensing;

(iv) information regarding the client's rights, including that the client has the right to seek a second opinion, to ask for additional information, and to terminate treatment at any time; or

(v) the contact information for the Division of Professional licensing, including how to file a complaint;

(e) a pattern of failing to provide to patients, upon request:



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(i) information about the license holder's qualifications and experience, including a listing of any degrees, credentials, certifications, registrations, and licenses held or completed by the license holder, the name of the granting school or institution, and the continuing education that the licensee is required to complete in order to retain the license;

(ii) information regarding standards of appropriate care and ethical boundaries, including a copy of the statutory and administrative rule definitions of unprofessional conduct, and a copy of generally recognized professional or ethical standards;

(iii) for any course of treatment, the method of treatment recommended, the reasoning supporting the method of treatment, the techniques used, the expected duration of the treatment, if known, and the fee structure; or

(iv) information regarding the individuals who have or have had access to confidential data related to the care of the patient, including evaluations, assessments, diagnoses, prevention or treatment plans, reports, progress notes, discharge summaries, treatment or documentation of treatment including video recording, live stream, or in-person observations of psychotherapy or other treatment methods.

(2) "Unprofessional conduct" under this chapter may be further defined by division rule.

Section 39. Section 58-61-705 is amended to read:

### **58-61-705. Qualifications for licensure -- By examination -- By certification.**

(1) An applicant for licensure as a behavior analyst based upon education, supervised experience, and national examination shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts of credit verifying satisfactory completion of a master's or doctoral degree in applied behavior analysis from an accredited institution of higher education or an equivalent master or doctorate degree as determined by the division by administrative rule;

(d) as defined by the division by administrative rule, have completed at least 1,500 hours of experiential behavior analysis training within a five year period of time with a qualified supervisor; and

(e) pass the examination requirement established by division rule under Section

## SB0026S01 compared with SB0026

58-1-203; and

(f) document proof of current certification in good standing as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, or an equivalence of that certification, as determined by division rule made in consultation with the board.

~~[(2) An applicant for licensure as a behavior analyst based upon certification shall:]~~

~~[(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;]~~

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

~~[(c) provide official verification of current certification as a board certified behavior analyst from the Behavior Analyst Certification Board.]~~

~~[(3)]~~ (2) An applicant for licensure as an assistant behavior analyst based upon education, supervised experience, and national examination shall:

(a) submit an application on a form provided by the division;

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

(c) produce certified transcripts of credit verifying satisfactory completion of a bachelor's degree from an accredited institution of higher education and satisfactory completion of specific core course work in behavior analysis established under Section 58-1-203 from an accredited institution of higher education;

(d) as defined by the division by administrative rule, have completed at least 1,000 hours of experiential behavior analysis training within a five-year period of time with a qualified supervisor; and

(e) pass the examination requirement established by division rule under Section 58-1-203; and

(f) document proof of current certification in good standing as a Board Certified Assistant Behavior Analyst by the Behavior Analyst Certification Board, or an equivalence of that certification, as determined by division rule made in consultation with the board.

~~[(4)]~~ (3) An applicant for licensure as an assistant behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

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

## SB0026S01 compared with SB0026

(c) provide official verification of current certification in good standing as a board certified assistant behavior analyst from the Behavior Analyst Certification Board.

~~[(5)]~~ (4) An applicant for registration as a behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

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

(c) have at least five years of experience as a professional engaged in the practice of behavior analysis on or before May 15, 2015; and

(d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

~~[(6)]~~ (5) An applicant for registration as an assistant behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

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

(c) have at least one year of experience as a professional engaging in the practice of behavior analysis prior to July 1, 2015; and

(d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

Section ~~{23}~~ 40. Section **58-84-102** is amended to read:

### **58-84-102. Definitions.**

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

(1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

~~[(1)]~~ (2) "Practice of music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship.

~~[(2)]~~ (3) "State certification" means a designation granted by the division in collaboration with the board on behalf of the state to an individual who has met the requirements for state certification related to an occupation or profession described in this

## SB0026S01 compared with SB0026

chapter.

~~[(3)]~~ (4) "State certified" means, when used in conjunction with an occupation or profession described in this chapter, a title that:

(a) may be used by a person who has met the state certification requirements related to that occupation or profession described in this chapter; and

(b) may not be used by a person who has not met the state certification requirements related to that occupation or profession described in this chapter.

Section ~~{24}~~41. Section **58-84-201** is amended to read:

### **58-84-201. Qualifications for state certification.**

(1) The division shall grant state certification to a person who qualifies under this chapter to engage in the practice of music therapy as a state certified music therapist.

(2) Each applicant for state certification as a state certified music therapist shall:

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

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

(c) provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as determined by division rule in collaboration with the board.

Section ~~{25}~~42. **Repealer.**

This bill repeals:

~~{~~ ~~Section 58-40-201, Board.~~

~~}~~ Section 58-60-203, Board.

Section 58-60-303, Board -- Powers.

Section 58-60-307, Supervisors of marriage and family therapists -- Qualifications.

Section 58-60-403, Board.

Section 58-60-503, Board.

Section 58-61-201, Board.

Section 58-78-101, Title.

Section 58-78-102, Definitions.

Section 58-78-201, Board.

Section 58-78-301, License required.

Section 58-78-302, Qualifications for licensure -- Licensure by credential.

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Section 58-78-303, Term of license -- Expiration -- Renewal.

Section 58-78-304, Exemption from licensure.

Section 58-78-401, Grounds for denial of license -- Disciplinary proceedings.

Section 58-78-501, Unlawful conduct.

Section 58-78-502, Unprofessional conduct.

Section 43. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 44(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Utah Board of Higher Education - Talent Ready Utah

=	<u>From Grants and Contracts, One-time</u>	<u>\$2,900,000</u>
=	<u>Schedule of Programs:</u>	
=	<u>Talent Ready Utah</u>	<u>\$2,900,000</u>

Section ~~26~~44. **Effective date.**

This bill takes effect on May 1, 2024.