

1 OCCUPATIONAL AND PROFESSIONAL LICENSING

2 AMENDMENTS

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: James A. Dunnigan

6 Senate Sponsor: _____

7

8 LONG TITLE

9 Committee Note:

10 The Business and Labor Interim Committee recommended this bill.

11 General Description:

12 This bill modifies statutory provisions related to the Division of Occupational and
13 Professional Licensing (DOPL).

14 Highlighted Provisions:

15 This bill:

- 16 ▶ modifies DOPL's authority to share certain licensee information;
- 17 ▶ modifies provisions related to unlawful and unprofessional conduct;
- 18 ▶ modifies the exemptions from licensure and other requirements related to
19 cosmetology and associated professions;
- 20 ▶ modifies background check requirements and other requirements for certain medical
21 professions;
- 22 ▶ modifies certain contractor licensing requirements;
- 23 ▶ modifies the membership of the Hunting Guides and Outfitters Licensing Board;
- 24 and
- 25 ▶ makes technical changes.

26 Money Appropriated in this Bill:

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **58-1-106**, as last amended by Laws of Utah 2016, Chapter 238
- 33 **58-1-301.5**, as last amended by Laws of Utah 2013, Chapter 262
- 34 **58-1-501**, as last amended by Laws of Utah 2014, Chapter 408
- 35 **58-1-502**, as last amended by Laws of Utah 2016, Chapter 238
- 36 **58-11a-304**, as last amended by Laws of Utah 2013, Chapter 13
- 37 **58-11a-306**, as last amended by Laws of Utah 2016, Chapter 274
- 38 **58-17b-307**, as last amended by Laws of Utah 2012, Chapter 93
- 39 **58-31b-201**, as last amended by Laws of Utah 2010, Chapter 372
- 40 **58-31b-302**, as last amended by Laws of Utah 2014, Chapter 316
- 41 **58-37-6.5**, as last amended by Laws of Utah 2017, Chapter 180
- 42 **58-37f-401**, as last amended by Laws of Utah 2011, Chapter 23
- 43 **58-47b-501**, as last amended by Laws of Utah 2000, Chapter 309
- 44 **58-55-305**, as last amended by Laws of Utah 2013, Chapters 430 and 449
- 45 **58-55-501**, as last amended by Laws of Utah 2014, Chapter 188
- 46 **58-55-503**, as last amended by Laws of Utah 2017, Chapter 339
- 47 **58-60-117**, as last amended by Laws of Utah 2015, Chapter 197
- 48 **58-67-302**, as last amended by Laws of Utah 2012, Chapters 162 and 225
- 49 **58-67-302.5**, as last amended by Laws of Utah 2011, Chapter 214
- 50 **58-67-302.7**, as last amended by Laws of Utah 2015, Chapter 258
- 51 **58-67-302.8 (Effective 07/01/18)**, as enacted by Laws of Utah 2017, Chapter 299
- 52 **58-67-304 (Superseded 07/01/18)**, as last amended by Laws of Utah 2011, Chapters
- 53 161 and 214
- 54 **58-67-304 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 299
- 55 **58-67-403**, as last amended by Laws of Utah 2011, Chapter 214
- 56 **58-68-302**, as last amended by Laws of Utah 2012, Chapters 162 and 225
- 57 **58-68-302.5 (Effective 07/01/18)**, as enacted by Laws of Utah 2017, Chapter 299
- 58 **58-68-304 (Superseded 07/01/18)**, as last amended by Laws of Utah 2011, Chapters

59 161 and 214

60 **58-68-304 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 299

61 **58-68-403**, as last amended by Laws of Utah 2011, Chapter 214

62 **58-79-201**, as enacted by Laws of Utah 2009, Chapter 52

63 ENACTS:

64 **58-67-302.1**, Utah Code Annotated 1953

65 REPEALS:

66 **58-37f-402**, as last amended by Laws of Utah 2013, Chapter 450



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

69 Section 1. Section **58-1-106** is amended to read:

70 **58-1-106. Division -- Duties, functions, and responsibilities.**

71 (1) The duties, functions, and responsibilities of the division include the following:

72 (a) prescribing, adopting, and enforcing rules to administer this title;

73 (b) investigating the activities of any person whose occupation or profession is

74 regulated or governed by the laws and rules administered and enforced by the division;

75 (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum

76 the production of any books, papers, documents, records, contracts, recordings, tapes,

77 correspondence, or information relevant to an investigation upon a finding of sufficient need by

78 the director or by the director's designee;

79 (d) taking administrative and judicial action against persons in violation of the laws

80 and rules administered and enforced by the division, including the issuance of cease and desist

81 orders;

82 (e) seeking injunctions and temporary restraining orders to restrain unauthorized

83 activity;

84 (f) complying with Title 52, Chapter 4, Open and Public Meetings Act;

85 (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or

86 otherwise acting upon any license;

87 (h) preparing and submitting to the governor and the Legislature an annual report of the

88 division's operations, activities, and goals;

89 (i) preparing and submitting to the executive director a budget of the expenses for the

90 division;

91 (j) establishing the time and place for the administration of examinations; and

92 (k) preparing lists of licensees and making these lists available to the public at cost
93 upon request unless otherwise prohibited by state or federal law.

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

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

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

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

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

107 (i) the division's contracted agents when sharing the information is necessary to comply
108 with state or federal law; and

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

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

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

114 Section 2. Section **58-1-301.5** is amended to read:

115 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

116 (1) The division shall have direct access to criminal background information
117 maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau
118 of Criminal Identification, for background screening of persons who are applying for licensure,
119 licensure renewal, licensure reinstatement, or relicensure, as required in:

120 (a) Section **58-17b-307** of Title 58, Chapter 17b, Pharmacy Practice Act;

- 121 (b) Section [58-31b-302](#) of Title 58, Chapter 31b, Nurse Practice Act;
- 122 (c) Section [58-47b-302](#) of Title 58, Chapter 47b, Massage Therapy Practice Act;
- 123 (d) Section [58-55-302](#) of Title 58, Chapter 55, Utah Construction Trades Licensing
124 Act, as it applies to alarm companies and alarm company agents;
- 125 (e) Section [58-63-302](#) of Title 58, Chapter 63, Security Personnel Licensing Act; [~~and~~]
- 126 (f) Section [58-64-302](#) of Title 58, Chapter 64, Deception Detection Examiners
127 Licensing Act[~~;~~];
- 128 (g) Sections [58-67-302](#) and [58-67-302.1](#) of Title 58, Chapter 67, Utah Medical Practice
129 Act; and
- 130 (h) Section [58-68-302](#) of Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- 131 (2) The division's access to criminal background information under this section:
- 132 (a) shall meet the requirements of Section [53-10-108](#); and
- 133 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
134 held in abeyance, dismissed charges, and charges without a known disposition.
- 135 Section 3. Section **58-1-501** is amended to read:
- 136 **58-1-501. Unlawful and unprofessional conduct.**
- 137 (1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful
138 under this title and includes:
- 139 (a) practicing or engaging in, representing oneself to be practicing or engaging in, or
140 attempting to practice or engage in any occupation or profession requiring licensure under this
141 title if the person is:
- 142 (i) not licensed to do so or not exempted from licensure under this title; or
- 143 (ii) restricted from doing so by a suspended, revoked, restricted, temporary,
144 probationary, or inactive license;
- 145 (b) (i) impersonating another licensee or practicing an occupation or profession under a
146 false or assumed name, except as permitted by law; or
- 147 (ii) for a licensee who has had a license under this title reinstated following disciplinary
148 action, practicing the same occupation or profession using a different name than the name used
149 before the disciplinary action, except as permitted by law and after notice to, and approval by,
150 the division;
- 151 (c) knowingly employing any other person to practice or engage in or attempt to

152 practice or engage in any occupation or profession licensed under this title if the employee is
153 not licensed to do so under this title;

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

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

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

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

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

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

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

175 (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order
176 regulating an occupation or profession under this title;

177 (b) violating, or aiding or abetting any other person to violate, any generally accepted
178 professional or ethical standard applicable to an occupation or profession regulated under this
179 title;

180 (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea
181 of guilty or nolo contendere which is held in abeyance pending the successful completion of
182 probation with respect to a crime of moral turpitude or any other crime that, when considered

183 with the functions and duties of the occupation or profession for which the license was issued
184 or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely
185 or competently practice the occupation or profession;

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

191 (e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar
192 chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the
193 ability of the licensee or applicant to safely engage in the occupation or profession;

194 (f) practicing or attempting to practice an occupation or profession regulated under this
195 title despite being physically or mentally unfit to do so;

196 (g) practicing or attempting to practice an occupation or profession regulated under this
197 title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

198 (h) practicing or attempting to practice an occupation or profession requiring licensure
199 under this title by any form of action or communication which is false, misleading, deceptive,
200 or fraudulent;

201 (i) practicing or attempting to practice an occupation or profession regulated under this
202 title beyond the scope of the licensee's competency, abilities, or education;

203 (j) practicing or attempting to practice an occupation or profession regulated under this
204 title beyond the scope of the licensee's license;

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

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

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

212 (i) without first obtaining information in the usual course of professional practice, that
213 is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to

214 the proposed treatment; or

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

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

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

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

226 Section 4. Section 58-1-502 is amended to read:

227 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

228 (1) Unless otherwise specified in this title, a person who violates the unlawful conduct
229 provisions defined in this title is guilty of a class A misdemeanor.

230 (2) (a) In addition to any other statutory penalty for a violation related to a specific
231 occupation or profession regulated by this title, if upon inspection or investigation, the division
232 concludes that a person has violated Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or
233 order issued with respect to those subsections, and that disciplinary action is appropriate, the
234 director or the director's designee from within the division shall promptly:

235 (i) issue a citation to the person according to this section and any pertinent rules;

236 (ii) attempt to negotiate a stipulated settlement; or

237 (iii) notify the person to appear before an adjudicative proceeding conducted under
238 Title 63G, Chapter 4, Administrative Procedures Act.

239 (b) (i) The division may assess a fine under this Subsection (2) against a person who
240 violates Subsection 58-1-501(1)(a), (1)(c), or (2)(o), or a rule or order issued with respect to
241 those subsections, as evidenced by:

242 (A) an uncontested citation;

243 (B) a stipulated settlement; or

244 (C) a finding of a violation in an adjudicative proceeding.

245 (ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i),
246 order the person to cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), or (2)(o),
247 or a rule or order issued with respect to those subsections.

248 (c) Except for a cease and desist order, the division may not assess the licensure
249 sanctions cited in Section 58-1-401 through a citation.

250 (d) A citation shall:

251 (i) be in writing;

252 (ii) describe with particularity the nature of the violation, including a reference to the
253 provision of the chapter, rule, or order alleged to have been violated;

254 (iii) clearly state that the recipient must notify the division in writing within 20
255 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
256 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

257 (iv) clearly explain the consequences of failure to timely contest the citation or to make
258 payment of a fine assessed by the citation within the time specified in the citation.

259 (e) The division may issue a notice in lieu of a citation.

260 (f) (i) If within 20 calendar days from the service of the citation, the person to whom
261 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
262 final order of the division and is not subject to further agency review.

263 (ii) The period to contest a citation may be extended by the division for cause.

264 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
265 the license of a licensee who fails to comply with a citation after it becomes final.

266 (h) The failure of an applicant for licensure to comply with a citation after it becomes
267 final is a ground for denial of license.

268 (i) The division may not issue a citation under this section after the expiration of one
269 year following the occurrence of a violation.

270 (j) The director or the director's designee shall assess fines according to the following:

271 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

272 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;

273 and

274 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to
275 \$2,000 for each day of continued offense.

276 (3) (a) An action for a first or second offense that has not yet resulted in a final order of
277 the division may not preclude initiation of a subsequent action for a second or subsequent
278 offense during the pendency of a preceding action.

279 (b) The final order on a subsequent action is considered a second or subsequent
280 offense, respectively, provided the preceding action resulted in a first or second offense,
281 respectively.

282 (4) If, upon inspection or investigation, the division determines that a person has
283 violated an unlawful conduct or an unprofessional conduct provision defined in this title more
284 than one time, the division may treat each violation as a separate violation of the unlawful
285 conduct or unprofessional conduct provision and may apply a penalty as described in this title
286 to each violation.

287 ~~[(4)]~~ (5) (a) The director may collect a penalty that is not paid by:

288 (i) ~~[either]~~ referring the matter to a collection agency; or

289 (ii) bringing an action in the district court of the county where the person against whom
290 the penalty is imposed resides or in the county where the office of the director is located.

291 (b) A county attorney or the attorney general of the state shall provide legal assistance
292 and advice to the director in an action to collect ~~[the]~~ a penalty.

293 (c) A court may award reasonable attorney fees and costs to the division in an action
294 brought by the division to ~~[enforce the provisions of this section]~~ collect a penalty.

295 Section 5. Section **58-11a-304** is amended to read:

296 **58-11a-304. Exemptions from licensure.**

297 In addition to the exemptions from licensure in Section **58-1-307**, the following persons
298 may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level
299 esthetics, electrology, or nail technology without being licensed under this chapter:

300 (1) a person licensed under the laws of this state to engage in the practice of medicine,
301 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which
302 they are licensed;

303 (2) a commissioned physician or surgeon serving in the armed forces of the United
304 States or another federal agency;

305 (3) a registered nurse, undertaker, or mortician licensed under the laws of this state
306 when engaged in the practice of the profession for which the person is licensed;

307 (4) a person who visits the state to engage in instructional seminars, advanced classes,
308 trade shows, or competitions of a limited duration;

309 (5) a person who engages in the practice of barbering, cosmetology/barbering, hair
310 design, esthetics, master-level esthetics, electrology, or nail technology without compensation;

311 (6) a person instructing an adult education class or other educational program directed
312 toward persons who are not licensed under this chapter and that is not intended to train persons
313 to become licensed under this chapter, provided:

314 (a) an attendee receives no credit toward educational requirements for licensure under
315 this chapter;

316 (b) the instructor informs each attendee in writing that taking such a class or program
317 will not certify or qualify the attendee to perform a service for compensation that requires
318 licensure under this chapter; and

319 (c) (i) the instructor is properly licensed; or

320 (ii) the instructor receives no compensation;

321 (7) a person providing instruction in workshops, seminars, training meetings, or other
322 educational programs whose purpose is to provide continuing professional development to
323 licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians,
324 electrologists, or nail technicians;

325 (8) a person enrolled in a licensed barber or cosmetology/barber school when
326 participating in an on the job training internship under the direct supervision of a licensed
327 barber or cosmetologist/barber upon completion of a basic program under the standards
328 established by rule by the division in collaboration with the board;

329 (9) a person enrolled in an approved apprenticeship pursuant to Section [58-11a-306](#);

330 (10) an employee of a company that is primarily engaged in the business of selling
331 products used in the practice of barbering, cosmetology/barbering, esthetics, master-level
332 esthetics, electrology, or nail technology when demonstrating the company's products to a
333 potential customer, provided the employee makes no representation to a potential customer that
334 attending such a demonstration will certify or qualify the attendee to perform a service for
335 compensation that requires licensure under this chapter;

336 (11) a person who:

337 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, esthetics,

338 master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by
339 licensure, certification, or lawful practice in the other jurisdiction;

340 (b) is employed by, or under contract with, a motion picture company; and

341 (c) engages in the practice of barbering, cosmetology/barbering, esthetics, master-level
342 esthetics, electrology, or nail technology in the state:

343 (i) solely to assist in the production of a motion picture; and

344 (ii) for no more than 120 days per calendar year; and

345 (12) a person who:

346 (a) engages in hair braiding; and

347 (b) unless it is expressly exempted under this section or Section 58-1-307, does not
348 engage in other activity requiring licensure under this chapter.

349 Section 6. Section 58-11a-306 is amended to read:

350 **58-11a-306. Apprenticeship.**

351 (1) An approved barber apprenticeship shall:

352 (a) consist of not less than 1,250 hours of training in not less than eight months; and

353 (b) be conducted by a supervisor who:

354 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber
355 instructor; and

356 (ii) provides one-on-one direct supervision of the barber apprentice during the
357 apprenticeship program.

358 (2) An approved cosmetologist/barber apprenticeship shall:

359 (a) consist of not less than 2,500 hours of training in not less than 15 months; and

360 (b) be conducted by a supervisor who:

361 (i) is licensed under this chapter as a cosmetologist/barber instructor; and

362 (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice
363 during the apprenticeship program.

364 (3) An approved esthetician apprenticeship shall:

365 (a) consist of not less than 800 hours of training in not less than five months; and

366 (b) be conducted by a supervisor who:

367 (i) is licensed under this chapter as an esthetician instructor; and

368 (ii) provides one-on-one direct supervision of the esthetician apprentice during the

369 apprenticeship program.

370 (4) An approved master esthetician apprenticeship shall:

371 (a) consist of not less than 1,500 hours of training in not less than 10 months; and

372 (b) be conducted by a supervisor who:

373 (i) is licensed under this chapter as a master-level esthetician instructor; and

374 (ii) provides one-on-one direct supervision of the master esthetician apprentice during
375 the apprenticeship program.

376 (5) An approved nail technician apprenticeship shall:

377 (a) consist of not less than 375 hours of training in not less than three months; and

378 (b) be conducted by a supervisor who:

379 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
380 instructor; ~~and~~

381 (ii) provides ~~one-on-one~~ direct supervision of the nail technician apprentice during
382 the apprenticeship program~~[-]; and~~

383 (iii) provides direct supervision to no more than two nail technician apprentices during
384 the apprentice program.

385 (6) A person seeking to qualify for licensure by apprenticing in an approved
386 apprenticeship under this chapter shall:

387 (a) register with the division before beginning the training requirements by:

388 (i) submitting a form prescribed by the division, which includes the name of the
389 licensed supervisor; and

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

391 (b) complete the apprenticeship within five years of the date on which the division
392 approves the registration; and

393 (c) notify the division within 30 days if the licensed supervisor changes after the
394 registration is approved by the division.

395 (7) Notwithstanding Subsection (6), if a person seeking to qualify for licensure by
396 apprenticing in an approved apprenticeship under this chapter registers with the division before
397 January 1, 2017, any training requirements completed by the person as an apprentice in an
398 approved apprenticeship before registration may be applied to successful completion of the
399 approved apprenticeship.

400 Section 7. Section **58-17b-307** is amended to read:

401 **58-17b-307. Qualification for licensure -- Criminal background checks.**

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

403 (a) submit fingerprint cards or other biometric data in a form acceptable to the division
404 at the time the license application is filed; and

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

408 (i) Utah Bureau of Criminal Identification; and

409 (ii) Federal Bureau of Investigation.

410 (2) The division shall request the [~~Department of Public Safety to~~] Utah Bureau of
411 Criminal Identification complete a Federal Bureau of Investigation criminal background check
412 for each applicant through the National [~~Criminal History System (NCIC)] Crime Information
413 Center or any successor system.~~

414 (3) For purposes of conducting the criminal background check required in Subsection
415 (1), the division shall have direct access to criminal background information maintained under
416 Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

417 (4) (a) A new pharmacist, pharmacy intern, or pharmacy technician license issued
418 under this section is conditional, pending completion of the criminal background check.

419 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
420 criminal background check required in Subsection (1), discloses the applicant has failed to
421 accurately disclose a criminal history, the license is immediately and automatically revoked
422 upon notice to the licensee by the division.

423 (5) (a) A person whose conditional license has been revoked under Subsection (4) is
424 entitled to a postrevocation hearing to challenge the revocation.

425 (b) The division shall conduct [~~the~~] a postrevocation hearing in accordance with Title
426 63G, Chapter 4, Administrative Procedures Act.

427 (6) The division may not disclose outside of the division any criminal history record
428 information that the division obtains from the Federal Bureau of Investigation under the
429 criminal background check requirements of this section.

430 Section 8. Section **58-31b-201** is amended to read:

431 **58-31b-201. Board.**

432 (1) There is created the Board of Nursing that consists of the following 11 members:

433 (a) nine nurses in a manner as may be further defined in division rule; and

434 (b) two members of the public.

435 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

436 (3) The board shall carry out the duties and responsibilities in Sections 58-1-202 and
437 58-1-203 and shall:

438 (a) (i) recommend to the division minimum standards for educational programs

439 qualifying a person for licensure or certification under this chapter;

440 (ii) recommend to the division denial, approval, or withdrawal of approval regarding
441 educational programs that meet or fail to meet the established minimum standards; and

442 (iii) designate one of its members on a permanent or rotating basis to:

443 (A) assist the division in reviewing complaints concerning the unlawful or
444 unprofessional conduct of a licensee; and

445 (B) advise the division in its investigation of these complaints.

446 (b) A board member who has, under Subsection (3)(a)(iii), reviewed a complaint or
447 advised in its investigation may be disqualified from participating with the board when the
448 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.449 ~~[(4)(a) The director shall appoint an individual to serve as an ex officio member of the
450 Board of Nursing to represent the position of the division in matters considered by the board.]~~451 ~~[(b) The ex officio member shall be a licensed registered nurse, shall have earned a
452 masters degree in nursing, and shall have a minimum of five years of experience working in
453 nursing administration or nursing education.]~~

454 Section 9. Section 58-31b-302 is amended to read:

455 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
456 **checks.**

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

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

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

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

461 (d) have a current certification as a nurse aide, in good standing, from the Department

462 of Health;

463 (e) have a minimum of 2,000 hours of experience within the two years prior to
464 application, working as a certified nurse aide in a long-term care facility;

465 (f) obtain letters of recommendation from a long-term care facility administrator and
466 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

467 (g) be in a condition of physical and mental health that will permit the applicant to
468 practice safely as a medication aide certified;

469 (h) have completed an approved education program or an equivalent as determined by
470 the division in collaboration with the board;

471 (i) have passed the examinations as required by division rule made in collaboration
472 with the board; and

473 (j) meet with the board, if requested, to determine the applicant's qualifications for
474 certification.

475 (2) An applicant for licensure as a licensed practical nurse shall:

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

477 (b) pay to the division a fee determined under Section [63J-1-504](#);

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

479 (d) be in a condition of physical and mental health that will permit the applicant to
480 practice safely as a licensed practical nurse;

481 (e) have completed an approved practical nursing education program or an equivalent
482 as determined by the board;

483 (f) have passed the examinations as required by division rule made in collaboration
484 with the board; and

485 (g) meet with the board, if requested, to determine the applicant's qualifications for
486 licensure.

487 (3) An applicant for licensure as a registered nurse shall:

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

489 (b) pay to the division a fee determined under Section [63J-1-504](#);

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

491 (d) be in a condition of physical and mental health that will allow the applicant to
492 practice safely as a registered nurse;

- 493 (e) have completed an approved registered nursing education program;
- 494 (f) have passed the examinations as required by division rule made in collaboration
495 with the board; and
- 496 (g) meet with the board, if requested, to determine the applicant's qualifications for
497 licensure.
- 498 (4) Applicants for licensure as an advanced practice registered nurse shall:
- 499 (a) submit to the division an application on a form prescribed by the division;
- 500 (b) pay to the division a fee determined under Section [63J-1-504](#);
- 501 (c) be in a condition of physical and mental health which will allow the applicant to
502 practice safely as an advanced practice registered nurse;
- 503 (d) hold a current registered nurse license in good standing issued by the state or be
504 qualified at the time for licensure as a registered nurse;
- 505 (e) (i) have earned a graduate degree in:
- 506 (A) an advanced practice registered nurse nursing education program; or
- 507 (B) a related area of specialized knowledge as determined appropriate by the division
508 in collaboration with the board; or
- 509 (ii) have completed a nurse anesthesia program in accordance with Subsection
510 (4)(f)(ii);
- 511 (f) have completed:
- 512 (i) course work in patient assessment, diagnosis and treatment, and
513 pharmacotherapeutics from an education program approved by the division in collaboration
514 with the board; or
- 515 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
516 Nurse Anesthesia Educational Programs;
- 517 (g) to practice within the psychiatric mental health nursing specialty, demonstrate, as
518 described in division rule, that the applicant, after completion of a doctorate or master's degree
519 required for licensure, is in the process of completing the applicant's clinical practice
520 requirements in psychiatric mental health nursing, including in psychotherapy;
- 521 (h) have passed the examinations as required by division rule made in collaboration
522 with the board;
- 523 (i) be currently certified by a program approved by the division in collaboration with

524 the board and submit evidence satisfactory to the division of the certification; and

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

527 (5) For each applicant for licensure or certification under this chapter:

528 (a) the applicant shall:

529 (i) submit fingerprint cards or other biometric data in a form acceptable to the division
530 at the time the application is filed; and

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

533 (b) the division shall request the [~~Department of Public Safety to~~] Utah Bureau of
534 Criminal Identification complete a Federal Bureau of Investigation criminal background check
535 through the [~~national criminal history system (NCIC)] National Crime Information Center or
536 any successor system.~~

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

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

542 (ii) [~~If~~] Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
543 criminal background check discloses the applicant has failed to accurately disclose a criminal
544 history, the license or certification shall be immediately and automatically revoked upon notice
545 to the licensee by the division.

546 (b) (i) Any person whose conditional license or certification has been revoked under
547 Subsection (7)(a) shall be entitled to a postrevocation hearing to challenge the revocation.

548 (ii) [~~The~~] A postrevocation hearing shall be conducted in accordance with Title 63G,
549 Chapter 4, Administrative Procedures Act.

550 (8) (a) If a person has been charged with a violent felony, as defined in Subsection
551 [76-3-203.5\(1\)\(c\)](#), and, as a result, the person has been convicted, entered a plea of guilty or
552 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
553 successful completion of probation:

554 (i) the person is disqualified for licensure under this chapter; and

555 (ii) (A) if the person is licensed under this chapter, the division:
556 (I) shall act upon the license as required under Section 58-1-401; and
557 (II) may not renew or subsequently issue a license to the person under this chapter; and
558 (B) if the person is not licensed under this chapter, the division may not issue a license
559 to the person under this chapter.

560 (b) If a person licensed under this chapter has been charged with a felony other than a
561 violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the person has been
562 convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo
563 contendere held in abeyance pending the successful completion of probation[~~:(i) if the person~~
564 ~~is licensed under this chapter,~~], the division shall determine whether the felony disqualifies the
565 person for licensure under this chapter and act upon the license, as required, in accordance with
566 Section 58-1-401[~~; and~~].

567 [~~(ii) if the person is not licensed under this chapter, the person may not file an~~
568 ~~application for licensure under this chapter any sooner than five years after having completed~~
569 ~~the conditions of the sentence or plea agreement.]~~

570 (9) The division may not disclose outside of the division any criminal history record
571 information that the division obtains from the Federal Bureau of Investigation under the
572 criminal background check requirements of this section.

573 Section 10. Section 58-37-6.5 is amended to read:

574 **58-37-6.5. Continuing education for controlled substance prescribers.**

575 (1) For the purposes of this section:

576 (a) "Controlled substance prescriber" means an individual, other than a veterinarian,
577 who:

578 (i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
579 Controlled Substances Act; and

580 (ii) possesses the authority, in accordance with the individual's scope of practice, to
581 prescribe schedule II controlled substances and schedule III controlled substances that are
582 applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

583 (b) "D.O." means an osteopathic physician and surgeon licensed under Title 58,
584 Chapter 68, Utah Osteopathic Medical Practice Act.

585 (c) "FDA" means the United States Food and Drug Administration.

586 (d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah
587 Medical Practice Act.

588 (e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment
589 approach used by the federal Substance Abuse and Mental Health Services Administration or
590 defined by the division, in consultation with the Division of Substance Abuse and Mental
591 Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative
592 Rulemaking Act.

593 (2) (a) Beginning with the licensing period that begins after January 1, 2014, as a
594 condition precedent for license renewal, each controlled substance prescriber shall complete at
595 least four continuing education hours per licensing period that satisfy the requirements of
596 ~~[Subsections]~~ Subsection (3) ~~[and (4)]~~.

597 (b) (i) Beginning with the licensing period that begins after January 1, 2024, as a
598 condition precedent for license renewal, each controlled substance prescriber shall complete at
599 least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements
600 of Subsection ~~[(5)]~~ (4).

601 (ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i),
602 fulfills the continuing education hours requirement in Subsection ~~[(4)]~~ (3) for the licensing
603 period in which the class was completed.

604 (iii) A controlled substance prescriber:

605 (A) need only take the SBIRT-training class once during the controlled substance
606 prescriber's licensure in the state; and

607 (B) shall provide a completion record of the SBIRT-training class in order to be
608 reimbursed for SBIRT services to patients, in accordance with Section [26-18-22](#) and Section
609 [49-20-416](#).

610 ~~[(3) As provided in Subsection [58-37f-402](#)(8), the online tutorial and passing the~~
611 ~~online test described in Section [58-37f-402](#) shall count as 1/2 hour of continuing professional~~
612 ~~education under Subsection (2) per licensing period.]~~

613 ~~[(4)]~~ (3) A controlled substance prescriber shall complete at least 3.5 hours of
614 continuing education in one or more controlled substance prescribing classes, except dentists
615 who shall complete at least two hours, that satisfy the requirements of Subsections ~~[(5)]~~ (4) and
616 ~~[(7)]~~ (6).

617 ~~[(5)]~~ (4) A controlled substance prescribing class shall:

618 (a) satisfy the division's requirements for the continuing education required for the
619 renewal of the controlled substance prescriber's respective license type;

620 (b) be delivered by an accredited or approved continuing education provider
621 recognized by the division as offering continuing education appropriate for the controlled
622 substance prescriber's respective license type; and

623 (c) include a postcourse knowledge assessment.

624 ~~[(6)]~~ (5) An M.D. or D.O. completing continuing professional education hours under
625 Subsection (4) shall complete those hours in classes that qualify for the American Medical
626 Association Physician's Recognition Award Category 1 Credit.

627 ~~[(7)]~~ (6) The 3.5 hours of the controlled substance prescribing classes under Subsection
628 (4) shall include educational content covering the following:

629 (a) the scope of the controlled substance abuse problem in Utah and the nation;

630 (b) all elements of the FDA Blueprint for Prescriber Education under the FDA's
631 Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation
632 Strategy, as published July 9, 2012, or as it may be subsequently revised;

633 (c) the national and Utah-specific resources available to prescribers to assist in
634 appropriate controlled substance and opioid prescribing;

635 (d) patient record documentation for controlled substance and opioid prescribing; and

636 (e) office policies, procedures, and implementation.

637 ~~[(8)]~~ (7) (a) The division, in consultation with the Utah Medical Association
638 Foundation, shall determine whether a particular controlled substance prescribing class satisfies
639 the educational content requirements of Subsections ~~[(5)]~~ (4) and ~~[(7)]~~ (6) for an M.D. or D.O.

640 (b) The division, in consultation with the applicable professional licensing boards,
641 shall determine whether a particular controlled substance prescribing class satisfies the
642 educational content requirements of Subsections ~~[(5)]~~ (4) and ~~[(7)]~~ (6) for a controlled
643 substance prescriber other than an M.D. or D.O.

644 (c) The division may by rule establish a committee that may audit compliance with the
645 Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project
646 grant, that satisfies the educational content requirements of Subsections ~~[(5)]~~ (4) and ~~[(7)]~~ (6)
647 for a controlled substance prescriber.

648 ~~[(9)]~~ (8) A controlled substance prescribing class required under this section:

649 (a) may be held:

650 (i) in conjunction with other continuing professional education programs; and

651 (ii) online; and

652 (b) does not increase the total number of state-required continuing professional
653 education hours required for prescriber licensing.

654 ~~[(10)]~~ (9) The division may establish rules, in accordance with Title 63G, Chapter 3,
655 Utah Administrative Rulemaking Act, to implement this section.

656 ~~[(11)]~~ (10) A controlled substance prescriber who, on or after July 1, 2017, obtains a
657 waiver to treat opioid dependency with narcotic medications, in accordance with the Drug
658 Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the
659 3.5 hours of the continuing education requirement under Subsection ~~[(4)]~~ (3) for two
660 consecutive licensing periods.

661 Section 11. Section ~~58-37f-401~~ is amended to read:

662 **58-37f-401. Database registration required -- Penalties for failure to register.**

663 (1) Each individual, other than a veterinarian, who, on June 30, 2010, has a license to
664 prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, but is not
665 registered with the division to use the database shall, on or before September 30, 2010, register
666 with the division to use the database.

667 ~~[(2) Each individual who, on November 1, 2012, is registered with the division to use
668 the database shall, on or before January 1, 2013, participate in the online tutorial and pass the
669 online test described in Section 58-37f-402.]~~

670 ~~[(3)]~~ (2) (a) An individual who is not a veterinarian, who obtains a new license to
671 prescribe a controlled substance under Chapter 37, Utah Controlled Substances Act, shall,
672 within 30 days after the day on which the individual obtains a license to prescribe a controlled
673 substance from the Drug Enforcement Administration, register with the division to use the
674 database.

675 (b) An individual who is not a veterinarian may not renew a license to prescribe a
676 controlled substance under Chapter 37, Utah Controlled Substances Act, unless the individual
677 registers with the division to use the database.

678 ~~[(4) Beginning on November 2, 2012, in order to register to use the database, the~~

679 individual registering must participate in the online tutorial and pass the online test described
680 in Section ~~58-37f-402~~.]

681 [~~(5)~~] (3) Failure by an individual to comply with the requirements of this section is
682 grounds for the division to take the following actions in accordance with Section ~~58-1-401~~:

- 683 (a) refuse to issue a license to the individual;
684 (b) refuse to renew the individual's license; or
685 (c) revoke, suspend, restrict, or place on probation the license.

686 [~~(6)~~] (4) Beginning on July 1, 2010, the division shall, in accordance with Section
687 ~~63J-1-504~~, impose an annual database registration fee on an individual who registers to use the
688 database, to pay the startup and ongoing costs of the division for complying with the
689 requirements of this section [~~and Section 58-37f-402~~].

690 Section 12. Section ~~58-47b-501~~ is amended to read:

691 **~~58-47b-501. Unlawful conduct.~~**

692 "Unlawful conduct" includes:

- 693 (1) practicing, engaging in, or attempting to practice or engage in massage therapy
694 without holding a current license as a massage therapist or a massage apprentice under this
695 chapter;
696 (2) advertising or representing himself as practicing massage therapy when not licensed
697 to do so; and
698 (3) massaging, touching, or applying any instrument or device by a licensee in the
699 course of practicing or engaging in massage therapy to the:

700 (a) genitals [~~or~~];

701 (b) anus; [~~and~~] or

702 [~~(b)~~] (c) breasts of a female patron, except when a female patron requests breast
703 massage, as may be further defined by division rule, and signs a written consent form, which
704 must also include the signature of a parent or legal guardian if the patron is a minor,
705 authorizing the procedure and outlining the reason for it before the procedure is performed.

706 Section 13. Section ~~58-55-305~~ is amended to read:

707 **~~58-55-305. Exemptions from licensure.~~**

708 (1) In addition to the exemptions from licensure in Section ~~58-1-307~~, the following
709 persons may engage in acts or practices included within the practice of construction trades,

710 subject to the stated circumstances and limitations, without being licensed under this chapter:

711 (a) an authorized representative of the United States government or an authorized
712 employee of the state or any of its political subdivisions when working on construction work of
713 the state or the subdivision, and when acting within the terms of the person's trust, office, or
714 employment;

715 (b) a person engaged in construction or operation incidental to the construction and
716 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
717 districts, and drainage districts or construction and repair relating to farming, dairying,
718 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
719 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
720 sites, and lumbering;

721 (c) public utilities operating under the rules of the Public Service Commission on work
722 incidental to their own business;

723 (d) sole owners of property engaged in building:

724 (i) no more than one residential structure per year and no more than three residential
725 structures per five years on their property for their own noncommercial, nonpublic use; except,
726 a person other than the property owner or individuals described in Subsection (1)(e), who
727 engages in building the structure must be licensed under this chapter if the person is otherwise
728 required to be licensed under this chapter; or

729 (ii) structures on their property for their own noncommercial, nonpublic use which are
730 incidental to a residential structure on the property, including sheds, carports, or detached
731 garages;

732 (e) (i) a person engaged in construction or renovation of a residential building for
733 noncommercial, nonpublic use if that person:

734 (A) works without compensation other than token compensation that is not considered
735 salary or wages; and

736 (B) works under the direction of the property owner who engages in building the
737 structure; and

738 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
739 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
740 exempted from licensure under this Subsection (1)(e), that is:

- 741 (A) minimal in value when compared with the fair market value of the services
742 provided by the person;
- 743 (B) not related to the fair market value of the services provided by the person; and
- 744 (C) is incidental to the providing of services by the person including paying for or
745 providing meals or refreshment while services are being provided, or paying reasonable
746 transportation costs incurred by the person in travel to the site of construction;
- 747 (f) a person engaged in the sale or merchandising of personal property that by its design
748 or manufacture may be attached, installed, or otherwise affixed to real property who has
749 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
750 attach that property;
- 751 (g) a contractor submitting a bid on a federal aid highway project, if, before
752 undertaking construction under that bid, the contractor is licensed under this chapter;
- 753 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a
754 person engaged in the alteration, repair, remodeling, or addition to or improvement of a
755 building with a contracted or agreed value of less than \$3,000, including both labor and
756 materials, and including all changes or additions to the contracted or agreed upon work; and
- 757 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
758 section:
- 759 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
760 any six month period of time:
- 761 (I) must be performed by a licensed electrical or plumbing contractor, if the project
762 involves an electrical or plumbing system; and
- 763 (II) may be performed by a licensed journeyman electrician or plumber or an individual
764 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
765 such as a faucet, toilet, fixture, device, outlet, or electrical switch;
- 766 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
767 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
768 received certification under Subsection 58-55-308(2) except as otherwise provided in
769 Subsection 58-55-308(2)(d) or 58-55-308(3);
- 770 (C) installation, repair, or replacement of water-based fire protection systems on a
771 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems

772 contractor or a licensed journeyman plumber;

773 (D) work as an alarm business or company or as an alarm company agent shall be
774 performed by a licensed alarm business or company or a licensed alarm company agent, except
775 as otherwise provided in this chapter;

776 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
777 project must be performed by a licensed alarm business or company or a licensed alarm
778 company agent;

779 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
780 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
781 licensed by the division;

782 (G) installation, repair, or replacement of a radon mitigation system or a soil
783 depressurization system must be performed by a licensed contractor; and

784 (H) if the total value of the project is greater than \$1,000, the person shall file with the
785 division a one-time affirmation, subject to periodic reaffirmation as established by division
786 rule, that the person has:

787 (I) public liability insurance in coverage amounts and form established by division
788 rule; and

789 (II) if applicable, workers compensation insurance which would cover an employee of
790 the person if that employee worked on the construction project;

791 (i) a person practicing a specialty contractor classification or construction trade which
792 the director does not classify by administrative rule as significantly impacting the public's
793 health, safety, and welfare;

794 (j) owners and lessees of property and persons regularly employed for wages by owners
795 or lessees of property or their agents for the purpose of maintaining the property, are exempt
796 from this chapter when doing work upon the property;

797 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
798 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
799 small commercial building, or structure used for agricultural use, as defined in Section

800 [15A-1-202](#), provided that no modification is made to:

801 (A) existing culinary water, soil, waste, or vent piping; or

802 (B) a gas appliance or combustion system; and

803 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
804 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

805 (l) a person who ordinarily would be subject to the plumber licensure requirements
806 under this chapter when installing or repairing a water conditioner or other water treatment
807 apparatus if the conditioner or apparatus:

808 (i) meets the appropriate state construction codes or local plumbing standards; and

809 (ii) is installed or repaired under the direction of a person authorized to do the work
810 under an appropriate specialty contractor license;

811 (m) a person who ordinarily would be subject to the electrician licensure requirements
812 under this chapter when employed by:

813 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
814 contractors or constructors, or street railway systems; or

815 (ii) public service corporations, rural electrification associations, or municipal utilities
816 who generate, distribute, or sell electrical energy for light, heat, or power;

817 (n) a person involved in minor electrical work incidental to a mechanical or service
818 installation, including the outdoor installation of an above-ground, prebuilt hot tub;

819 (o) a person who ordinarily would be subject to the electrician licensure requirements
820 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
821 contractor license for the electrical work associated with the installation, repair, or maintenance
822 of solar energy panels, may continue the limited electrical work for solar energy panels under a
823 specialty contractor license;

824 (p) a student participating in construction trade education and training programs
825 approved by the commission with the concurrence of the director under the condition that:

826 (i) all work intended as a part of a finished product on which there would normally be
827 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
828 building inspector; and

829 (ii) a licensed contractor obtains the necessary building permits;

830 (q) a delivery person when replacing any of the following existing equipment with a
831 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

832 (i) gas range;

833 (ii) gas dryer;

- 834 (iii) outdoor gas barbeque; or
- 835 (iv) outdoor gas patio heater;
- 836 (r) a person performing maintenance on an elevator as defined in Subsection
- 837 58-55-102(14), if the maintenance is not related to the operating integrity of the elevator; and
- 838 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
- 839 working under the general direction of the licensed elevator mechanic.

840 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit

841 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall

842 notify the division, in writing or through electronic transmission, of the issuance of the permit.

843 Section 14. Section 58-55-501 is amended to read:

844 **58-55-501. Unlawful conduct.**

845 Unlawful conduct includes:

846 (1) engaging in a construction trade, acting as a contractor, an alarm business or

847 company, or an alarm company agent, or representing oneself to be engaged in a construction

848 trade or to be acting as a contractor in a construction trade requiring licensure, unless the

849 person doing any of these is appropriately licensed or exempted from licensure under this

850 chapter;

851 (2) acting in a construction trade, as an alarm business or company, or as an alarm

852 company agent beyond the scope of the license held;

853 (3) hiring or employing a person who is not licensed under this chapter to perform

854 work on a project, unless the person:

855 (a) is an employee of a person licensed under this chapter for wages; and

856 (b) is not required to be licensed under this chapter;

857 (4) applying for or obtaining a building permit either for oneself or another when not

858 licensed or exempted from licensure as a contractor under this chapter;

859 (5) issuing a building permit to any person for whom there is no evidence of a current

860 license or exemption from licensure as a contractor under this chapter;

861 (6) applying for or obtaining a building permit for the benefit of or on behalf of any

862 other person who is required to be licensed under this chapter but who is not licensed or is

863 otherwise not entitled to obtain or receive the benefit of the building permit;

864 (7) failing to obtain a building permit when required by law or rule;

- 865 (8) submitting a bid for any work for which a license is required under this chapter by a
866 person not licensed or exempted from licensure as a contractor under this chapter;
- 867 (9) willfully or deliberately misrepresenting or omitting a material fact in connection
868 with an application to obtain or renew a license under this chapter;
- 869 (10) allowing one's license to be used by another except as provided by statute or rule;
- 870 (11) doing business under a name other than the name appearing on the license, except
871 as permitted by statute or rule;
- 872 (12) if licensed as a [~~specialty~~] contractor in the electrical trade or plumbing trade,
873 journeyman plumber, residential journeyman plumber, journeyman electrician, master
874 electrician, or residential electrician, failing to directly supervise an apprentice under one's
875 supervision or exceeding the number of apprentices one is allowed to have under the
876 [~~specialty~~] contractor's supervision;
- 877 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any
878 funds in payment for a specific project from an owner or any other person, which funds are to
879 pay for work performed or materials and services furnished for that specific project, and after
880 receiving the funds to exercise unauthorized control over the funds by failing to pay the full
881 amounts due and payable to persons who performed work or furnished materials or services
882 within a reasonable period of time;
- 883 (14) employing an unlicensed alarm business or company or an unlicensed individual
884 as an alarm company agent, except as permitted under the exemption from licensure provisions
885 under Section [58-1-307](#);
- 886 (15) if licensed as an alarm company or alarm company agent, filing with the division
887 fingerprint cards for an applicant which are not those of the applicant, or are in any other way
888 false or fraudulent and intended to mislead the division in its consideration of the applicant for
889 licensure;
- 890 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
- 891 (a) the building or construction laws of this state or any political subdivision;
- 892 (b) the safety and labor laws applicable to a project;
- 893 (c) any provision of the health laws applicable to a project;
- 894 (d) the workers' compensation insurance laws of the state applicable to a project;
- 895 (e) the laws governing withholdings for employee state and federal income taxes,

896 unemployment taxes, Social Security payroll taxes, or other required withholdings; or
897 (f) reporting, notification, and filing laws of this state or the federal government;
898 (17) aiding or abetting any person in evading the provisions of this chapter or rules
899 established under the authority of the division to govern this chapter;
900 (18) engaging in the construction trade or as a contractor for the construction of
901 residences of up to two units when not currently registered or exempt from registration as a
902 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
903 Fund Act;
904 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a
905 written contract the notification required in Section 38-11-108;
906 (20) wrongfully filing a preconstruction or construction lien in violation of Section
907 38-1a-308;
908 (21) if licensed as a contractor, not completing the approved continuing education
909 required under Section 58-55-302.5;
910 (22) an alarm company allowing an employee with a temporary license under Section
911 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary
912 license, as provided in Subsection 58-55-312(3)(a)(ii);
913 (23) an alarm company agent under a temporary license under Section 58-55-312
914 engaging in conduct outside the scope of the temporary license, as provided in Subsection
915 58-55-312(3)(a)(ii);
916 (24) (a) an unincorporated entity licensed under this chapter having an individual who
917 owns an interest in the unincorporated entity engage in a construction trade in Utah while not
918 lawfully present in the United States; or
919 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
920 providing an individual who owns an interest in the unincorporated entity to engage in a
921 construction trade in Utah while not lawfully present in the United States;
922 (25) an unincorporated entity failing to provide the following for an individual who
923 engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an
924 individual who engages, or will engage, in a construction trade in Utah for a separate entity for
925 which the unincorporated entity provides the individual as labor:
926 (a) workers' compensation coverage:

927 (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and
928 Title 34A, Chapter 3, Utah Occupational Disease Act; or
929 (ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the
930 unincorporated entity were licensed under this chapter; and
931 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
932 Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%
933 interest in the unincorporated entity, as defined by rule made by the division in accordance with
934 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

935 (26) the failure of a sign installation contractor or nonelectrical outdoor advertising
936 sign contractor, as classified and defined in division rules, to:

937 (a) display the contractor's license number prominently on a vehicle that:

938 (i) the contractor uses; and
939 (ii) displays the contractor's business name; or
940 (b) carry a copy of the contractor's license in any other vehicle that the contractor uses
941 at a job site, whether or not the vehicle is owned by the contractor;

942 (27) (a) an unincorporated entity licensed under this chapter having an individual who
943 owns an interest in the unincorporated entity engage in a construction trade in the state while
944 the individual is using a Social Security number that does not belong to that individual; or
945 (b) an unincorporated entity providing labor to an entity licensed under this chapter by
946 providing an individual, who owns an interest in the unincorporated entity, to engage in a
947 construction trade in the state while the individual is using a Social Security number that does
948 not belong to that individual;

949 (28) a contractor failing to comply with a requirement imposed by a political
950 subdivision, state agency, or board of education under Section 58-55-310; or
951 (29) failing to timely comply with the requirements described in Section 58-55-605.

952 Section 15. Section 58-55-503 is amended to read:

953 **58-55-503. Penalty for unlawful conduct -- Citations.**

954 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
955 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (22), (23), (24), (25), (26), (27), (28), or
956 (29), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this
957 section after it is final, is guilty of a class A misdemeanor.

958 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
959 individual and does not include a sole proprietorship, joint venture, corporation, limited
960 liability company, association, or organization of any type.

961 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
962 awarded and may not accept a contract for the performance of the work.

963 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
964 infraction unless the violator did so with the intent to deprive the person to whom money is to
965 be paid of the money received, in which case the violator is guilty of theft, as classified in
966 Section 76-6-412.

967 (3) Grounds for immediate suspension of a licensee's license by the division and the
968 commission include:

969 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
970 58-55-501, or Subsection 58-55-504(2); and

971 (b) the failure by a licensee to make application to, report to, or notify the division with
972 respect to any matter for which application, notification, or reporting is required under this
973 chapter or rules adopted under this chapter, including:

974 (i) applying to the division for a new license to engage in a new specialty classification
975 or to do business under a new form of organization or business structure;

976 (ii) filing a current financial statement with the division; and

977 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

978 (4) (a) If upon inspection or investigation, the division concludes that a person has
979 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
980 (10), (12), (14), (19), (21), (22), (23), (24), (25), (26), (27), (28), or (29), Subsection
981 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary
982 action is appropriate, the director or the director's designee from within the division shall
983 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
984 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
985 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

986 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
987 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), (21), (22), (23), (24), (25), (26),
988 (27), (28), or (29), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a

989 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
990 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
991 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
992 (9), (10), (12), (14), (19), (21), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2).

993 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
994 58-55-401 may not be assessed through a citation.

995 (b) (i) A citation shall be in writing and describe with particularity the nature of the
996 violation, including a reference to the provision of the chapter, rule, or order alleged to have
997 been violated.

998 (ii) A citation shall clearly state that the recipient must notify the division in writing
999 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
1000 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1001 (iii) A citation shall clearly explain the consequences of failure to timely contest the
1002 citation or to make payment of any fines assessed by the citation within the time specified in
1003 the citation.

1004 (c) A citation issued under this section, or a copy of a citation, may be served upon a
1005 person upon whom a summons may be served:

1006 (i) in accordance with the Utah Rules of Civil Procedure;

1007 (ii) personally or upon the person's agent by a division investigator or by a person
1008 specially designated by the director; or

1009 (iii) by mail.

1010 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
1011 to whom the citation was issued fails to request a hearing to contest the citation, the citation
1012 becomes the final order of the division and is not subject to further agency review.

1013 (ii) The period to contest a citation may be extended by the division for cause.

1014 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1015 the license of a licensee who fails to comply with a citation after it becomes final.

1016 (f) The failure of an applicant for licensure to comply with a citation after it becomes
1017 final is a ground for denial of license.

1018 (g) A citation may not be issued under this section after the expiration of six months
1019 following the occurrence of a violation.

1020 (h) Except as provided in Subsection (5), the director or the director's designee shall
1021 assess a fine in accordance with the following:

1022 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1023 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1024 and

1025 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1026 \$2,000 for each day of continued offense.

1027 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1028 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1029 (A) the division previously issued a final order determining that a person committed a
1030 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
1031 (3), (9), (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2);

1032 or

1033 (B) (I) the division initiated an action for a first or second offense;

1034 (II) a final order has not been issued by the division in the action initiated under
1035 Subsection (4)(i)(i)(B)(I);

1036 (III) the division determines during an investigation that occurred after the initiation of
1037 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1038 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1039 (10), (12), (14), (19), (24), (25), (26), (27), (28), or (29), or Subsection 58-55-504(2); and

1040 (IV) after determining that the person committed a second or subsequent offense under
1041 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
1042 Subsection (4)(i)(i)(B)(I).

1043 (ii) In issuing a final order for a second or subsequent offense under Subsection
1044 (4)(i)(i), the division shall comply with the requirements of this section.

1045 (j) In addition to any other licensure sanction or fine imposed under this section, the
1046 division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or (25)
1047 two or more times within a 12-month period, unless, with respect to a violation of Subsection
1048 58-55-501(24), the licensee can demonstrate that the licensee successfully verified the federal
1049 legal working status of the individual who was the subject of the violation using a status
1050 verification system, as defined in Section 13-47-102.

1051 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or (25)
1052 for each individual is considered a separate violation.

1053 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
1054 subsequent violation of a previous violation if the violation occurs five years or more after the
1055 day on which the person committed the previous violation.

1056 (6) If, after an investigation, the division determines that a person has committed
1057 multiple of the same type of violation of Section 58-55-501, the division may treat each
1058 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
1059 each violation.

1060 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
1061 into the Commerce Service Account created by Section 13-1-2.

1062 (b) A penalty that is not paid may be collected by the director by either referring the
1063 matter to a collection agency or bringing an action in the district court of the county in which
1064 the person against whom the penalty is imposed resides or in the county where the office of the
1065 director is located.

1066 (c) A county attorney or the attorney general of the state ~~[is to]~~ shall provide legal
1067 assistance and advice to the director in ~~[any]~~ an action to collect ~~[the]~~ a penalty.

1068 (d) In an action brought to ~~[enforce the provisions of this section]~~ collect a penalty, the
1069 court shall award reasonable attorney fees and costs to the prevailing party.

1070 Section 16. Section 58-60-117 is amended to read:

1071 **58-60-117. Externship licenses.**

1072 (1) The division shall issue a temporary license under Part 2, Social Worker Licensing
1073 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health
1074 Counselor Licensing Act, of this chapter to a person who:

1075 (a) submits an application for licensure under Part 2, Social Worker Licensing Act,
1076 Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health
1077 Counselor Licensing Act;

1078 (b) pays a fee determined by the department under Section 63J-1-504;

1079 (c) holds an earned doctoral degree or master's degree in a discipline that is a
1080 prerequisite for practice as a mental health therapist;

1081 (d) has a deficiency, as defined by division rule, in course work;

1082 (e) provides mental health therapy as an employee of a public or private organization,
1083 which provides mental health therapy, while under the supervision of a person licensed under
1084 this chapter; and

1085 (f) is of good moral character and has no disciplinary action pending or in effect
1086 against the applicant in connection with the practice of mental health therapy, in any
1087 jurisdiction.

1088 (2) A temporary license issued under this section shall expire upon the earlier of:

1089 (a) issuance of the license applied for; or

1090 (b) unless the deadline is extended for good cause as determined by the division, three
1091 years from the date the temporary license was issued.

1092 (3) The temporary license issued under this section is an externship license.

1093 Section 17. Section **58-67-302** is amended to read:

1094 **58-67-302. Qualifications for licensure.**

1095 (1) An applicant for licensure as a physician and surgeon, except as set forth in
1096 Subsection (2), shall:

1097 (a) submit an application in a form prescribed by the division, which may include:

1098 (i) submissions by the applicant of information maintained by practitioner data banks,
1099 as designated by division rule, with respect to the applicant;

1100 (ii) a record of professional liability claims made against the applicant and settlements
1101 paid by or on behalf of the applicant; and

1102 (iii) authorization to use a record coordination and verification service approved by the
1103 division in collaboration with the board;

1104 (b) pay a fee determined by the department under Section [63J-1-504](#);

1105 (c) be of good moral character;

1106 (d) if the applicant is applying to participate in the Interstate Medical Licensure
1107 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal
1108 background check in accordance with Section [58-67-302.1](#) and any requirements established by
1109 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1110 [~~(d)~~] (e) provide satisfactory documentation of having successfully completed a
1111 program of professional education preparing an individual as a physician and surgeon, as
1112 evidenced by:

1113 (i) having received an earned degree of doctor of medicine from an LCME accredited
1114 medical school or college; or

1115 (ii) if the applicant graduated from a medical school or college located outside the
1116 United States or its territories, submitting a current certification by the Educational
1117 Commission for Foreign Medical Graduates or any successor organization approved by the
1118 division in collaboration with the board;

1119 ~~(e)~~ (f) satisfy the division and board that the applicant:

1120 (i) has successfully completed 24 months of progressive resident training in a program
1121 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of
1122 Family Physicians of Canada, or any similar body in the United States or Canada approved by
1123 the division in collaboration with the board; or

1124 (ii) (A) has successfully completed 12 months of resident training in an ACGME
1125 approved program after receiving a degree of doctor of medicine as required under Subsection
1126 (1)~~(d)~~(e);

1127 (B) has been accepted in and is successfully participating in progressive resident
1128 training in an ACGME approved program within Utah, in the applicant's second or third year
1129 of postgraduate training; and

1130 (C) has agreed to surrender to the division the applicant's license as a physician and
1131 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,
1132 and has agreed the applicant's license as a physician and surgeon will be automatically revoked
1133 by the division if the applicant fails to continue in good standing in an ACGME approved
1134 progressive resident training program within the state;

1135 ~~(f)~~ (g) pass the licensing examination sequence required by division rule made in
1136 collaboration with the board;

1137 ~~(g)~~ (h) be able to read, write, speak, understand, and be understood in the English
1138 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

1139 ~~(h)~~ (i) meet with the board and representatives of the division, if requested, for the
1140 purpose of evaluating the applicant's qualifications for licensure;

1141 ~~(i)~~ (j) designate:

1142 (i) a contact person for access to medical records in accordance with the federal Health
1143 Insurance Portability and Accountability Act; and

1144 (ii) an alternate contact person for access to medical records, in the event the original
1145 contact person is unable or unwilling to serve as the contact person for access to medical
1146 records; and

1147 ~~[(j)]~~ (k) establish a method for notifying patients of the identity and location of the
1148 contact person and alternate contact person, if the applicant will practice in a location with no
1149 other persons licensed under this chapter.

1150 (2) An applicant for licensure as a physician and surgeon by endorsement who is
1151 currently licensed to practice medicine in any state other than Utah, a district or territory of the
1152 United States, or Canada shall:

1153 (a) be currently licensed with a full unrestricted license in good standing in any state,
1154 district, or territory of the United States, or Canada;

1155 (b) have been actively engaged in the legal practice of medicine in any state, district, or
1156 territory of the United States, or Canada for not less than 6,000 hours during the five years
1157 immediately preceding the date of application for licensure in Utah;

1158 (c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(d)]~~
1159 (e), (1)~~[(e)]~~(f)(i), and (1)~~[(g)]~~(h) through ~~[(j)]~~ (k);

1160 (d) have passed the licensing examination sequence required in Subsection (1)(f) or
1161 another medical licensing examination sequence in another state, district or territory of the
1162 United States, or Canada that the division in collaboration with the board by rulemaking
1163 determines is equivalent to its own required examination;

1164 (e) not have any investigation or action pending against any health care license of the
1165 applicant, not have a health care license that was suspended or revoked in any state, district or
1166 territory of the United States, or Canada, and not have surrendered a health care license in lieu
1167 of a disciplinary action, unless:

1168 (i) the license was subsequently reinstated as a full unrestricted license in good
1169 standing; or

1170 (ii) the division in collaboration with the board determines to its satisfaction, after full
1171 disclosure by the applicant, that:

1172 (A) the conduct has been corrected, monitored, and resolved; or

1173 (B) a mitigating circumstance exists that prevents its resolution, and the division in
1174 collaboration with the board is satisfied that, but for the mitigating circumstance, the license

1175 would be reinstated;

1176 (f) submit to a records review, a practice history review, and comprehensive
1177 assessments, if requested by the division in collaboration with the board; and

1178 (g) produce satisfactory evidence that the applicant meets the requirements of this
1179 Subsection (2) to the satisfaction of the division in collaboration with the board.

1180 (3) An applicant for licensure by endorsement may engage in the practice of medicine
1181 under a temporary license while the applicant's application for licensure is being processed by
1182 the division, provided:

1183 (a) the applicant submits a complete application required for temporary licensure to the
1184 division;

1185 (b) the applicant submits a written document to the division from:

1186 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
1187 Licensing and Inspection Act, stating that the applicant is practicing under the:

1188 (A) invitation of the health care facility; and

1189 (B) the general supervision of a physician practicing at the facility; or

1190 (ii) two individuals licensed under this chapter, whose license is in good standing and
1191 who practice in the same clinical location, both stating that:

1192 (A) the applicant is practicing under the invitation and general supervision of the
1193 individual; and

1194 (B) the applicant will practice at the same clinical location as the individual;

1195 (c) the applicant submits a signed certification to the division that the applicant meets
1196 the requirements of Subsection (2);

1197 (d) the applicant does not engage in the practice of medicine until the division has
1198 issued a temporary license;

1199 (e) the temporary license is only issued for and may not be extended or renewed
1200 beyond the duration of one year from issuance; and

1201 (f) the temporary license expires immediately and prior to the expiration of one year
1202 from issuance, upon notification from the division that the applicant's application for licensure
1203 by endorsement is denied.

1204 (4) The division shall issue a temporary license under Subsection (3) within 15
1205 business days after the applicant satisfies the requirements of Subsection (3).

1206 (5) The division may not require a post-residency board certification as a requirement
1207 for licensure.

1208 Section 18. Section **58-67-302.1** is enacted to read:

1209 **58-67-302.1. Criminal background check.**

1210 (1) An applicant for participation in the Interstate Medical Licensure Compact under
1211 Chapter 67b, Interstate Medical Licensure Compact, shall:

1212 (a) submit fingerprint cards or other biometric data in a form acceptable to the division
1213 at the time the license application is filed; and

1214 (b) consent to a fingerprint background check regarding the application conducted by
1215 the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.

1216 (2) The division shall request the Utah Bureau of Criminal Identification complete a
1217 Federal Bureau of Investigation criminal background check for the applicant through the
1218 National Crime Information Center or any successor system.

1219 (3) For purposes of conducting the criminal background check required under this
1220 section, the division shall have direct access to criminal background information maintained
1221 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1222 (4) The division may not disclose outside of the division any criminal history record
1223 information that the division obtains from the Federal Bureau of Investigation under the
1224 criminal background check requirements of this section.

1225 (5) The division may not issue to an applicant a letter of qualification to participate in
1226 the Interstate Medical Licensure Compact until the criminal background check described in this
1227 section is completed.

1228 Section 19. Section **58-67-302.5** is amended to read:

1229 **58-67-302.5. Licensing of graduates of foreign medical schools.**

1230 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled
1231 in a medical school outside the United States, its territories, the District of Columbia, or
1232 Canada is eligible for licensure as a physician and surgeon in this state if the individual has
1233 satisfied the following requirements:

1234 (a) meets all the requirements of Subsection **58-67-302**(1), except for Subsection
1235 **58-67-302**(1)~~(d)~~(e);

1236 (b) has studied medicine in a medical school located outside the United States which is

1237 recognized by an organization approved by the division;

1238 (c) has completed all of the formal requirements of the foreign medical school except
1239 internship or social service;

1240 (d) has attained a passing score on the educational commission for foreign medical
1241 graduates examination or other qualifying examinations such as the United States Medical
1242 Licensing Exam parts I and II, which are approved by the division or a medical school
1243 approved by the division;

1244 (e) has satisfactorily completed one calendar year of supervised clinical training under
1245 the direction of a United States medical education setting accredited by the liaison committee
1246 for graduate medical education and approved by the division;

1247 (f) has completed the postgraduate hospital training required by Subsection
1248 58-67-302(1)[~~(f)~~](f)(i); and

1249 (g) has passed the examination required by the division of all applicants for licensure.

1250 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

1251 (a) the completion of any foreign internship or social service requirements; and

1252 (b) the certification required by Subsection 58-67-302(1)[~~(f)~~](e).

1253 (3) Individuals who satisfy the requirements of Subsections (1)(a) through [~~(f)~~] (g)
1254 shall be eligible for admission to graduate medical education programs within the state,
1255 including internships and residencies, which are accredited by the liaison committee for
1256 graduate medical education.

1257 (4) A document issued by a medical school located outside the United States shall be
1258 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a
1259 physician and surgeon in this state if:

1260 (a) the foreign medical school is recognized by an organization approved by the
1261 division;

1262 (b) the document granted by the foreign medical school is issued after the completion
1263 of all formal requirements of the medical school except internship or social service; and

1264 (c) the foreign medical school certifies that the person to whom the document was
1265 issued has satisfactorily completed the requirements of Subsection (1)(c).

1266 (5) The provisions for licensure under this section shall be known as the "fifth pathway
1267 program."

1268 Section 20. Section **58-67-302.7** is amended to read:

1269 **58-67-302.7. Licensing of physician-educators.**

1270 (1) As used in this section:

1271 (a) "Foreign country" means a country other than the United States, its territories, or
1272 Canada.

1273 (b) "Foreign medical school" means a medical school that is outside the United States,
1274 its territories, and Canada.

1275 (2) Notwithstanding any provision of law to the contrary, an individual may receive a
1276 type I foreign teaching license if the individual:

1277 (a) submits an application in a form prescribed by the division, which may include:

1278 (i) submission by the applicant of information maintained in a practitioner data bank,
1279 as designated by division rule, with respect to the applicant;

1280 (ii) a record of professional liability claims made against the applicant and settlements
1281 paid by or on behalf of the applicant; and

1282 (iii) the applicant's curriculum vitae;

1283 (b) is a graduate of a foreign medical school that is accepted for certification by the
1284 Educational Commission for Foreign Medical Graduates;

1285 (c) is licensed in good standing in a foreign country, the United States, its territories, or
1286 Canada;

1287 (d) does not have an investigation or action pending against the physician's healthcare
1288 license, does not have a healthcare license that was suspended or revoked, and has not
1289 surrendered a healthcare license in lieu of disciplinary action, unless:

1290 (i) the license was subsequently reinstated in good standing; or

1291 (ii) the division in collaboration with the board determines to its satisfaction, after full
1292 disclosure by the applicant and full consideration by the division in collaboration with the
1293 board, that:

1294 (A) the conduct has been corrected, monitored, and resolved; or

1295 (B) a mitigating circumstance exists that prevents resolution, and the division in
1296 collaboration with the board is satisfied that but for the mitigating circumstance, the license
1297 would be reinstated;

1298 (e) submits documentation of legal status to work in the United States;

- 1299 (f) meets at least three of the following qualifications:
- 1300 (i) (A) published original results of clinical research, within 10 years before the day on
1301 which the application is submitted, in a medical journal listed in the Index Medicus or an
1302 equivalent scholarly publication; and
- 1303 (B) submits the publication to the Board in English or in a foreign language with a
1304 verifiable, certified English translation;
- 1305 (ii) held an appointment at a medical school approved by the LCME or at any medical
1306 school listed in the World Health Organization directory at the level of associate or full
1307 professor, or its equivalent, for at least five years;
- 1308 (iii) (A) developed a treatment modality, surgical technique, or other verified original
1309 contribution to the field of medicine within 10 years before the day on which the application is
1310 submitted; and
- 1311 (B) has the treatment modality, surgical technique, or other verified original
1312 contribution attested to by the dean of an LCME accredited school of medicine in Utah;
- 1313 (iv) actively practiced medicine cumulatively for 10 years; or
- 1314 (v) is board certified in good standing of a board of the American Board of Medical
1315 Specialities or equivalent specialty board;
- 1316 (g) is of good moral character;
- 1317 (h) is able to read, write, speak, understand, and be understood in the English language
1318 and demonstrates proficiency to the satisfaction of the division in collaboration with the board,
1319 if requested;
- 1320 (i) is invited by an LCME accredited medical school in Utah to serve as a full-time
1321 member of the medical school's academic faculty, as evidenced by written certification from:
- 1322 (i) the dean of the medical school, stating that the applicant has been appointed to a
1323 full-time faculty position, that because the applicant has unique expertise in a specific field of
1324 medicine the medical school considers the applicant to be a valuable member of the faculty,
1325 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the
1326 state; and
- 1327 (ii) the head of the department to which the applicant is to be appointed, stating that the
1328 applicant will be under the direction of the head of the department and will be permitted to
1329 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence

1330 of the applicant's qualifications and competence, including the nature and location of the
1331 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice
1332 responsibilities, and the degree of supervision, if any, under which the applicant will function;

1333 (j) pays a licensing fee set by the division under Section 63J-1-504; and

1334 (k) has practiced medicine for at least 10 years as an attending physician.

1335 (3) Notwithstanding any provision of law to the contrary, an individual may receive a
1336 type II foreign teaching license if the individual:

1337 (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j);

1338 (b) has delivered clinical care to patients cumulatively for five years after graduation
1339 from medical school; and

1340 (c) (i) will be completing a clinical fellowship while employed at the medical school
1341 described in Subsection (2)(i); or

1342 (ii) has already completed a medical residency accredited by the Royal College of
1343 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a
1344 comparable accreditation organization as determined by the division in collaboration with the
1345 board.

1346 (4) After an initial term of one year, a type I license may be renewed for periods of two
1347 years if the licensee continues to satisfy the requirements described in Subsection (2) and
1348 completes the division's continuing education renewal requirements established under Section
1349 58-67-303.

1350 (5) A type II license may be renewed on an annual basis, up to four times, if the
1351 licensee continues to satisfy the requirements described in Subsection (3) and completes the
1352 division's continuing education renewal requirements established under Section 58-67-303.

1353 (6) A license issued under this section:

1354 (a) authorizes the licensee to practice medicine:

1355 (i) within the scope of the licensee's employment at the medical school described in
1356 Subsection (2)(i) and the licensee's academic position; and

1357 (ii) at a hospital or clinic affiliated with the medical school described in Subsection
1358 (2)(i) for the purpose of teaching, clinical care, or pursuing research;

1359 (b) shall list the limitations described in Subsection (6)(a); and

1360 (c) shall expire on the earlier of:

1361 (i) one year after the day on which the type I or type II license is initially issued, unless
1362 the license is renewed;

1363 (ii) for a type I license, two years after the day on which the license is renewed;

1364 (iii) for a type II license, one year after the day on which the license is renewed; or

1365 (iv) the day on which employment at the medical school described in Subsection (2)(i)
1366 ends.

1367 (7) A person who holds a type I license for five consecutive years may apply for
1368 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies
1369 the requirements described in Subsection (8). If the person fails to obtain licensure as a
1370 physician and surgeon in this state, the person may apply for a renewal of the type I license
1371 under Subsection (2).

1372 (8) An individual who holds a type I or type II license for five consecutive years is
1373 eligible for licensure as a physician and surgeon in this state if the individual:

1374 (a) worked an average of at least 40 hours per month at the level of an attending
1375 physician during the time the individual held the type I or type II license;

1376 (b) holds the rank of associate professor or higher at the medical school described in
1377 Subsection (2)(i);

1378 (c) obtains certification from the Educational Commission for Foreign Medical
1379 Graduates or any successor organization approved by the division in collaboration with the
1380 board;

1381 (d) spent a cumulative 20 hours per year while holding a type I or type II license:

1382 (i) teaching or lecturing to medical students or house staff;

1383 (ii) participating in educational department meetings or conferences that are not
1384 certified to meet the continuing medical education license renewal requirement; or

1385 (iii) attending continuing medical education classes in addition to the requirements for
1386 continuing education described in Subsections (4) and (5);

1387 (e) obtains a passing score on the final step of the licensing examination sequence
1388 required by division rule made in collaboration with the board; and

1389 (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through ~~(c)~~;
1390 ~~(h), and (i)] (d), (i), and (j).~~

1391 (9) If a person who holds a type II license fails to obtain licensure as a physician and

1392 surgeon in this state after applying under the procedures described in Subsection (8), the person
1393 may not:

1394 (a) reapply for or renew a type II license; or

1395 (b) apply for a type I license.

1396 (10) The division or the board may require an applicant for licensure under this section
1397 to meet with the board and representatives of the division for the purpose of evaluating the
1398 applicant's qualifications for licensure.

1399 (11) The division in collaboration with the board may withdraw a license under this
1400 section at any time for material misrepresentation or unlawful or unprofessional conduct.

1401 Section 21. Section **58-67-302.8 (Effective 07/01/18)** is amended to read:

1402 **58-67-302.8 (Effective 07/01/18). Restricted licensing of an associate physician.**

1403 (1) An individual may apply for a restricted license as an associate physician if the
1404 individual:

1405 (a) meets the requirements described in Subsections **58-67-302(1)(a)** through ~~[(e)]~~ (d),
1406 ~~(1)[(f)](e)(i)~~, and ~~(1)[(g)](h)~~ through ~~[(j)]~~ (k);

1407 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
1408 Examination or the equivalent steps of another board-approved medical licensing examination:

1409 (i) within three years after the day on which the applicant graduates from a program
1410 described in Subsection **58-67-302(1)[(f)](e)(i)**; and

1411 (ii) within two years before applying for a restricted license as an associate physician;

1412 and

1413 (c) is not currently enrolled in and has not completed a residency program.

1414 (2) Before a licensed associate physician may engage in the practice of medicine as
1415 described in Subsection (3), the licensed associate physician shall:

1416 (a) enter into a collaborative practice arrangement described in Section **58-67-807**
1417 within six months after the associate physician's initial licensure; and

1418 (b) receive division approval of the collaborative practice arrangement.

1419 (3) An associate physician's scope of practice is limited to primary care services to
1420 medically underserved populations or in medically underserved areas within the state.

1421 Section 22. Section **58-67-304 (Superseded 07/01/18)** is amended to read:

1422 **58-67-304 (Superseded 07/01/18). License renewal requirements.**

1423 (1) As a condition precedent for license renewal, each licensee shall, during each
1424 two-year licensure cycle or other cycle defined by division rule:

1425 (a) complete qualified continuing professional education requirements in accordance
1426 with the number of hours and standards defined by division rule made in collaboration with the
1427 board;

1428 (b) appoint a contact person for access to medical records and an alternate contact
1429 person for access to medical records in accordance with Subsection 58-67-302(1)(~~†~~)(j); and

1430 (c) if the licensee practices medicine in a location with no other persons licensed under
1431 this chapter, provide some method of notice to the licensee's patients of the identity and
1432 location of the contact person and alternate contact person for the licensee.

1433 (2) If a renewal period is extended or shortened under Section 58-67-303, the
1434 continuing education hours required for license renewal under this section are increased or
1435 decreased proportionally.

1436 (3) An application to renew a license under this chapter shall:

1437 (a) require a physician to answer the following question: "Do you perform elective
1438 abortions in Utah in a location other than a hospital?"; and

1439 (b) immediately following the question, contain the following statement: "For purposes
1440 of the immediately preceding question, elective abortion means an abortion other than one of
1441 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
1442 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
1443 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
1444 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
1445 the woman is pregnant as a result of rape or incest."

1446 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
1447 to the licensing of an abortion clinic, if a physician responds positively to the question
1448 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
1449 renews the physician's license under this chapter, inform the Department of Health in writing:

1450 (a) of the name and business address of the physician; and

1451 (b) that the physician responded positively to the question described in Subsection
1452 (3)(a).

1453 Section 23. Section 58-67-304 (Effective 07/01/18) is amended to read:

1454 **58-67-304 (Effective 07/01/18). License renewal requirements.**

1455 (1) As a condition precedent for license renewal, each licensee shall, during each
1456 two-year licensure cycle or other cycle defined by division rule:

1457 (a) complete qualified continuing professional education requirements in accordance
1458 with the number of hours and standards defined by division rule made in collaboration with the
1459 board;

1460 (b) appoint a contact person for access to medical records and an alternate contact
1461 person for access to medical records in accordance with Subsection 58-67-302(1)(~~h~~)(j);

1462 (c) if the licensee practices medicine in a location with no other persons licensed under
1463 this chapter, provide some method of notice to the licensee's patients of the identity and
1464 location of the contact person and alternate contact person for the licensee; and

1465 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
1466 successfully complete the educational methods and programs described in Subsection
1467 58-67-807(4).

1468 (2) If a renewal period is extended or shortened under Section 58-67-303, the
1469 continuing education hours required for license renewal under this section are increased or
1470 decreased proportionally.

1471 (3) An application to renew a license under this chapter shall:

1472 (a) require a physician to answer the following question: "Do you perform elective
1473 abortions in Utah in a location other than a hospital?"; and

1474 (b) immediately following the question, contain the following statement: "For purposes
1475 of the immediately preceding question, elective abortion means an abortion other than one of
1476 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
1477 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
1478 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
1479 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
1480 the woman is pregnant as a result of rape or incest."

1481 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
1482 to the licensing of an abortion clinic, if a physician responds positively to the question
1483 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
1484 renews the physician's license under this chapter, inform the Department of Health in writing:

- 1485 (a) of the name and business address of the physician; and
1486 (b) that the physician responded positively to the question described in Subsection
1487 (3)(a).

1488 Section 24. Section **58-67-403** is amended to read:

1489 **58-67-403. Revocation of license -- Nondisciplinary.**

1490 Revocation by the division of a license under Subsection **58-67-302(1)**~~(e)~~**(f)** for
1491 failure to continue on a resident training program for reasons other than unprofessional or
1492 unlawful conduct is a nondisciplinary action and may not be reported by the division as a
1493 disciplinary action against the licensee.

1494 Section 25. Section **58-68-302** is amended to read:

1495 **58-68-302. Qualifications for licensure.**

1496 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set
1497 forth in Subsection (2), shall:

1498 (a) submit an application in a form prescribed by the division, which may include:

1499 (i) submissions by the applicant of information maintained by practitioner data banks,
1500 as designated by division rule, with respect to the applicant;

1501 (ii) a record of professional liability claims made against the applicant and settlements
1502 paid by or on behalf of the applicant; and

1503 (iii) authorization to use a record coordination and verification service approved by the
1504 division in collaboration with the board;

1505 (b) pay a fee determined by the department under Section **63J-1-504**;

1506 (c) be of good moral character;

1507 (d) if the applicant is applying to participate in the Interstate Medical Licensure

1508 Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal

1509 background check in accordance with Section **58-67-302.1** and any requirements established by
1510 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1511 ~~(d)~~ (e) provide satisfactory documentation of having successfully completed a

1512 program of professional education preparing an individual as an osteopathic physician and
1513 surgeon, as evidenced by:

1514 (i) having received an earned degree of doctor of osteopathic medicine from an AOA
1515 approved medical school or college; or

1516 (ii) submitting a current certification by the Educational Commission for Foreign
1517 Medical Graduates or any successor organization approved by the division in collaboration
1518 with the board, if the applicant is graduated from an osteopathic medical school or college
1519 located outside of the United States or its territories which at the time of the applicant's
1520 graduation, met criteria for accreditation by the AOA;

1521 [~~e~~] (f) satisfy the division and board that the applicant:

1522 (i) has successfully completed 24 months of progressive resident training in an
1523 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine
1524 required under Subsection (1)[~~d~~](e); or

1525 (ii) (A) has successfully completed 12 months of resident training in an ACGME or
1526 AOA approved program after receiving a degree of doctor of osteopathic medicine as required
1527 under Subsection (1)[~~d~~](e);

1528 (B) has been accepted in and is successfully participating in progressive resident
1529 training in an ACGME or AOA approved program within Utah, in the applicant's second or
1530 third year of postgraduate training; and

1531 (C) has agreed to surrender to the division the applicant's license as an osteopathic
1532 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative
1533 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon
1534 will be automatically revoked by the division if the applicant fails to continue in good standing
1535 in an ACGME or AOA approved progressive resident training program within the state;

1536 [~~f~~] (g) pass the licensing examination sequence required by division rule, as made in
1537 collaboration with the board;

1538 [~~g~~] (h) be able to read, write, speak, understand, and be understood in the English
1539 language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

1540 [~~h~~] (i) meet with the board and representatives of the division, if requested for the
1541 purpose of evaluating the applicant's qualifications for licensure;

1542 [~~i~~] (j) designate:

1543 (i) a contact person for access to medical records in accordance with the federal Health
1544 Insurance Portability and Accountability Act; and

1545 (ii) an alternate contact person for access to medical records, in the event the original
1546 contact person is unable or unwilling to serve as the contact person for access to medical

1547 records; and

1548 ~~[(j)]~~ (k) establish a method for notifying patients of the identity and location of the
1549 contact person and alternate contact person, if the applicant will practice in a location with no
1550 other persons licensed under this chapter.

1551 (2) An applicant for licensure as an osteopathic physician and surgeon by endorsement
1552 who is currently licensed to practice osteopathic medicine in any state other than Utah, a
1553 district or territory of the United States, or Canada shall:

1554 (a) be currently licensed with a full unrestricted license in good standing in any state,
1555 district or territory of the United States, or Canada;

1556 (b) have been actively engaged in the legal practice of osteopathic medicine in any
1557 state, district or territory of the United States, or Canada for not less than 6,000 hours during
1558 the five years immediately preceding the day on which the applicant applied for licensure in
1559 Utah;

1560 (c) comply with the requirements for licensure under Subsections (1)(a) through ~~[(d)]~~
1561 (e), (1)~~[(e)]~~(f)(i), and (1)~~[(g)]~~(h) through ~~[(j)]~~ (k);

1562 (d) have passed the licensing examination sequence required in Subsection (1)~~[(f)]~~(g)
1563 or another medical licensing examination sequence in another state, district or territory of the
1564 United States, or Canada that the division in collaboration with the board by rulemaking
1565 determines is equivalent to its own required examination;

1566 (e) not have any investigation or action pending against any health care license of the
1567 applicant, not have a health care license that was suspended or revoked in any state, district or
1568 territory of the United States, or Canada, and not have surrendered a health care license in lieu
1569 of a disciplinary action, unless:

1570 (i) the license was subsequently reinstated as a full unrestricted license in good
1571 standing; or

1572 (ii) the division in collaboration with the board determines, after full disclosure by the
1573 applicant, that:

1574 (A) the conduct has been corrected, monitored, and resolved; or

1575 (B) a mitigating circumstance exists that prevents its resolution, and the division in
1576 collaboration with the board is satisfied that, but for the mitigating circumstance, the license
1577 would be reinstated;

- 1578 (f) submit to a records review, a practice review history, and physical and
1579 psychological assessments, if requested by the division in collaboration with the board; and
1580 (g) produce evidence that the applicant meets the requirements of this Subsection (2) to
1581 the satisfaction of the division in collaboration with the board.
- 1582 (3) An applicant for licensure by endorsement may engage in the practice of medicine
1583 under a temporary license while the applicant's application for licensure is being processed by
1584 the division, provided:
- 1585 (a) the applicant submits a complete application required for temporary licensure to the
1586 division;
- 1587 (b) the applicant submits a written document to the division from:
- 1588 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
1589 Licensing and Inspection Act, stating that the applicant is practicing under the:
- 1590 (A) invitation of the health care facility; and
1591 (B) the general supervision of a physician practicing at the health care facility; or
1592 (ii) two individuals licensed under this chapter, whose license is in good standing and
1593 who practice in the same clinical location, both stating that:
- 1594 (A) the applicant is practicing under the invitation and general supervision of the
1595 individual; and
1596 (B) the applicant will practice at the same clinical location as the individual;
- 1597 (c) the applicant submits a signed certification to the division that the applicant meets
1598 the requirements of Subsection (2);
- 1599 (d) the applicant does not engage in the practice of medicine until the division has
1600 issued a temporary license;
- 1601 (e) the temporary license is only issued for and may not be extended or renewed
1602 beyond the duration of one year from issuance; and
1603 (f) the temporary license expires immediately and prior to the expiration of one year
1604 from issuance, upon notification from the division that the applicant's application for licensure
1605 by endorsement is denied.
- 1606 (4) The division shall issue a temporary license under Subsection (3) within 15
1607 business days after the applicant satisfies the requirements of Subsection (3).
- 1608 (5) The division may not require a post-residency board certification as a requirement

1609 for licensure.

1610 (6) (a) An applicant for participation in the Interstate Medical Licensure Compact
 1611 under Chapter 67b, Interstate Medical Licensure Compact, shall:

1612 (i) submit fingerprint cards or other biometric data in a form acceptable to the division
 1613 at the time the license application is filed; and

1614 (ii) consent to a fingerprint background check regarding the application conducted by
 1615 the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.

1616 (b) The division shall request the Utah Bureau of Criminal Identification complete a
 1617 Federal Bureau of Investigation criminal background check for the applicant through the
 1618 National Crime Information Center or any successor system.

1619 (c) For purposes of conducting the criminal background check required under this
 1620 section, the division shall have direct access to criminal background information maintained
 1621 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

1622 (d) The division may not disclose outside of the division any criminal history record
 1623 information that the division obtains from the Federal Bureau of Investigation under the
 1624 criminal background check requirements of this section.

1625 (e) The division may not issue to an applicant a letter of qualification to participate in
 1626 the Interstate Medical Licensure Compact until the criminal background check described in this
 1627 section is completed.

1628 Section 26. Section **58-68-302.5 (Effective 07/01/18)** is amended to read:

1629 **58-68-302.5 (Effective 07/01/18). Restricted licensing of an associate physician.**

1630 (1) An individual may apply for a restricted license as an associate physician if the
 1631 individual:

1632 (a) meets the requirements described in Subsections **58-68-302(1)(a)** through ~~[(e)]~~ (d),
 1633 (1)[(f)](e)(i), and (1)[(g)](h) through [(j)] (k);

1634 (b) successfully completes Step 1 and Step 2 of the United States Medical Licensing
 1635 Examination or the equivalent steps of another board-approved medical licensing examination:

1636 (i) within three years after the day on which the applicant graduates from a program
 1637 described in Subsection **58-68-302(1)[(f)](e)(i)**; and

1638 (ii) within two years before applying for a restricted license as an associate physician;

1639 and

1640 (c) is not currently enrolled in and has not completed a residency program.

1641 (2) Before a licensed associate physician may engage in the practice of medicine as
1642 described in Subsection (3), the licensed associate physician shall:

1643 (a) enter into a collaborative practice arrangement described in Section 58-68-807
1644 within six months after the associate physician's initial licensure; and

1645 (b) receive division approval of the collaborative practice arrangement.

1646 (3) An associate physician's scope of practice is limited to primary care services to
1647 medically underserved populations or in medically underserved areas within the state.

1648 Section 27. Section 58-68-304 (Superseded 07/01/18) is amended to read:

1649 **58-68-304 (Superseded 07/01/18). License renewal requirements.**

1650 (1) As a condition precedent for license renewal, each licensee shall, during each
1651 two-year licensure cycle or other cycle defined by division rule:

1652 (a) complete qualified continuing professional education requirements in accordance
1653 with the number of hours and standards defined by division rule in collaboration with the
1654 board;

1655 (b) appoint a contact person for access to medical records and an alternate contact
1656 person for access to medical records in accordance with Subsection 58-68-302(1)(~~f~~)(j); and

1657 (c) if the licensee practices osteopathic medicine in a location with no other persons
1658 licensed under this chapter, provide some method of notice to the licensee's patients of the
1659 identity and location of the contact person and alternate contact person for access to medical
1660 records for the licensee in accordance with Subsection 58-68-302(1)(~~f~~)(k).

1661 (2) If a renewal period is extended or shortened under Section 58-68-303, the
1662 continuing education hours required for license renewal under this section are increased or
1663 decreased proportionally.

1664 (3) An application to renew a license under this chapter shall:

1665 (a) require a physician to answer the following question: "Do you perform elective
1666 abortions in Utah in a location other than a hospital?"; and

1667 (b) immediately following the question, contain the following statement: "For purposes
1668 of the immediately preceding question, elective abortion means an abortion other than one of
1669 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
1670 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of

1671 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
1672 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
1673 the woman is pregnant as a result of rape or incest."

1674 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
1675 to the licensing of an abortion clinic, if a physician responds positively to the question
1676 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
1677 renews the physician's license under this chapter, inform the Department of Health in writing:

1678 (a) of the name and business address of the physician; and

1679 (b) that the physician responded positively to the question described in Subsection
1680 (3)(a).

1681 Section 28. Section **58-68-304 (Effective 07/01/18)** is amended to read:

1682 **58-68-304 (Effective 07/01/18). License renewal requirements.**

1683 (1) As a condition precedent for license renewal, each licensee shall, during each
1684 two-year licensure cycle or other cycle defined by division rule:

1685 (a) complete qualified continuing professional education requirements in accordance
1686 with the number of hours and standards defined by division rule in collaboration with the
1687 board;

1688 (b) appoint a contact person for access to medical records and an alternate contact
1689 person for access to medical records in accordance with Subsection **58-68-302(1)(j)**;

1690 (c) if the licensee practices osteopathic medicine in a location with no other persons
1691 licensed under this chapter, provide some method of notice to the licensee's patients of the
1692 identity and location of the contact person and alternate contact person for access to medical
1693 records for the licensee in accordance with Subsection **58-68-302(1)(k)**; and

1694 (d) if the licensee is an associate physician licensed under Section **58-68-302.5**,
1695 successfully complete the educational methods and programs described in Subsection
1696 **58-68-807(4)**.

1697 (2) If a renewal period is extended or shortened under Section **58-68-303**, the
1698 continuing education hours required for license renewal under this section are increased or
1699 decreased proportionally.

1700 (3) An application to renew a license under this chapter shall:

1701 (a) require a physician to answer the following question: "Do you perform elective

1702 abortions in Utah in a location other than a hospital?"; and

1703 (b) immediately following the question, contain the following statement: "For purposes
1704 of the immediately preceding question, elective abortion means an abortion other than one of
1705 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
1706 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
1707 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
1708 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
1709 the woman is pregnant as a result of rape or incest."

1710 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
1711 to the licensing of an abortion clinic, if a physician responds positively to the question
1712 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
1713 renews the physician's license under this chapter, inform the Department of Health in writing:

1714 (a) of the name and business address of the physician; and

1715 (b) that the physician responded positively to the question described in Subsection
1716 (3)(a).

1717 Section 29. Section **58-68-403** is amended to read:

1718 **58-68-403. Revocation of license -- Nondisciplinary.**

1719 Revocation by the division of a license under Subsection ~~58-68-302(1)(e)~~(f) for
1720 failure to continue on a resident training program for reasons other than unprofessional or
1721 unlawful conduct is a nondisciplinary action and may not be reported by the division as a
1722 disciplinary action against the licensee.

1723 Section 30. Section **58-79-201** is amended to read:

1724 **58-79-201. Board.**

1725 (1) There is created the Hunting Guides and Outfitters Licensing Board consisting of
1726 ~~[three persons licensed in accordance with this chapter,]~~ five members as follows:

1727 (a) three persons licensed as a hunting guide or an outfitter in accordance with this
1728 chapter;

1729 (b) one member of the Wildlife Board, created in Section 23-14-2, selected by the
1730 Wildlife Board~~;~~; and

1731 (c) one person appointed by the Wildlife Board.

1732 (2) Except for the two members selected by the Wildlife Board, the board shall be

1733 appointed and serve in accordance with Section 58-1-201.

1734 (3) No more than one of the two members selected by the Wildlife Board may hold a
1735 license regulated by this chapter.

1736 ~~(3)~~ (4) (a) The duties and responsibilities of the board shall be in accordance with
1737 Sections 58-1-202 and 58-1-203.

1738 (b) The board shall also:

1739 (i) designate one of its members on a permanent or rotating basis to assist the division
1740 in reviewing complaints concerning the unlawful or unprofessional conduct of hunting guides
1741 and outfitters; and

1742 (ii) advise the division in its investigations of these complaints.

1743 ~~(4)~~ (5) A board member who has, under Subsection ~~(3)~~ (4)(b), reviewed a complaint
1744 or advised in its investigation may be disqualified from participating with the board when the
1745 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

1746 Section 31. **Repealer.**

1747 This bill repeals:

1748 Section 58-37f-402, **Online tutorial and test relating to the database -- Fees --**
1749 **Rulemaking authority -- Continuing professional education credit.**

Legislative Review Note
Office of Legislative Research and General Counsel