

**DIVISION OF OCCUPATIONAL AND PROFESSIONAL
LICENSING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to occupational and professional licensing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes requirements for assigning certain claims by a qualified beneficiary;
- ▶ provides that the Division of Occupational and Professional Licensing (DOPL) shall comply with the Open and Public Meetings Act;
- ▶ modifies provisions related to DOPL's adjudicative proceedings and rulemaking authority;
- ▶ permits an esthetics school to provide a certain percent of its curriculum online;
- ▶ modifies provisions related to licensure requirements, licensure exemptions, the reinstatement of licenses, grounds for denying licenses, and penalties for the conduct of licensees under DOPL;
- ▶ modifies provisions related to access to information in the controlled substance database;
- ▶ modifies provisions related to the confidentiality of certain records provided to DOPL; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 This bill provides a coordination clause.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **38-11-203**, as last amended by Laws of Utah 2004, Chapter 42

35 **38-11-204**, as last amended by Laws of Utah 2012, Chapter 278

36 **58-1-106**, as last amended by Laws of Utah 2008, Chapter 382

37 **58-1-109**, as last amended by Laws of Utah 2008, Chapter 382

38 **58-1-302**, as last amended by Laws of Utah 2013, Chapter 262

39 **58-1-307**, as last amended by Laws of Utah 2012, Chapter 150

40 **58-1-308**, as last amended by Laws of Utah 2009, Chapter 183

41 **58-1-401**, as last amended by Laws of Utah 2013, Chapter 262

42 **58-1-502**, as last amended by Laws of Utah 2013, Chapter 262

43 **58-11a-501**, as last amended by Laws of Utah 2009, Chapter 130

44 **58-13-3**, as last amended by Laws of Utah 2014, Chapter 400

45 **58-15-2**, as last amended by Laws of Utah 2011, Chapter 366

46 **58-16a-302**, as last amended by Laws of Utah 2014, Chapter 305

47 **58-17b-610.5**, as enacted by Laws of Utah 2015, Chapter 336

48 **58-24b-301**, as enacted by Laws of Utah 2009, Chapter 220

49 **58-24b-302**, as enacted by Laws of Utah 2009, Chapter 220

50 **58-24b-303**, as last amended by Laws of Utah 2013, Chapter 31

51 **58-26a-501**, as last amended by Laws of Utah 2008, Chapter 265

52 **58-37f-301**, as last amended by Laws of Utah 2015, Chapters 89, 326, and 336

53 **58-37f-601**, as last amended by Laws of Utah 2015, Chapter 326

54 **58-44a-302**, as last amended by Laws of Utah 2009, Chapter 183

55 **58-55-302**, as last amended by Laws of Utah 2015, Chapter 258

56 **58-55-307**, as last amended by Laws of Utah 2008, Chapter 382

57 **58-60-508**, as last amended by Laws of Utah 2013, Chapter 262

- 58 [58-63-302](#), as last amended by Laws of Utah 2013, Chapter 436
- 59 [58-64-304](#), as enacted by Laws of Utah 1995, Chapter 215
- 60 [58-70a-305](#), as last amended by Laws of Utah 2010, Chapter 37
- 61 [58-74-102](#), as last amended by Laws of Utah 2004, Chapter 77
- 62 [58-77-601](#), as last amended by Laws of Utah 2014, Chapter 189
- 63 [58-81-102](#), as enacted by Laws of Utah 2009, Chapter 263

64 ENACTS:

65 [58-11a-302.5](#), Utah Code Annotated 1953

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

67 [58-64-304](#), as enacted by Laws of Utah 1995, Chapter 215



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

70 Section 1. Section **38-11-203** is amended to read:

71 **38-11-203. Disbursements from the fund -- Limitations.**

72 (1) A payment of any claim upon the fund by a qualified beneficiary shall be made only
73 upon an order issued by the director finding that:

- 74 (a) the claimant was a qualified beneficiary during the construction on a residence;
- 75 (b) the claimant complied with the requirements of Section [38-11-204](#); ~~and~~
- 76 (c) there is adequate money in the fund to pay the amount ordered~~[-]; and~~
- 77 (d) the claimant provided the qualified services that are the basis of the claim.

78 (2) A payment of a claim upon the fund by a laborer shall be made only upon an order
79 issued by the director finding that:

- 80 (a) the laborer complied with the requirements of Subsection [38-11-204\(7\)](#); and
- 81 (b) there is adequate money in the fund to pay the amount ordered.

82 (3) (a) An order under this section may be issued only after the division has complied
83 with the procedures established by rule under Section [38-11-105](#).

84 (b) The director shall order payment of the qualified services as established by
85 evidence, or if the claimant has obtained a judgment, then in the amount awarded for qualified

86 services in the judgment to the extent the qualified services are attributable to the
87 owner-occupied residence at issue in the claim.

88 (c) The director shall order payment of interest on amounts claimed for qualified
89 services based on the current prime interest rate at the time payment was due to the date the
90 claim is approved for payment except for delays attributable to the claimant but not more than
91 10% per annum.

92 (d) The rate shall be the prime lending rate as published in the Wall Street Journal on
93 the first business day of each calendar year adjusted annually.

94 (e) The director shall order payment of costs in the amount stated in the judgment. If
95 the judgment does not state a sum certain for costs, or if no judgment has been obtained, the
96 director shall order payment of reasonable costs as supported by evidence. The claim
97 application fee as established by the division pursuant to Subsection 38-11-204(1)(b) is not a
98 reimbursable cost.

99 (f) If a judgment has been obtained with attorneys' fees, notwithstanding the amount
100 stated in a judgment, or if no judgment has been obtained but the contract provides for
101 attorneys' fees, the director shall order payment of attorneys' fees not to exceed 15% of
102 qualified services. If the judgment does not state a sum for attorneys' fees, no attorneys' fees
103 will be paid by the director.

104 (4) (a) Payments made from the fund may not exceed \$75,000 per construction project
105 to qualified beneficiaries and laborers who have claim against the fund for that construction
106 project.

107 (b) If claims against the fund for a construction project exceed \$75,000, the \$75,000
108 shall be awarded proportionately so that each qualified beneficiary and laborer awarded
109 compensation from the fund for qualified services shall receive an identical percentage of the
110 qualified beneficiary's or laborer's award.

111 (5) Subject to the limitations of Subsection (4), if on the day the order is issued there
112 are inadequate funds to pay the entire claim and the director determines that the claimant has
113 otherwise met the requirements of Subsection (1) or (2), the director shall order additional

114 payments once the fund meets the balance limitations of Section 38-11-206.

115 (6) (a) A payment of any claim upon the fund may not be made to an assignee or
116 transferee unless an order issued by the director finds that:

117 (i) the claim is assigned or transferred to a person who is a qualified beneficiary; and

118 (ii) the person assigning or transferring the claim:

119 (A) was a qualified beneficiary during the construction on a residence; and

120 (B) provided the qualified services that are the basis of the claim.

121 (b) A claimant who is an assignee or transferee of a claim upon the fund under this
122 Subsection (6) does not have to meet the requirements of Subsections 38-11-203(1)(a) and (d).

123 Section 2. Section 38-11-204 is amended to read:

124 **38-11-204. Claims against the fund -- Requirements to make a claim --**

125 **Qualifications to receive compensation -- Qualifications to receive a certificate of**
126 **compliance.**

127 (1) To claim recovery from the fund a person shall:

128 (a) meet the requirements of Subsection (4) or (6);

129 (b) pay an application fee determined by the division under Section 63J-1-504; and

130 (c) file with the division a completed application on a form provided by the division
131 accompanied by supporting documents establishing:

132 (i) that the person meets the requirements of Subsection (4) or (6);

133 (ii) that the person was a qualified beneficiary or laborer during the construction on the
134 owner-occupied residence; and

135 (iii) the basis for the claim.

136 (2) To recover from the fund, the application required by Subsection (1) shall be filed
137 no later than one year:

138 (a) from the date the judgment required by Subsection (4)(d) is entered;

139 (b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded
140 from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the
141 nonpaying party filed bankruptcy within one year after the entry of judgment; or

142 (c) from the date the laborer, trying to recover from the fund, completed the laborer's
143 qualified services.

144 (3) The issuance of a certificate of compliance is governed by Section 38-11-110.

145 (4) To recover from the fund, regardless of whether the residence is occupied by the
146 owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified
147 beneficiary shall establish that:

148 (a) (i) the owner of the owner-occupied residence or the owner's agent entered into a
149 written contract with an original contractor licensed or exempt from licensure under Title 58,
150 Chapter 55, Utah Construction Trades Licensing Act:

151 (A) for the performance of qualified services;

152 (B) to obtain the performance of qualified services by others; or

153 (C) for the supervision of the performance by others of qualified services in
154 construction on that residence;

155 (ii) the owner of the owner-occupied residence or the owner's agent entered into a
156 written contract with a real estate developer for the purchase of an owner-occupied residence;

157 or

158 (iii) the owner of the owner-occupied residence or the owner's agent entered into a
159 written contract with a factory built housing retailer for the purchase of an owner-occupied
160 residence;

161 (b) the owner has paid in full the original contractor, licensed or exempt from licensure
162 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or
163 factory built housing retailer under Subsection (4)(a) with whom the owner has a written
164 contract in accordance with the written contract and any amendments to the contract;

165 (c) (i) the original contractor, licensed or exempt from licensure under Title 58,
166 Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory
167 built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to
168 payment under an agreement with that original contractor or real estate developer licensed or
169 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for

170 services performed or materials supplied by the qualified beneficiary;

171 (ii) a subcontractor who contracts with the original contractor, licensed or exempt from

172 licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate

173 developer, or the factory built housing retailer failed to pay a qualified beneficiary who is

174 entitled to payment under an agreement with that subcontractor or supplier; or

175 (iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a

176 qualified beneficiary who is entitled to payment under an agreement with that subcontractor or

177 supplier;

178 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing

179 within the applicable time, the qualified beneficiary filed an action against the nonpaying party

180 to recover money owed to the qualified beneficiary within the earlier of:

181 (A) 180 days from the date the qualified beneficiary filed a notice of claim under

182 Section 38-1a-502; or

183 (B) 270 days from the completion of the original contract pursuant to Subsection

184 38-1a-502(1);

185 (ii) the qualified beneficiary has obtained a judgment against the nonpaying party who

186 failed to pay the qualified beneficiary under an agreement to provide qualified services for

187 construction of that owner-occupied residence;

188 (iii) ~~(A)~~ the qualified beneficiary has:

189 ~~(A)~~ (A) obtained from a court of competent jurisdiction the issuance of an order

190 requiring the judgment debtor, or if a corporation any officer of the corporation, to appear

191 before the court at a specified time and place to answer concerning the debtor's or corporation's

192 property;

193 ~~(B)~~ (B) received return of service of the order from a person qualified to serve

194 documents under the Utah Rules of Civil Procedure, Rule 4(b); ~~and~~

195 ~~(C)~~ (C) made reasonable efforts to obtain asset information from the supplemental

196 proceedings; and

197 ~~(D)~~ (D) if assets subject to execution are discovered as a result of the order required

198 under this Subsection (4)(d)(iii)~~(A)~~ or for any other reason, ~~[to obtain]~~ obtained the issuance
199 of a writ of execution from a court of competent jurisdiction; ~~[or]~~ and

200 (iv) if the nonpaying party has filed bankruptcy, the qualified beneficiary timely filed a
201 proof of claim where permitted in the bankruptcy action~~[, if the nonpaying party has filed~~
202 ~~bankruptcy]~~;

203 (e) the qualified beneficiary is not entitled to reimbursement from any other person;
204 and

205 (f) the qualified beneficiary provided qualified services to a contractor, licensed or
206 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

207 (5) The requirements of Subsections (4)(d)(ii) and (iii) need not be met if the qualified
208 beneficiary is prevented from compliance because the nonpaying party files bankruptcy.

209 (6) To recover from the fund a laborer shall:

210 (a) establish that the laborer has not been paid wages due for the work performed at the
211 site of a construction on an owner-occupied residence; and

212 (b) provide any supporting documents or information required by rule by the division.

213 (7) A fee determined by the division under Section [63J-1-504](#) shall be deducted from
214 any recovery from the fund received by a laborer.

215 (8) The requirements of Subsections (4)(a) and (b) may be satisfied if an owner or
216 agent of the owner establishes to the satisfaction of the director that the owner of the
217 owner-occupied residence or the owner's agent entered into a written contract with an original
218 contractor who:

219 (a) was a business entity that was not licensed under Title 58, Chapter 55, Utah
220 Construction Trades Licensing Act, but was solely or partly owned by an individual who was
221 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or

222 (b) was a natural person who was not licensed under Title 58, Chapter 55, Utah
223 Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a
224 business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades
225 Licensing Act.

226 (9) The director shall have equitable power to determine if the requirements of
227 Subsections (4)(a) and (b) have been met, but any decision by the director under this chapter
228 shall not alter or have any effect on any other decision by the division under Title 58,
229 Occupations and Professions.

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

231 **58-1-106. Division -- Duties, functions, and responsibilities.**

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

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

234 (b) investigating the activities of any person whose occupation or profession is
235 regulated or governed by the laws and rules administered and enforced by the division;

236 (c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum
237 the production of any books, papers, documents, records, contracts, recordings, tapes,
238 correspondence, or information relevant to an investigation upon a finding of sufficient need by
239 the director or by the director's designee;

240 (d) taking administrative and judicial action against persons in violation of the laws
241 and rules administered and enforced by the division, including the issuance of cease and desist
242 orders;

243 (e) seeking injunctions and temporary restraining orders to restrain unauthorized
244 activity;

245 (f) ~~[giving public notice of board meetings]~~ complying with Title 52, Chapter 4, Open
246 and Public Meetings Act;

247 ~~[(g) keeping records of board meetings, proceedings, and actions and making those~~
248 ~~records available for public inspection upon request;]~~

249 ~~[(h)]~~ (g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew,
250 or otherwise acting upon any license;

251 ~~[(i)]~~ (h) preparing and submitting to the governor and the Legislature an annual report
252 of the division's operations, activities, and goals;

253 ~~[(j)]~~ (i) preparing and submitting to the executive director a budget of the expenses for

254 the division;

255 ~~[(k)]~~ (j) establishing the time and place for the administration of examinations; and

256 ~~[(j)]~~ (k) preparing lists of licensees and making these lists available to the public at cost
257 upon request unless otherwise prohibited by state or federal law.

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

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

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

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

269 Section 4. Section **58-1-109** is amended to read:

270 **58-1-109. Presiding officers -- Content of orders -- Recommended orders -- Final**
271 **orders -- Appeal of orders.**

272 (1) Unless otherwise specified by statute or rule, the presiding officer for adjudicative
273 proceedings before the division shall be the director. However, pursuant to Title 63G, Chapter
274 4, Administrative Procedures Act, the director may designate in writing an individual or body
275 of individuals to act as presiding officer to conduct or to assist the director in conducting any
276 part or all of an adjudicative proceeding.

277 (2) Unless otherwise specified by the director, an administrative law judge shall be
278 designated as the presiding officer to conduct formal adjudicative proceedings in accordance
279 with Subsection [63G-4-102\(4\)](#), Sections [63G-4-204](#) through [63G-4-207](#), and [63G-4-209](#).

280 (3) Unless otherwise specified by the director, the licensing board of the occupation or
281 profession that is the subject of the proceedings shall be designated as the presiding officer to

282 serve as fact finder at the evidentiary hearing in a formal adjudicative proceeding.

283 (4) At the close of an evidentiary hearing in an adjudicative proceeding, unless
284 otherwise specified by the director, the presiding officer who served as the fact finder at the
285 hearing shall issue a recommended order based upon the record developed at the hearing
286 determining all issues pending before the division.

287 (5) (a) The director shall issue a final order affirming the recommended order or
288 modifying or rejecting all or any part of the recommended order and entering new findings of
289 fact, conclusions of law, statement of reasons, and order based upon the director's personal
290 attendance at the hearing or a review of the record developed at the hearing. Before modifying
291 or rejecting a recommended order, the director shall consult with the presiding officer who
292 issued the recommended order.

293 (b) If the director issues a final order modifying or rejecting a recommended order, the
294 licensing board of the occupation or profession that is the subject of the proceeding may, by a
295 two-thirds majority vote of all board members, petition the executive director or designee
296 within the department to review the director's final order. The executive director's decision
297 shall become the final order of the division. This subsection does not limit the right of the
298 parties to appeal the director's final order by filing a request for agency review under
299 Subsection (8).

300 (6) If the director is unable for any reason to rule upon a recommended order of a
301 presiding officer, the director may designate another person within the division to issue a final
302 order.

303 (7) If the director or the director's designee does not initiate additional fact finding or
304 issue a final order within 20 calendar days after the date of the recommended order of the
305 presiding officer, the recommended order becomes the final order of the director or the
306 director's designee.

307 (8) The final order of the director may be appealed by filing a request for agency
308 review with the executive director or the executive director's designee within the department.

309 (9) The content of all orders shall comply with the requirements of Subsection

310 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

311 Section 5. Section 58-1-302 is amended to read:

312 **58-1-302. License by endorsement.**

313 (1) (a) The division may issue a license without examination to a person who has been
314 licensed in a state, district, or territory of the United States, or in a foreign country, where the
315 education, experience, and examination requirements are, or were at the time the license was
316 issued, substantially equal to the requirements of this state.

317 (b) The division, in consultation with the applicable licensing board, may make rules in
318 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the
319 requirements of this Subsection (1).

320 (2) Before a person may be issued a license under this section, the person shall produce
321 satisfactory evidence of the person's identity, qualifications, and good standing in the
322 occupation or profession for which licensure is sought.

323 Section 6. Section 58-1-307 is amended to read:

324 **58-1-307. Exemptions from licensure.**

325 (1) Except as otherwise provided by statute or rule, the following individuals may
326 engage in the practice of their occupation or profession, subject to the stated circumstances and
327 limitations, without being licensed under this title:

328 (a) an individual serving in the armed forces of the United States, the United States
329 Public Health Service, the United States Department of Veterans Affairs, or other federal
330 agencies while engaged in activities regulated under this chapter as a part of employment with
331 that federal agency if the individual holds a valid license to practice a regulated occupation or
332 profession issued by any other state or jurisdiction recognized by the division;

333 (b) a student engaged in activities constituting the practice of a regulated occupation or
334 profession while in training in a recognized school approved by the division to the extent the
335 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
336 part of the training program;

337 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,

338 fellowship, apprenticeship, or on-the-job training program approved by the division while
339 under the supervision of qualified individuals;

340 (d) an individual residing in another state and licensed to practice a regulated
341 occupation or profession in that state, who is called in for a consultation by an individual
342 licensed in this state, and the services provided are limited to that consultation;

343 (e) an individual who is invited by a recognized school, association, society, or other
344 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
345 regulated occupation or profession if the individual does not establish a place of business or
346 regularly engage in the practice of the regulated occupation or profession in this state;

347 (f) an individual licensed under the laws of this state, other than under this title, to
348 practice or engage in an occupation or profession, while engaged in the lawful, professional,
349 and competent practice of that occupation or profession;

350 (g) an individual licensed in a health care profession in another state who performs that
351 profession while attending to the immediate needs of a patient for a reasonable period during
352 which the patient is being transported from outside of this state, into this state, or through this
353 state;

354 (h) an individual licensed in another state or country who is in this state temporarily to
355 attend to the needs of an athletic team or group, except that the practitioner may only attend to
356 the needs of the athletic team or group, including all individuals who travel with the team or
357 group in any capacity except as a spectator;

358 (i) an individual licensed and in good standing in another state, who is in this state:

359 (i) temporarily, under the invitation and control of a sponsoring entity;

360 (ii) for a reason associated with a special purpose event, based upon needs that may
361 exceed the ability of this state to address through its licensees, as determined by the division;

362 and

363 (iii) for a limited period of time not to exceed the duration of that event, together with
364 any necessary preparatory and conclusionary periods; and

365 [~~(j) a law enforcement officer, as defined under Section 53-13-103, who:]~~

366 ~~[(i) is operating a voice stress analyzer in the course of the officer's full-time~~
367 ~~employment with a federal, state, or local law enforcement agency;]~~

368 ~~[(ii) has completed the manufacturer's training course and is certified by the~~
369 ~~manufacturer to operate that voice stress analyzer; and]~~

370 ~~[(iii) is operating the voice stress analyzer in accordance with Section 58-64-601,~~
371 ~~regarding deception detection instruments; and]~~

372 ~~[(k)]~~ (j) the spouse of an individual serving in the armed forces of the United States
373 while the individual is stationed within this state, provided:

374 (i) the spouse holds a valid license to practice a regulated occupation or profession
375 issued by any other state or jurisdiction recognized by the division; and

376 (ii) the license is current and the spouse is in good standing in the state of licensure.

377 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
378 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
379 practitioner derives authority to practice.

380 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
381 exempt status, denial of license, or other disciplinary proceedings.

382 (3) An individual who is licensed under a specific chapter of this title to practice or
383 engage in an occupation or profession may engage in the lawful, professional, and competent
384 practice of that occupation or profession without additional licensure under other chapters of
385 this title, except as otherwise provided by this title.

386 (4) Upon the declaration of a national, state, or local emergency, a public health
387 emergency as defined in Section 26-23b-102, or a declaration by the president of the United
388 States or other federal official requesting public health-related activities, the division in
389 collaboration with the board may:

390 (a) suspend the requirements for permanent or temporary licensure of individuals who
391 are licensed in another state for the duration of the emergency while engaged in the scope of
392 practice for which they are licensed in the other state;

393 (b) modify, under the circumstances described in this Subsection (4) and Subsection

394 (5), the scope of practice restrictions under this title for individuals who are licensed under this
395 title as:

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

398 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
399 Compact;

400 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

401 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
402 Pharmacy Practice Act;

403 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

404 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
405 Practice Act; and

406 (vii) a physician assistant under Chapter 70a, Physician Assistant Act;

407 (c) suspend the requirements for licensure under this title and modify the scope of
408 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
409 services personnel or paramedics required to be certified under Section [26-8a-302](#);

410 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require
411 certain prescriptive procedures;

412 (e) exempt or modify the requirement for licensure of an individual who is activated as
413 a member of a medical reserve corps during a time of emergency as provided in Section
414 [26A-1-126](#); and

415 (f) exempt or modify the requirement for licensure of an individual who is registered as
416 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
417 Volunteer Health Practitioners Act.

418 (5) Individuals exempt under Subsection (4)(c) and individuals operating under
419 modified scope of practice provisions under Subsection (4)(b):

420 (a) are exempt from licensure or subject to modified scope of practice for the duration
421 of the emergency;

422 (b) must be engaged in the distribution of medicines or medical devices in response to
423 the emergency or declaration; and

424 (c) must be employed by or volunteering for:

425 (i) a local or state department of health; or

426 (ii) a host entity as defined in Section 26-49-102.

427 (6) In accordance with the protocols established under Subsection (8), upon the
428 declaration of a national, state, or local emergency, the Department of Health or a local health
429 department shall coordinate with public safety authorities as defined in Subsection
430 26-23b-110(1) and may:

431 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
432 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
433 consequence of, the emergency; or

434 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
435 a controlled substance:

436 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
437 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
438 is exhausted; or

439 (ii) for dispensing or direct administration to treat the disease or condition that gave
440 rise to, or was a consequence of, the emergency by:

441 (A) a pharmacy;

442 (B) a prescribing practitioner;

443 (C) a licensed health care facility;

444 (D) a federally qualified community health clinic; or

445 (E) a governmental entity for use by a community more than 50 miles from a person
446 described in Subsections (6)(b)(ii)(A) through (D).

447 (7) In accordance with protocols established under Subsection (8), upon the declaration
448 of a national, state, or local emergency, the Department of Health shall coordinate the
449 distribution of medications:

450 (a) received from the strategic national stockpile to local health departments; and

451 (b) from local health departments to emergency personnel within the local health
452 departments' geographic region.

453 (8) The Department of Health shall establish by rule, made in accordance with Title
454 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
455 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
456 not a controlled substance in the event of a declaration of a national, state, or local emergency.
457 The protocol shall establish procedures for the Department of Health or a local health
458 department to:

459 (a) coordinate the distribution of:

460 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
461 controlled substance received by the Department of Health from the strategic national stockpile
462 to local health departments; and

463 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
464 medication received by a local health department to emergency personnel within the local
465 health department's geographic region;

466 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
467 an antibiotic, or other prescription medication that is not a controlled substance to the contact
468 of a patient[~~as defined in Section 26-6-2;~~] without a patient-practitioner relationship, if the
469 contact's condition is the same as that of the physician's patient; and

470 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
471 an antibiotic, or other non-controlled prescription medication to an individual who:

472 (i) is working in a triage situation;

473 (ii) is receiving preventative or medical treatment in a triage situation;

474 (iii) does not have coverage for the prescription in the individual's health insurance
475 plan;

476 (iv) is involved in the delivery of medical or other emergency services in response to
477 the declared national, state, or local emergency; or

478 (v) otherwise has a direct impact on public health.

479 (9) The Department of Health shall give notice to the division upon implementation of
480 the protocol established under Subsection (8).

481 Section 7. Section **58-1-308** is amended to read:

482 **58-1-308. Term of license -- Expiration of license -- Renewal of license --**
483 **Reinstatement of license -- Application procedures.**

484 (1) (a) Each license issued under this title shall be issued in accordance with a two-year
485 renewal cycle established by rule.

486 (b) A renewal period may be extended or shortened by as much as one year to maintain
487 established renewal cycles or to change an established renewal cycle.

488 (2) (a) The expiration date of a license shall be shown on the license.

489 (b) A license that is not renewed prior to the expiration date shown on the license
490 automatically expires.

491 (c) A license automatically expires prior to the expiration date shown on the license
492 upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is
493 a partnership, corporation, or other business entity.

494 (d) If the existence of a dissolved partnership, corporation, or other business entity is
495 reinstated prior to the expiration date shown upon the entity's expired license issued by the
496 division, the division shall, upon written application, reinstate the applicant's license, unless it
497 finds that the applicant no longer meets the qualifications for licensure.

498 (e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter
499 4, Administrative Procedures Act.

500 (3) (a) The division shall notify each licensee in accordance with procedures
501 established by rule that the licensee's license is due for renewal and that unless an application
502 for renewal is received by the division by the expiration date shown on the license, together
503 with the appropriate renewal fee and documentation showing completion of or compliance with
504 renewal qualifications, the license will not be renewed.

505 (b) Examples of renewal qualifications which by statute or rule the division may

506 require the licensee to document completion of or compliance with include:

- 507 (i) continuing education;
- 508 (ii) continuing competency;
- 509 (iii) quality assurance;
- 510 (iv) utilization plan and protocol;
- 511 (v) financial responsibility;
- 512 (vi) certification renewal; and
- 513 (vii) calibration of equipment.

514 (4) (a) (i) An application for renewal that complies with Subsection (3) is complete.

515 (ii) A renewed license shall be issued to applicants who submit a complete application,
516 unless it is apparent to the division that the applicant no longer meets the qualifications for
517 continued licensure.

518 (b) (i) The division may evaluate or verify documentation showing completion of or
519 compliance with renewal requirements on an entire population or a random sample basis, and
520 may be assisted by advisory peer committees.

521 (ii) If necessary, the division may complete its evaluation or verification subsequent to
522 renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no
523 longer meets the qualifications for continued licensure.

524 (c) The application procedures specified in Subsection 58-1-301(2), apply to renewal
525 applications to the extent they are not in conflict with this section.

526 (5) (a) Any license that is not renewed may be reinstated [~~at any time within two years~~
527 ~~after nonrenewal~~]:

528 (i) upon submission of an application for reinstatement, payment of the renewal fee
529 together with a reinstatement fee determined by the department under Section 63J-1-504, and
530 upon submission of documentation showing completion of or compliance with renewal
531 qualifications[-]; and

532 (ii) (A) at any time within two years after nonrenewal; or

533 (B) between two years and five years after nonrenewal, if established by rule made by

534 the division in consultation with the applicable licensing board in accordance with Title 63G,
535 Chapter 3, Utah Administrative Rulemaking Act.

536 (b) The application procedures specified in Subsection 58-1-301(2) apply to the
537 reinstatement applications to the extent they are not in conflict with this section.

538 (c) Except as otherwise provided by rule, a license that is reinstated no later than 120
539 days after it expires shall be retroactively reinstated to the date it expired.

540 (6) (a) [H] Except as provided in Subsection (5)(a), if not reinstated within two years,
541 the holder may obtain a license only if the holder meets requirements provided by the division
542 by rule or by statute for a new license.

543 (b) Each licensee under this title who has been active in the licensed occupation or
544 profession while in the full-time employ of the United States government or under license to
545 practice that occupation or profession in any other state or territory of the United States may
546 reinstate the licensee's license without taking an examination by submitting an application for
547 reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting
548 documentation showing completion of or compliance with any renewal qualifications at any
549 time within six months after reestablishing domicile within Utah or terminating full-time
550 government service.

551 Section 8. Section 58-1-401 is amended to read:

552 **58-1-401. Grounds for denial of license -- Disciplinary proceedings -- Time**
553 **limitations -- Sanctions.**

554 (1) The division shall refuse to issue a license to an applicant and shall refuse to renew
555 or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a
556 licensee who does not meet the qualifications for licensure under this title.

557 (2) The division may refuse to issue a license to an applicant and may refuse to renew
558 or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise
559 act upon the license of a licensee for the following reasons:

560 (a) the applicant or licensee has engaged in unprofessional conduct, as defined by
561 statute or rule under this title;

562 (b) the applicant or licensee has engaged in unlawful conduct as defined by statute
563 under this title;

564 (c) the applicant or licensee has been determined to be mentally incompetent by a court
565 of competent jurisdiction; or

566 (d) the applicant or licensee is unable to practice the occupation or profession with
567 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
568 chemicals, or other type of material, or as a result of a mental or physical condition, when the
569 condition demonstrates a threat or potential threat to the public health, safety, or welfare.

570 (3) A licensee whose license to practice an occupation or profession regulated by this
571 title has been suspended, revoked, placed on probation, or restricted may apply for
572 reinstatement of the license at reasonable intervals and upon compliance with conditions
573 imposed upon the licensee by statute, rule, or terms of the license suspension, revocation,
574 probation, or restriction.

575 (4) The division may issue cease and desist orders to:

576 (a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

577 (b) a person who engages in or represents that the person is engaged in an occupation
578 or profession regulated under this title; and

579 (c) a person who otherwise violates this title or a rule adopted under this title.

580 (5) The division may impose an administrative penalty in accordance with Section
581 [58-1-502](#).

582 (6) (a) The division may not take disciplinary action against a person for
583 unprofessional or unlawful conduct under this title, unless the division enters into a stipulated
584 agreement or initiates an adjudicative proceeding regarding the conduct within four years after
585 the conduct is reported to the division, except under Subsection (6)(b).

586 (b) (i) The division may not take disciplinary action against a person for unprofessional
587 or unlawful conduct more than 10 years after the occurrence of the conduct, unless the
588 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
589 initiated within one year following the judgment or settlement.

590 (ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due
591 to unprofessional or unlawful conduct that occurred more than 10 years before a request or
592 application for licensure is made.

593 Section 9. Section **58-1-502** is amended to read:

594 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

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

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

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

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

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

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

609 (A) an uncontested citation;

610 (B) a stipulated settlement; or

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

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

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

617 (d) A citation shall:

- 618 (i) be in writing;
- 619 (ii) describe with particularity the nature of the violation, including a reference to the
620 provision of the chapter, rule, or order alleged to have been violated;
- 621 (iii) clearly state that the recipient must notify the division in writing within 20
622 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
623 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and
- 624 (iv) clearly explain the consequences of failure to timely contest the citation or to make
625 payment of a fine assessed by the citation within the time specified in the citation.
- 626 (e) The division may issue a notice in lieu of a citation.
- 627 (f) (i) If within 20 calendar days from the service of the citation, the person to whom
628 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
629 final order of the division and is not subject to further agency review.
- 630 (ii) The period to contest a citation may be extended by the division for cause.
- 631 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
632 the license of a licensee who fails to comply with a citation after it becomes final.
- 633 (h) The failure of an applicant for licensure to comply with a citation after it becomes
634 final is a ground for denial of license.
- 635 (i) The division may not issue a citation under this section after the expiration of [~~six~~
636 ~~months~~] one year following the occurrence of a violation.
- 637 (j) The director or the director's designee shall assess fines according to the following:
638 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;
639 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;
640 and
- 641 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to
642 \$2,000 for each day of continued offense.
- 643 (3) (a) An action for a first or second offense that has not yet resulted in a final order of
644 the division may not preclude initiation of a subsequent action for a second or subsequent
645 offense during the pendency of a preceding action.

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

649 (4) (a) The director may collect a penalty that is not paid by:

650 (i) either referring the matter to a collection agency; or

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

653 (b) A county attorney or the attorney general of the state shall provide legal assistance
654 and advice to the director in an action to collect the penalty.

655 (c) A court may award reasonable attorney fees and costs to the division in an action
656 brought by the division to enforce the provisions of this section.

657 Section 10. Section **58-11a-302.5** is enacted to read:

658 **58-11a-302.5. Qualification for licensure as an esthetics school -- Online**
659 **curriculum.**

660 (1) An applicant for licensure as an esthetics school under Subsection [58-11a-302\(13\)](#)
661 and an esthetics school licensed under this chapter may offer up to 30% of its total curriculum
662 online:

663 (a) for instruction in theory; and

664 (b) in accordance with standards adopted by nationally recognized accrediting
665 organizations.

666 (2) The provisions of this section do not:

667 (a) require the board to allow other schools licensed under this chapter to offer
668 curriculum online; or

669 (b) limit the authority of the board to allow other schools licensed under this chapter to
670 offer curriculum online.

671 Section 11. Section **58-11a-501** is amended to read:

672 **58-11a-501. Unprofessional conduct.**

673 Unprofessional conduct includes:

- 674 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;
- 675 (2) failing as a licensed school to comply with the standards of accreditation applicable
- 676 to such schools;
- 677 (3) failing as a licensed school to provide adequate instruction to enrolled students;
- 678 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- 679 (5) failing as an instructor to provide direct supervision to students who are providing
- 680 services to an individual under [their instruction] the instructor's supervision;
- 681 (6) failing as an apprentice supervisor to comply with division rules relating to
- 682 apprenticeship programs under this chapter;
- 683 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
- 684 unsanitary condition;
- 685 (8) failing to comply with Title 26, Utah Health Code;
- 686 (9) failing to display licenses or certificates as required under Section [58-11a-305](#);
- 687 (10) failing to comply with physical facility requirements established by rule;
- 688 (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- 689 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
- 690 showers, or saunas;
- 691 (13) prescribing or administering prescription drugs;
- 692 (14) failing to comply with all applicable state and local health or sanitation laws;
- 693 (15) engaging in any act or practice in a professional capacity that is outside the
- 694 applicable scope of practice;
- 695 (16) engaging in any act or practice in a professional capacity which the licensee is not
- 696 competent to perform through education or training;
- 697 (17) in connection with the use of a chemical exfoliant, unless under the supervision of
- 698 a licensed health care practitioner acting within the scope of his or her license:
- 699 (a) using any acid, concentration of an acid, or combination of treatments which
- 700 violates the standards established by rule;
- 701 (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

702 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;
703 (18) in connection with the sanding of the skin, unless under the supervision of a
704 licensed health care practitioner acting within the scope of his or her license, removing any
705 layer of skin deeper than the stratum corneum of the epidermis; or

706 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or
707 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed
708 under this chapter from using a nonprescriptive laser device.

709 Section 12. Section **58-13-3** is amended to read:

710 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

711 (1) (a) (i) The Legislature finds many residents of this state do not receive medical care
712 and preventive health care because they lack health insurance or because of financial
713 difficulties or cost.

714 (ii) The Legislature also finds that many physicians, charity health care facilities, and
715 other health care professionals in this state would be willing to volunteer medical and allied
716 services without compensation if they were not subject to the high exposure of liability
717 connected with providing these services.

718 (b) The Legislature therefore declares that its intention in enacting this section is to
719 encourage the provision of uncompensated volunteer charity health care in exchange for a
720 limitation on liability for the health care facilities and health care professionals who provide
721 those volunteer services.

722 (2) As used in this section:

723 (a) "Health care facility" means any clinic or hospital, church, or organization whose
724 primary purpose is to sponsor, promote, or organize uncompensated health care services for
725 people unable to pay for health care services.

726 (b) "Health care professional" means a person licensed under:

727 (i) Chapter 5a, Podiatric Physician Licensing Act;

728 (ii) Chapter 16a, Utah Optometry Practice Act;

729 (iii) Chapter 17b, Pharmacy Practice Act;

- 730 (iv) Chapter 24b, Physical Therapy Practice Act;
- 731 (v) Chapter 31b, Nurse Practice Act;
- 732 (vi) Chapter 40, Recreational Therapy Practice Act;
- 733 (vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
- 734 (viii) Chapter 42a, Occupational Therapy Practice Act;
- 735 (ix) Chapter 44a, Nurse Midwife Practice Act;
- 736 (x) Chapter 49, Dietitian Certification Act;
- 737 (xi) Chapter 60, Mental Health Professional Practice Act;
- 738 (xii) Chapter 67, Utah Medical Practice Act;
- 739 (xiii) Chapter 68, Utah Osteopathic Medical Practice Act;
- 740 (xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;
- 741 (xv) Chapter 70a, Physician Assistant Act; [~~and~~]
- 742 (xvi) Chapter 71, Naturopathic Physician Practice Act; and
- 743 [~~(xvi)~~ (xvii) Chapter 73, Chiropractic Physician Practice Act.
- 744 (c) "Remuneration or compensation":
 - 745 (i) (A) means direct or indirect receipt of any payment by a health care professional or
 - 746 health care facility on behalf of the patient, including payment or reimbursement under
 - 747 Medicare or Medicaid, or under the state program for the medically indigent on behalf of the
 - 748 patient; and
 - 749 (B) compensation, salary, or reimbursement to the health care professional from any
 - 750 source for the health care professional's services or time in volunteering to provide
 - 751 uncompensated health care; and
 - 752 (ii) does not mean:
 - 753 (A) any grant or donation to the health care facility used to offset direct costs
 - 754 associated with providing the uncompensated health care such as:
 - 755 (I) medical supplies;
 - 756 (II) drugs; or
 - 757 (III) a charitable donation that is restricted for charitable services at the health care

758 facility; or

759 (B) incidental reimbursements to the volunteer such as:

760 (I) food supplied to the volunteer;

761 (II) clothing supplied to the volunteer to help identify the volunteer during the time of

762 volunteer services;

763 (III) mileage reimbursement to the volunteer; or

764 (IV) other similar support to the volunteer.

765 (3) A health care professional who provides health care treatment at or on behalf of a

766 health care facility is not liable in a medical malpractice action if:

767 (a) the treatment was within the scope of the health care professional's license under

768 this title;

769 (b) neither the health care professional nor the health care facility received

770 compensation or remuneration for the treatment;

771 (c) the acts or omissions of the health care professional were not grossly negligent or

772 willful and wanton; and

773 (d) prior to rendering services:

774 (i) the health care professional disclosed in writing to the patient, or if a minor, to the

775 patient's parent or legal guardian, that the health care professional is providing the services

776 without receiving remuneration or compensation; and

777 (ii) the patient consented in writing to waive any right to sue for professional

778 negligence except for acts or omissions which are grossly negligent or are willful and wanton.

779 (4) A health care facility which sponsors, promotes, or organizes the uncompensated

780 care is not liable in a medical malpractice action for acts and omissions if:

781 (a) the health care facility meets the requirements in Subsection (3)(b);

782 (b) the acts and omissions of the health care facility were not grossly negligent or

783 willful and wanton; and

784 (c) the health care facility has posted, in a conspicuous place, a notice that in

785 accordance with this section the health care facility is not liable for any civil damages for acts

786 or omissions except for those acts or omissions that are grossly negligent or are willful and
787 wanton.

788 (5) A health care professional who provides health care treatment at a federally
789 qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an
790 Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health
791 Care Improvement Act, is not liable in a medical malpractice action if:

792 (a) the treatment was within the scope of the health care professional's license under
793 this title;

794 (b) the health care professional:

795 (i) does not receive compensation or remuneration for treatment provided to any
796 patient that the provider treats at the federally qualified health center, the Indian health clinic,
797 or the Urban Indian Health Center; and

798 (ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the
799 treatment provided at the federally qualified health center, the Indian health clinic, or the Urban
800 Indian Health Center;

801 (c) the acts or omissions of the health care professional were not grossly negligent or
802 willful and wanton; and

803 (d) prior to rendering services:

804 (i) the health care professional disclosed in writing to the patient, or if a minor, to the
805 patient's parent or legal guardian, that the health care professional is providing the services
806 without receiving remuneration or compensation; and

807 (ii) the patient consented in writing to waive any right to sue for professional
808 negligence except for acts or omissions that are grossly negligent or are willful and wanton.

809 (6) Immunity from liability under this section does not extend to the use of general
810 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
811 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

812 (7) The provisions of Subsection (5) apply to treatment provided by a healthcare
813 professional on or after May 13, 2014.

814 Section 13. Section 58-15-2 is amended to read:

815 **58-15-2. Definitions.**

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

817 (1) "Administrator" means a person who is charged with the general administration of a
818 health facility, regardless of whether that person has an ownership interest in the facility and
819 whether his functions and duties are shared with one or more persons.

820 (2) "Board" means the Health Facility Administrators Licensing Board created in
821 Section 58-15-3.

822 (3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an
823 intermediate care facility for ~~[people]~~ individuals with an intellectual disability.

824 (4) "Intermediate care facility" means an institution ~~[which]~~ that provides, on a regular
825 basis, health care and services to ~~[persons]~~ individuals who do not require the degree of care
826 and treatment a hospital or skilled nursing facility ~~[provide]~~ provides, but who require health
827 care and services in addition to room and board.

828 (5) "Intermediate care facility for people with an intellectual disability" means an
829 institution ~~[which]~~ that provides, on a regular basis, health-related care and service to ~~[mentally~~
830 ~~retarded individuals or persons]~~ individuals with intellectual disabilities as defined in Section
831 68-3-12.5 or individuals with related conditions, who do not require the degree of care and
832 treatment a hospital or skilled nursing facility ~~[provide]~~ provides, but who require
833 health-related care and services above the need for room and board.

834 (6) "Skilled nursing facility" means an institution primarily providing inpatients with
835 skilled nursing care and related services on a continuing basis for patients who require mental,
836 medical, or nursing care, or service for the rehabilitation of an injured ~~[person]~~ individual, a
837 sick ~~[person]~~ individual, or ~~[a person]~~ an individual with a disability.

838 (7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further
839 defined by rule includes:

840 (a) intentionally filing a false report or record, intentionally failing to file a report or
841 record required by state or federal law, or wilfully impeding or obstructing the filing of a

842 required report. These reports or records only include those which are signed in the capacity of
843 a licensed health facility administrator; and

844 (b) acting in a manner inconsistent with the health and safety of the patients of the
845 health facility in which he is the administrator.

846 Section 14. Section **58-16a-302** is amended to read:

847 **58-16a-302. Qualifications for licensure.**

848 (1) An applicant for licensure as an optometrist shall:

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

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

851 (c) be of good moral character;

852 (d) (i) be a doctoral graduate of a recognized school of optometry accredited by the
853 American Optometric Association's Accreditation Council on Optometric Education; or

854 (ii) be a graduate of a school of optometry located outside the United States that meets
855 the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as
856 demonstrated by the applicant for licensure;

857 (e) if the applicant graduated from a recognized school of optometry prior to July 1,
858 1996, have successfully completed a course of study satisfactory to the division, in consultation
859 with the board, in general and ocular pharmacology and emergency medical care;

860 (f) have passed examinations approved by the division in consultation with the board
861 that include:

862 (i) a standardized national optometry examination;

863 (ii) a standardized clinical examination; and

864 (iii) a standardized national therapeutics examination; and

865 [~~(iv) the Utah Optometry Law Examination; and~~]

866 (g) meet with the board and representatives of the division, if requested by either party,
867 for the purpose of evaluating the applicant's qualifications for licensure.

868 (2) Notwithstanding Subsection (1) and Section [58-1-302](#), the division shall issue a
869 license under this chapter by endorsement to an individual who:

870 (a) submits an application for licensure by endorsement on a form approved by the
871 division;

872 (b) pays a fee established by the division in accordance with Section 63J-1-504;

873 (c) provides satisfactory evidence to the division that the individual is of good moral
874 character;

875 (d) verifies that the individual is licensed as an optometrist in good standing in each
876 state of the United States, or province of Canada, in which the individual is currently licensed
877 as an optometrist; and

878 (e) has been actively engaged in the legal practice of optometry for at least 3,200 hours
879 during the immediately preceding two years in a manner consistent with the legal practice of
880 optometry in this state.

881 Section 15. Section 58-17b-610.5 is amended to read:

882 **58-17b-610.5. Dispensing in emergency department -- Patient's immediate need.**

883 (1) The division shall adopt administrative rules in accordance with Title 63G, Chapter
884 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies and the
885 boards of ~~[dispensing medical]~~ practitioners authorized to prescribe prescription drugs to
886 establish guidelines under which a ~~[dispensing medical]~~ practitioner may dispense prescription
887 drugs to a patient in a hospital emergency department if:

888 (a) the hospital pharmacy is closed;

889 (b) in the professional judgment of the ~~[dispensing medical]~~ practitioner, dispensing
890 the drug is necessary for the patient's immediate needs; and

891 (c) dispensing the prescription drug meets protocols established by the hospital
892 pharmacy.

893 (2) A ~~[prescribing medical]~~ practitioner in an emergency department may dispense a
894 prescription drug in accordance with Subsection (1).

895 Section 16. Section 58-24b-301 is amended to read:

896 **58-24b-301. Authority to practice physical therapy.**

897 A person may not engage in the practice of physical therapy, unless the person is:

- 898 (1) licensed under this chapter and practices within the scope of that license; or
- 899 (2) exempted from the licensing requirements of this chapter under Section [58-1-307](#)
- 900 [or 58-24b-304](#).

901 Section 17. Section **58-24b-302** is amended to read:

902 **58-24b-302. Licensure.**

903 (1) An applicant for a license as a physical therapist shall:

- 904 (a) be of good moral character;
- 905 (b) complete the application process, including payment of fees;
- 906 (c) submit proof of graduation from a professional physical therapist education
- 907 program that is accredited by a recognized accreditation agency;

908 ~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule~~

909 ~~Examination;]~~

910 ~~[(e)] (d)~~ after complying with Subsection (1)(c), pass a licensing examination;

911 ~~[(f)] (e)~~ be able to read, write, speak, understand, and be understood in the English

912 language and demonstrate proficiency to the satisfaction of the board if requested by the board;

913 and

914 ~~[(g)] (f)~~ meet any other requirements established by the division, by rule.

915 (2) An applicant for a license as a physical therapist assistant shall:

- 916 (a) be of good moral character;
- 917 (b) complete the application process, including payment of fees set by the division, in
- 918 accordance with Section [63J-1-504](#), to recover the costs of administering the licensing
- 919 requirements relating to physical therapist assistants;

920 (c) submit proof of graduation from a physical therapist assistant education program

921 that is accredited by a recognized accreditation agency;

922 ~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule~~

923 ~~Examination;]~~

924 ~~[(e)] (d)~~ after complying with Subsection (2)(c), pass a licensing examination;

925 ~~[(f)] (e)~~ be able to read, write, speak, understand, and be understood in the English

926 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
927 and

928 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

929 (3) An applicant for a license as a physical therapist who is educated outside of the
930 United States shall:

931 (a) be of good moral character;

932 (b) complete the application process, including payment of fees; ~~[and]~~

933 (c) (i) provide satisfactory evidence that the applicant graduated from a professional
934 physical therapist education program that is accredited by a recognized accreditation agency; or

935 (ii) (A) provide satisfactory evidence that the applicant graduated from a physical
936 therapist education program that prepares the applicant to engage in the practice of physical
937 therapy, without restriction;

938 (B) provide satisfactory evidence that the education program described in Subsection
939 (3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical
940 therapist education program in the country where the program is located; and

941 (C) pass a credential evaluation to ensure that the applicant has satisfied uniform
942 educational requirements;

943 ~~[(d) pass an open-book, take-home Utah Physical Therapy Law and Rule
944 Examination;]~~

945 ~~[(e)]~~ (d) after complying with Subsection (3)(c), pass a licensing examination;

946 ~~[(f)]~~ (e) be able to read, write, speak, understand, and be understood in the English
947 language and demonstrate proficiency to the satisfaction of the board if requested by the board;
948 and

949 ~~[(g)]~~ (f) meet any other requirements established by the division, by rule.

950 (4) The division shall issue a license to a person who holds a current unrestricted
951 license to practice physical therapy in a state, district, or territory of the United States of
952 America, other than Utah, if the person:

953 (a) is of good moral character;

954 (b) completes the application process, including payment of fees; and
955 [~~(c) passes an open-book, take-home Utah Physical Therapy Law and Rule~~
956 ~~Examination; and]~~
957 ~~[(d)]~~ (c) is able to read, write, speak, understand, and be understood in the English
958 language and demonstrate proficiency to the satisfaction of the board if requested by the board.

959 (5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an
960 internship in physical therapy, unless the person is:

- 961 (i) certified by the division; or
- 962 (ii) exempt from licensure under Section 58-24b-304.

963 (b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is
964 participating in the supervised clinical training program for the purpose of becoming a physical
965 therapist or a physical therapist assistant.

966 Section 18. Section 58-24b-303 is amended to read:

967 **58-24b-303. Term of license -- Renewal -- Temporary license for physical**
968 **therapist assistant.**

969 (1) A license issued under this chapter shall be issued in accordance with a two-year
970 renewal cycle established by rule. The division may, by rule, extend or shorten a license
971 renewal process by one year in order to stagger the renewal cycles that the division administers.

972 (2) At the time of license renewal, the licensee shall provide satisfactory evidence that
973 the licensee completed continuing education competency requirements, established by the
974 division, by rule.

975 (3) If a license renewal cycle is shortened or extended under Subsection (1), the
976 division shall increase or reduce the required continuing education competency requirements
977 accordingly.

978 (4) A license issued under this chapter expires on the expiration date indicated on the
979 license, unless the license is renewed under this section.

980 (5) Notwithstanding any other provision of this chapter, the division may, by rule, grant
981 a temporary license, that expires on July 1, 2014, as a physical therapist assistant to an

982 individual who:

983 (a) was working as a physical therapist assistant in Utah before July 1, 2009; and

984 (b) complies with the requirements described in Subsections 58-24b-302(2)(a), (b), (c),
985 [~~(f)~~] (e), and [~~(g)~~] (f).

986 Section 19. Section 58-26a-501 is amended to read:

987 **58-26a-501. Unlawful conduct.**

988 "Unlawful conduct" includes:

989 (1) using "certified public accountant," "public accountant," "CPA," or any other title,
990 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the
991 person is a certified public accountant, unless that person:

992 (a) has a current license as a certified public accountant issued under this chapter; or

993 (b) qualifies for a practice privilege as provided [~~for~~] in Subsection 58-26a-305(1)(a);

994 (2) a firm assuming or using "certified public accountant," "CPA," or any other title,
995 designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm
996 is composed of certified public accountants unless each office of the firm in this state:

997 (a) is registered with the division; and

998 (b) meets the requirements of Subsections 58-26a-302(3)(a)(iii) and (iv);

999 (3) signing or affixing to any accounting or financial statement the person's name or
1000 any trade or assumed name used in that person's profession or business, with any wording
1001 indicating that the person is an auditor, or with any wording indicating that the person has
1002 expert knowledge in accounting or auditing, unless that person is licensed under this chapter
1003 and all of the person's offices in this state for the practice of public accountancy are maintained
1004 and registered as provided in this chapter; and

1005 (4) except as provided in Section 58-26a-305, engaging in the following conduct if not
1006 licensed under this chapter to practice public accountancy:

1007 (a) issuing a report on financial statements of any other person, firm, organization, or
1008 governmental unit; or

1009 (b) issuing a report using any form of language substantially similar to conventional

1010 language used by licensees respecting:

- 1011 (i) a review of financial statements; or
- 1012 (ii) a compilation of financial statements.

1013 Section 20. Section **58-37f-301** is amended to read:

1014 **58-37f-301. Access to database.**

1015 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1016 Administrative Rulemaking Act, to:

1017 (a) effectively enforce the limitations on access to the database as described in this
1018 part; and

1019 (b) establish standards and procedures to ensure accurate identification of individuals
1020 requesting information or receiving information without request from the database.

1021 (2) The division shall make information in the database and information obtained from
1022 other state or federal prescription monitoring programs by means of the database available only
1023 to the following individuals, in accordance with the requirements of this chapter and division
1024 rules:

1025 (a) personnel of the division specifically assigned to conduct investigations related to
1026 controlled substance laws under the jurisdiction of the division;

1027 (b) authorized division personnel engaged in analysis of controlled substance
1028 prescription information as a part of the assigned duties and responsibilities of their
1029 employment;

1030 (c) a board member if:

1031 (i) the board member is assigned to monitor a licensee on probation; and

1032 (ii) the board member is limited to obtaining information from the database regarding
1033 the specific licensee on probation;

1034 (d) a member of a diversion committee established in accordance with Subsection
1035 58-1-404(2) if:

1036 (i) the diversion committee member is limited to obtaining information from the
1037 database regarding the person whose conduct is the subject of the committee's consideration;

1038 and

1039 (ii) the conduct that is the subject of the committee's consideration includes a violation
1040 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant
1041 violation or potential violation under this title;

1042 [~~e~~] (e) in accordance with a written agreement entered into with the department,
1043 employees of the Department of Health:

1044 (i) whom the director of the Department of Health assigns to conduct scientific studies
1045 regarding the use or abuse of controlled substances, if the identity of the individuals and
1046 pharmacies in the database are confidential and are not disclosed in any manner to any
1047 individual who is not directly involved in the scientific studies; [~~or~~]

1048 (ii) when the information is requested by the Department of Health in relation to a
1049 person or provider whom the Department of Health suspects may be improperly obtaining or
1050 providing a controlled substance; or

1051 (iii) in the medical examiner's office;

1052 [~~f~~] (f) in accordance with a written agreement entered into with the department, a
1053 designee of the director of the Department of Health, who is not an employee of the
1054 Department of Health, whom the director of the Department of Health assigns to conduct
1055 scientific studies regarding the use or abuse of controlled substances pursuant to an application
1056 process established in rule by the Department of Health, if:

1057 (i) the designee provides explicit information to the Department of Health regarding
1058 the purpose of the scientific studies;

1059 (ii) the scientific studies to be conducted by the designee:

1060 (A) fit within the responsibilities of the Department of Health for health and welfare;

1061 (B) are reviewed and approved by an Institutional Review Board that is approved for
1062 human subject research by the United States Department of Health and Human Services; and

1063 (C) are not conducted for profit or commercial gain; and

1064 (D) are conducted in a research facility, as defined by division rule, that is associated
1065 with a university or college [~~in the state~~] accredited by one or more regional or national

1066 accrediting agencies recognized by the United States Department of Education;

1067 (iii) the designee protects the information as a business associate of the Department of
1068 Health; and

1069 (iv) the identity of the prescribers, patients, and pharmacies in the database are
1070 de-identified, confidential, not disclosed in any manner to the designee or to any individual
1071 who is not directly involved in the scientific studies;

1072 ~~(e)~~ (g) in accordance with the written agreement entered into with the department and
1073 the Department of Health, authorized employees of a managed care organization, as defined in
1074 42 C.F.R. Sec. 438, if:

1075 (i) the managed care organization contracts with the Department of Health under the
1076 provisions of Section 26-18-405 and the contract includes provisions that:

1077 (A) require a managed care organization employee who will have access to information
1078 from the database to submit to a criminal background check; and

1079 (B) limit the authorized employee of the managed care organization to requesting either
1080 the division or the Department of Health to conduct a search of the database regarding a
1081 specific Medicaid enrollee and to report the results of the search to the authorized employee;
1082 and

1083 (ii) the information is requested by an authorized employee of the managed care
1084 organization in relation to a person who is enrolled in the Medicaid program with the managed
1085 care organization, and the managed care organization suspects the person may be improperly
1086 obtaining or providing a controlled substance;

1087 ~~(f)~~ (h) a licensed practitioner having authority to prescribe controlled substances, to
1088 the extent the information:

1089 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

1090 (B) is provided to or sought by the practitioner for the purpose of:

1091 (I) prescribing or considering prescribing any controlled substance to the current or
1092 prospective patient;

1093 (II) diagnosing the current or prospective patient;

1094 (III) providing medical treatment or medical advice to the current or prospective
1095 patient; or
1096 (IV) determining whether the current or prospective patient:
1097 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;
1098 or
1099 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
1100 substance from the practitioner;
1101 (ii) (A) relates specifically to a former patient of the practitioner; and
1102 (B) is provided to or sought by the practitioner for the purpose of determining whether
1103 the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a
1104 controlled substance from the practitioner;
1105 (iii) relates specifically to an individual who has access to the practitioner's Drug
1106 Enforcement Administration identification number, and the practitioner suspects that the
1107 individual may have used the practitioner's Drug Enforcement Administration identification
1108 number to fraudulently acquire or prescribe a controlled substance;
1109 (iv) relates to the practitioner's own prescribing practices, except when specifically
1110 prohibited by the division by administrative rule;
1111 (v) relates to the use of the controlled substance database by an employee of the
1112 practitioner, described in Subsection (2)[~~(g)~~](i); or
1113 (vi) relates to any use of the practitioner's Drug Enforcement Administration
1114 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a
1115 controlled substance;
1116 [~~(g)~~] (i) in accordance with Subsection (3)(a), an employee of a practitioner described
1117 in Subsection (2)[~~(f)~~](h), for a purpose described in Subsection (2)[~~(f)~~](h)(i) or (ii), if:
1118 (i) the employee is designated by the practitioner as an individual authorized to access
1119 the information on behalf of the practitioner;
1120 (ii) the practitioner provides written notice to the division of the identity of the
1121 employee; and

- 1122 (iii) the division:
- 1123 (A) grants the employee access to the database; and
- 1124 (B) provides the employee with a password that is unique to that employee to access
- 1125 the database in order to permit the division to comply with the requirements of Subsection
- 1126 [58-37f-203](#)(5) with respect to the employee;
- 1127 ~~(h)~~ (j) an employee of the same business that employs a licensed practitioner under
- 1128 Subsection (2)~~(f)~~(h) if:
- 1129 (i) the employee is designated by the practitioner as an individual authorized to access
- 1130 the information on behalf of the practitioner;
- 1131 (ii) the practitioner and the employing business provide written notice to the division of
- 1132 the identity of the designated employee; and
- 1133 (iii) the division:
- 1134 (A) grants the employee access to the database; and
- 1135 (B) provides the employee with a password that is unique to that employee to access
- 1136 the database in order to permit the division to comply with the requirements of Subsection
- 1137 [58-37f-203](#)(5) with respect to the employee;
- 1138 ~~(i)~~ (k) a licensed pharmacist having authority to dispense a controlled substance to
- 1139 the extent the information is provided or sought for the purpose of:
- 1140 (i) dispensing or considering dispensing any controlled substance; or
- 1141 (ii) determining whether a person:
- 1142 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or
- 1143 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
- 1144 substance from the pharmacist;
- 1145 ~~(j)~~ (l) in accordance with Subsection (3)(a), a licensed pharmacy technician and
- 1146 pharmacy intern who is an employee of a pharmacy as defined in Section [58-17b-102](#), for the
- 1147 purposes described in Subsection (2)~~(h)~~(j)(i) or (ii), if:
- 1148 (i) the employee is designated by the pharmacist-in-charge as an individual authorized
- 1149 to access the information on behalf of a licensed pharmacist employed by the pharmacy;

1150 (ii) the pharmacist-in-charge provides written notice to the division of the identity of
1151 the employee; and

1152 (iii) the division:

1153 (A) grants the employee access to the database; and

1154 (B) provides the employee with a password that is unique to that employee to access
1155 the database in order to permit the division to comply with the requirements of Subsection
1156 58-37f-203(5) with respect to the employee;

1157 ~~(k)~~ (m) pursuant to a valid search warrant, federal, state, and local law enforcement
1158 agencies and state and local prosecutors that are engaged in an investigation related to:

1159 (i) one or more controlled substances; and

1160 (ii) a specific person who is a subject of the investigation;

1161 ~~(h)~~ (n) employees of the Office of Internal Audit and Program Integrity within the
1162 Department of Health who are engaged in their specified duty of ensuring Medicaid program
1163 integrity under Section 26-18-2.3;

1164 ~~(m)~~ (o) a mental health therapist, if:

1165 (i) the information relates to a patient who is:

1166 (A) enrolled in a licensed substance abuse treatment program; and

1167 (B) receiving treatment from, or under the direction of, the mental health therapist as
1168 part of the patient's participation in the licensed substance abuse treatment program described
1169 in Subsection (2)~~(m)~~(o)(i)(A);

1170 (ii) the information is sought for the purpose of determining whether the patient is
1171 using a controlled substance while the patient is enrolled in the licensed substance abuse
1172 treatment program described in Subsection (2)~~(m)~~(o)(i)(A); and

1173 (iii) the licensed substance abuse treatment program described in Subsection
1174 (2)~~(m)~~(o)(i)(A) is associated with a practitioner who:

1175 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
1176 pharmacist; and

1177 (B) is available to consult with the mental health therapist regarding the information

1178 obtained by the mental health therapist, under this Subsection (2)~~(m)~~(o), from the database;

1179 ~~(n)~~ (p) an individual who is the recipient of a controlled substance prescription
1180 entered into the database, upon providing evidence satisfactory to the division that the
1181 individual requesting the information is in fact the individual about whom the data entry was
1182 made;

1183 ~~(o)~~ (q) an individual under Subsection (2)~~(n)~~(p) for the purpose of obtaining a list of
1184 the persons and entities that have requested or received any information from the database
1185 regarding the individual, except if the individual's record is subject to a pending or current
1186 investigation as authorized under this Subsection (2);

1187 ~~(p)~~ (r) the inspector general, or a designee of the inspector general, of the Office of
1188 Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in
1189 Title 63A, Chapter 13, Part 2, Office and Powers; and

1190 ~~(q)~~ (s) the following licensed physicians for the purpose of reviewing and offering an
1191 opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter
1192 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

1193 (i) a member of the medical panel described in Section [34A-2-601](#);

1194 (ii) a physician employed as medical director for a licensed workers' compensation
1195 insurer or an approved self-insured employer; or

1196 (iii) a physician offering a second opinion regarding treatment.

1197 (3) (a) (i) A practitioner described in Subsection (2)~~(f)~~(h) may designate up to three
1198 employees to access information from the database under Subsection (2)~~(g)~~(i), (2)~~(h)~~(j), or
1199 (4)(c).

1200 (ii) A pharmacist described in Subsection (2)~~(f)~~(k) who is a pharmacist-in-charge
1201 may designate up to five employees to access information from the database under Subsection
1202 (2)~~(f)~~(l).

1203 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1204 Administrative Rulemaking Act, to:

1205 (i) establish background check procedures to determine whether an employee

1206 designated under Subsection (2)~~(g)~~(i), (2)~~(h)~~(j), or (4)(c) should be granted access to the
1207 database; and

1208 (ii) establish the information to be provided by an emergency room employee under
1209 Subsection (4).

1210 (c) The division shall grant an employee designated under Subsection (2)~~(g)~~(i),
1211 (2)~~(h)~~(j), or (4)(c) access to the database, unless the division determines, based on a
1212 background check, that the employee poses a security risk to the information contained in the
1213 database.

1214 (4) (a) An individual who is employed in the emergency room of a hospital may
1215 exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if
1216 the individual is designated under Subsection (4)(c) and the licensed practitioner:

1217 (i) is employed in the emergency room;

1218 (ii) is treating an emergency room patient for an emergency medical condition; and

1219 (iii) requests that an individual employed in the emergency room and designated under
1220 Subsection (4)(c) obtain information regarding the patient from the database as needed in the
1221 course of treatment.

1222 (b) The emergency room employee obtaining information from the database shall,
1223 when gaining access to the database, provide to the database the name and any additional
1224 identifiers regarding the requesting practitioner as required by division administrative rule
1225 established under Subsection (3)(b).

1226 (c) An individual employed in the emergency room under this Subsection (4) may
1227 obtain information from the database as provided in Subsection (4)(a) if:

1228 (i) the employee is designated by the practitioner as an individual authorized to access
1229 the information on behalf of the practitioner;

1230 (ii) the practitioner and the hospital operating the emergency room provide written
1231 notice to the division of the identity of the designated employee; and

1232 (iii) the division:

1233 (A) grants the employee access to the database; and

1234 (B) provides the employee with a password that is unique to that employee to access
1235 the database in order to permit the division to comply with the requirements of Subsection
1236 58-37f-203(5) with respect to the employee.

1237 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
1238 practitioner who designates an employee under Subsection (2)~~(g)~~(i), (2)~~(h)~~(j), or (4)(c) to
1239 pay for the costs incurred by the division to conduct the background check and make the
1240 determination described in Subsection (3)(b).

1241 (5) (a) An individual who is granted access to the database based on the fact that the
1242 individual is a licensed practitioner or a mental health therapist shall be denied access to the
1243 database when the individual is no longer licensed.

1244 (b) An individual who is granted access to the database based on the fact that the
1245 individual is a designated employee of a licensed practitioner shall be denied access to the
1246 database when the practitioner is no longer licensed.

1247 Section 21. Section 58-37f-601 is amended to read:

1248 **58-37f-601. Unlawful release or use of database information -- Criminal and civil**
1249 **penalties.**

1250 (1) (a) Any person who knowingly and intentionally releases any information in the
1251 database or any information obtained from other state or federal prescription monitoring
1252 programs by means of the database in violation of the limitations under Part 3, Access, is guilty
1253 of a third degree felony.

1254 (b) Any person who negligently or recklessly releases any information in the database
1255 or any information obtained from other state or federal prescription monitoring programs by
1256 means of the database in violation of the limitations under Title 58, Chapter 37f, Part 3,
1257 Access, is guilty of a class C misdemeanor.

1258 (2) (a) Any person who obtains or attempts to obtain information from the database or
1259 from any other state or federal prescription monitoring programs by means of the database by
1260 misrepresentation or fraud is guilty of a third degree felony.

1261 (b) Any person who obtains or attempts to obtain information from the database for a

1262 purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree
1263 felony.

1264 (3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and
1265 intentionally use, release, publish, or otherwise make available to any other person any
1266 information obtained from the database or from any other state or federal prescription
1267 monitoring programs by means of the database for any purpose other than those specified in
1268 Part 3, Access.

1269 (b) Each separate violation of this Subsection (3) is a third degree felony and is also
1270 subject to a civil penalty not to exceed \$5,000.

1271 (c) The procedure for determining a civil violation of this Subsection (3) is in
1272 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

1273 (d) Civil penalties assessed under this Subsection (3) shall be deposited in the General
1274 Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

1275 (e) This Subsection (3) does not prohibit a person who obtains information from the
1276 database under Subsection 58-37f-301(2)[~~(f)~~, ~~(g)~~, ~~(i)~~](h), (i), (k), or (4)(c) from:

1277 (i) including the information in the person's medical chart or file for access by a person
1278 authorized to review the medical chart or file; or

1279 (ii) providing the information to a person in accordance with the requirements of the
1280 Health Insurance Portability and Accountability Act of 1996.

1281 Section 22. Section 58-44a-302 is amended to read:

1282 **58-44a-302. Qualifications for licensure.**

1283 (1) An applicant for licensure as a nurse midwife shall:

1284 (a) submit an application in a form as prescribed by the division;

1285 (b) pay a fee as determined by the department under Section 63J-1-504;

1286 (c) be of good moral character;

1287 (d) at the time of application for licensure hold a license in good standing as a
1288 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under
1289 Title 58, Chapter 31b, Nurse Practice Act;

1290 (e) have completed:

1291 (i) a certified nurse midwifery education program accredited by the [~~American College~~
1292 ~~of Nurse-Midwives~~] Accreditation Commission for Midwifery Education and approved by the
1293 division; or

1294 (ii) a nurse midwifery education program located outside of the United States which is
1295 approved by the division and is equivalent to a program accredited by the [~~American College of~~
1296 ~~Nurse-Midwives~~] Accreditation Commission for Midwifery Education, as demonstrated by a
1297 graduate's being accepted to sit for the national certifying examination administered by the
1298 [~~American College of Nurse-Midwives~~] Accreditation Commission for Midwifery Education or
1299 its designee; and

1300 (f) have passed examinations established by the division rule in collaboration with the
1301 board within two years after completion of the approved education program required under
1302 Subsection (1)(e).

1303 (2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education
1304 program or it's equivalent must grant a graduate degree, including post-master's certificate, in
1305 nurse midwifery.

1306 Section 23. Section **58-55-302** is amended to read:

1307 **58-55-302. Qualifications for licensure.**

1308 (1) Each applicant for a license under this chapter shall:

1309 (a) submit an application prescribed by the division;

1310 (b) pay a fee as determined by the department under Section [63J-1-504](#);

1311 (c) (i) meet the examination requirements established by rule by the commission with
1312 the concurrence of the director, except for the classifications of apprentice plumber and
1313 apprentice electrician for whom no examination is required; or

1314 (ii) if required in Section [58-55-304](#), the individual qualifier must pass the required
1315 examination if the applicant is a business entity;

1316 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

1317 (e) if an applicant for a contractor's license:

1318 (i) produce satisfactory evidence of financial responsibility, except for a construction
1319 trades instructor for whom evidence of financial responsibility is not required;

1320 (ii) produce satisfactory evidence of:

1321 (A) two years full-time paid employment experience in the construction industry,
1322 which experience, unless more specifically described in this section, may be related to any
1323 contracting classification; and

1324 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
1325 necessary for the protection of the public health, safety, and welfare;

1326 (iii) except as otherwise provided by rule by the commission with the concurrence of
1327 the director, complete a 20-hour course established by rule by the commission with the
1328 concurrence of the director, which course may include:

1329 (A) construction business practices;

1330 (B) bookkeeping fundamentals;

1331 (C) mechanics lien fundamentals; and

1332 (D) other aspects of business and construction principles considered important by the
1333 commission with the concurrence of the director;

1334 (iv) (A) be a licensed master electrician if an applicant for an electrical contractor's
1335 license or a licensed master residential electrician if an applicant for a residential electrical
1336 contractor's license;

1337 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
1338 a licensed master residential plumber if an applicant for a residential plumbing contractor's
1339 license; or

1340 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
1341 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

1342 (v) when the applicant is an unincorporated entity, provide a list of the one or more
1343 individuals who hold an ownership interest in the applicant as of the day on which the
1344 application is filed that includes for each individual:

1345 (A) the individual's name, address, birth date, and social security number; and

1346 (B) whether the individual will engage in a construction trade; and
1347 (f) if an applicant for a construction trades instructor license, satisfy any additional
1348 requirements established by rule.

1349 (2) After approval of an applicant for a contractor's license by the applicable board and
1350 the division, the applicant shall file the following with the division before the division issues
1351 the license:

1352 (a) proof of workers' compensation insurance which covers employees of the applicant
1353 in accordance with applicable Utah law;

1354 (b) proof of public liability insurance in coverage amounts and form established by rule
1355 except for a construction trades instructor for whom public liability insurance is not required;
1356 and

1357 (c) proof of registration as required by applicable law with the:

1358 (i) Utah Department of Commerce;

1359 (ii) Division of Corporations and Commercial Code;

1360 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
1361 purposes of Title 35A, Chapter 4, Employment Security Act;

1362 (iv) State Tax Commission; and

1363 (v) Internal Revenue Service.

1364 (3) In addition to the general requirements for each applicant in Subsection (1),
1365 applicants shall comply with the following requirements to be licensed in the following
1366 classifications:

1367 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

1368 (A) has been a licensed journeyman plumber for at least two years and had two years of
1369 supervisory experience as a licensed journeyman plumber in accordance with division rule;

1370 (B) has received at least an associate of applied science degree or similar degree
1371 following the completion of a course of study approved by the division and had one year of
1372 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

1373 (C) meets the qualifications determined by the division in collaboration with the board

1374 to be equivalent to Subsection (3)(a)(i)(A) or (B).

1375 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
1376 least four years of practical experience as a licensed apprentice under the supervision of a
1377 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
1378 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
1379 master plumber license under this chapter, and satisfies the requirements of this Subsection
1380 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

1381 (iii) An individual holding a valid plumbing contractor's license or residential
1382 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
1383 2008:

1384 (A) considered to hold a current master plumber license under this chapter if licensed
1385 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
1386 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
1387 58-55-303; and

1388 (B) considered to hold a current residential master plumber license under this chapter if
1389 licensed as a residential plumbing contractor and a residential journeyman plumber, and
1390 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
1391 that license under Section 58-55-303.

1392 (b) A master residential plumber applicant shall produce satisfactory evidence that the
1393 applicant:

1394 (i) has been a licensed residential journeyman plumber for at least two years and had
1395 two years of supervisory experience as a licensed residential journeyman plumber in
1396 accordance with division rule; or

1397 (ii) meets the qualifications determined by the division in collaboration with the board
1398 to be equivalent to Subsection (3)(b)(i).

1399 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

1400 (i) successful completion of the equivalent of at least four years of full-time training
1401 and instruction as a licensed apprentice plumber under supervision of a licensed master

1402 plumber or journeyman plumber and in accordance with a planned program of training
1403 approved by the division;

1404 (ii) at least eight years of full-time experience approved by the division in collaboration
1405 with the Plumbers Licensing Board; or

1406 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
1407 equivalent to Subsection (3)(c)(i) or (c)(ii).

1408 (d) A residential journeyman plumber shall produce satisfactory evidence of:

1409 (i) completion of the equivalent of at least three years of full-time training and
1410 instruction as a licensed apprentice plumber under the supervision of a licensed residential
1411 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
1412 accordance with a planned program of training approved by the division;

1413 (ii) completion of at least six years of full-time experience in a maintenance or repair
1414 trade involving substantial plumbing work; or

1415 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
1416 (3)(d)(i) or (d)(ii).

1417 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
1418 in accordance with the following:

1419 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
1420 under the immediate supervision of a licensed master plumber, licensed residential master
1421 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

1422 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
1423 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
1424 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
1425 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
1426 applies.

1427 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

1428 (i) is a graduate electrical engineer of an accredited college or university approved by
1429 the division and has one year of practical electrical experience as a licensed apprentice

1430 electrician;

1431 (ii) is a graduate of an electrical trade school, having received an associate of applied
1432 sciences degree following successful completion of a course of study approved by the division,
1433 and has two years of practical experience as a licensed journeyman electrician;

1434 (iii) has four years of practical experience as a journeyman electrician; or

1435 (iv) meets the qualifications determined by the board to be equivalent to Subsection
1436 (3)(f)(i), (ii), or (iii).

1437 (g) A master residential electrician applicant shall produce satisfactory evidence that
1438 the applicant:

1439 (i) has at least two years of practical experience as a residential journeyman electrician;
1440 or

1441 (ii) meets the qualifications determined by the board to be equivalent to this practical
1442 experience.

1443 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
1444 applicant:

1445 (i) has successfully completed at least four years of full-time training and instruction as
1446 a licensed apprentice electrician under the supervision of a master electrician or journeyman
1447 electrician and in accordance with a planned training program approved by the division;

1448 (ii) has at least eight years of full-time experience approved by the division in
1449 collaboration with the Electricians Licensing Board; or

1450 (iii) meets the qualifications determined by the board to be equivalent to Subsection
1451 (3)(h)(i) or (ii).

1452 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
1453 that the applicant:

1454 (i) has successfully completed two years of training in an electrical training program
1455 approved by the division;

1456 (ii) has four years of practical experience in wiring, installing, and repairing electrical
1457 apparatus and equipment for light, heat, and power under the supervision of a licensed master,

1458 journeyman, residential master, or residential journeyman electrician; or

1459 (iii) meets the qualifications determined by the division and applicable board to be
1460 equivalent to Subsection (3)(i)(i) or (ii).

1461 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
1462 be in accordance with the following:

1463 (i) A licensed apprentice electrician shall be under the immediate supervision of a
1464 licensed master, journeyman, residential master, or residential journeyman electrician. An
1465 apprentice in the fourth year of training may work without supervision for a period not to
1466 exceed eight hours in any 24-hour period.

1467 (ii) A licensed master, journeyman, residential master, or residential journeyman
1468 electrician may have under immediate supervision on a residential project up to three licensed
1469 apprentice electricians.

1470 (iii) A licensed master or journeyman electrician may have under immediate
1471 supervision on nonresidential projects only one licensed apprentice electrician.

1472 (k) An alarm company applicant shall:

1473 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
1474 the applicant who:

1475 (A) demonstrates 6,000 hours of experience in the alarm company business;

1476 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
1477 company business or in a construction business; and

1478 (C) passes an examination component established by rule by the commission with the
1479 concurrence of the director;

1480 (ii) if a corporation, provide:

1481 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1482 of all corporate officers, directors, and those responsible management personnel employed
1483 within the state or having direct responsibility for managing operations of the applicant within
1484 the state; and

1485 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards

1486 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
1487 shall not be required if the stock is publicly listed and traded;

1488 (iii) if a limited liability company, provide:

1489 (A) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1490 of all company officers, and those responsible management personnel employed within the
1491 state or having direct responsibility for managing operations of the applicant within the state;
1492 and

1493 (B) the names, addresses, dates of birth, social security numbers, and fingerprint cards
1494 of all individuals owning 5% or more of the equity of the company;

1495 (iv) if a partnership, provide the names, addresses, dates of birth, social security
1496 numbers, and fingerprint cards of all general partners, and those responsible management
1497 personnel employed within the state or having direct responsibility for managing operations of
1498 the applicant within the state;

1499 (v) if a proprietorship, provide the names, addresses, dates of birth, social security
1500 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
1501 employed within the state or having direct responsibility for managing operations of the
1502 applicant within the state;

1503 (vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and
1504 fingerprint cards of the trustee, and those responsible management personnel employed within
1505 the state or having direct responsibility for managing operations of the applicant within the
1506 state;

1507 (vii) be of good moral character in that officers, directors, shareholders described in
1508 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
1509 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
1510 crime that when considered with the duties and responsibilities of an alarm company is
1511 considered by the board to indicate that the best interests of the public are served by granting
1512 the applicant a license;

1513 (viii) document that none of the applicant's officers, directors, shareholders described

1514 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
1515 personnel have been declared by any court of competent jurisdiction incompetent by reason of
1516 mental defect or disease and not been restored;

1517 (ix) document that none of the applicant's officers, directors, shareholders described in
1518 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
1519 currently suffering from habitual drunkenness or from drug addiction or dependence;

1520 (x) file and maintain with the division evidence of:

1521 (A) comprehensive general liability insurance in form and in amounts to be established
1522 by rule by the commission with the concurrence of the director;

1523 (B) workers' compensation insurance that covers employees of the applicant in
1524 accordance with applicable Utah law; and

1525 (C) registration as is required by applicable law with the:

1526 (I) Division of Corporations and Commercial Code;

1527 (II) Unemployment Insurance Division in the Department of Workforce Services, for
1528 purposes of Title 35A, Chapter 4, Employment Security Act;

1529 (III) State Tax Commission; and

1530 (IV) Internal Revenue Service; and

1531 (xi) meet with the division and board.

1532 (l) Each applicant for licensure as an alarm company agent shall:

1533 (i) submit an application in a form prescribed by the division accompanied by
1534 fingerprint cards;

1535 (ii) pay a fee determined by the department under Section [63J-1-504](#);

1536 (iii) be of good moral character in that the applicant has not been convicted of a felony,
1537 a misdemeanor involving moral turpitude, or any other crime that when considered with the
1538 duties and responsibilities of an alarm company agent is considered by the board to indicate
1539 that the best interests of the public are served by granting the applicant a license;

1540 (iv) not have been declared by any court of competent jurisdiction incompetent by
1541 reason of mental defect or disease and not been restored;

1542 (v) not be currently suffering from habitual drunkenness or from drug addiction or
1543 dependence; and

1544 (vi) meet with the division and board if requested by the division or the board.

1545 (m) (i) Each applicant for licensure as an elevator mechanic shall:

1546 (A) provide documentation of experience and education credits of not less than three
1547 years work experience in the elevator industry, in construction, maintenance, or service and
1548 repair; and

1549 (B) satisfactorily complete a written examination administered by the division
1550 established by rule under Section 58-1-203; or

1551 (C) provide certificates of completion of an apprenticeship program for elevator
1552 mechanics, having standards substantially equal to those of this chapter and registered with the
1553 United States Department of Labor Bureau Apprenticeship and Training or a state
1554 apprenticeship council.

1555 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
1556 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
1557 repairing, or maintaining an elevator, the contractor may:

1558 (I) notify the division of the unavailability of licensed personnel; and

1559 (II) request the division issue a temporary elevator mechanic license to an individual
1560 certified by the contractor as having an acceptable combination of documented experience and
1561 education to perform the work described in this Subsection (3)(m)(ii)(A).

1562 (B) (I) The division may issue a temporary elevator mechanic license to an individual
1563 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
1564 the appropriate fee as determined by the department under Section 63J-1-504.

1565 (II) The division shall specify the time period for which the license is valid and may
1566 renew the license for an additional time period upon its determination that a shortage of
1567 licensed elevator mechanics continues to exist.

1568 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1569 division may make rules establishing when Federal Bureau of Investigation records shall be

1570 checked for applicants as an alarm company or alarm company agent.

1571 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
1572 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
1573 Department of Public Safety with the division's request to:

1574 (a) conduct a search of records of the Department of Public Safety for criminal history
1575 information relating to each applicant for licensure as an alarm company or alarm company
1576 agent and each applicant's officers, directors, shareholders described in Subsection
1577 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

1578 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
1579 requiring a check of records of the Federal Bureau of Investigation for criminal history
1580 information under this section.

1581 (6) The Department of Public Safety shall send to the division:

1582 (a) a written record of criminal history, or certification of no criminal history record, as
1583 contained in the records of the Department of Public Safety in a timely manner after receipt of
1584 a fingerprint card from the division and a request for review of Department of Public Safety
1585 records; and

1586 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
1587 a timely manner after receipt of information from the Federal Bureau of Investigation.

1588 (7) (a) The division shall charge each applicant for licensure as an alarm company or
1589 alarm company agent a fee, in accordance with Section [63J-1-504](#), equal to the cost of
1590 performing the records reviews under this section.

1591 (b) The division shall pay the Department of Public Safety the costs of all records
1592 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
1593 costs of records reviews under this section.

1594 (8) Information obtained by the division from the reviews of criminal history records of
1595 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
1596 disseminated by the division only for the purpose of determining if an applicant for licensure as
1597 an alarm company or alarm company agent is qualified for licensure.

1598 (9) (a) An application for licensure under this chapter shall be denied if:
1599 (i) the applicant has had a previous license, which was issued under this chapter,
1600 suspended or revoked within [~~one year prior to~~] two years before the date of the applicant's
1601 application;

1602 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
1603 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1604 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
1605 status, performing similar functions, or directly or indirectly controlling the applicant has
1606 served in any similar capacity with any person or entity which has had a previous license,
1607 which was issued under this chapter, suspended or revoked within [~~one year prior to~~] two years
1608 before the date of the applicant's application;

1609 (iii) (A) the applicant is an individual or sole proprietorship; and
1610 (B) any owner or agent acting as a qualifier has served in any capacity listed in
1611 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
1612 this chapter, suspended or revoked within [~~one year prior to~~] two years before the date of the
1613 applicant's application; or

1614 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
1615 an unincorporated entity at the time the entity's license under this chapter was revoked; and
1616 (B) the application for licensure is filed within 60 months after the revocation of the
1617 unincorporated entity's license.

1618 (b) An application for licensure under this chapter shall be reviewed by the appropriate
1619 licensing board prior to approval if:

1620 (i) the applicant has had a previous license, which was issued under this chapter,
1621 suspended or revoked more than [~~one year prior to~~] two years before the date of the applicant's
1622 application;

1623 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
1624 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
1625 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar

1626 status, performing similar functions, or directly or indirectly controlling the applicant has
1627 served in any similar capacity with any person or entity which has had a previous license,
1628 which was issued under this chapter, suspended or revoked more than [~~one year prior to~~] two
1629 years before the date of the applicant's application; or

1630 (iii) (A) the applicant is an individual or sole proprietorship; and

1631 (B) any owner or agent acting as a qualifier has served in any capacity listed in
1632 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
1633 this chapter, suspended or revoked more than [~~one year prior to~~] two years before the date of
1634 the applicant's application.

1635 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
1636 report with the division every 30 days after the day on which the license is issued if the licensee
1637 has more than five owners who are individuals who:

1638 (A) own an interest in the contractor that is an unincorporated entity;

1639 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
1640 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
1641 unincorporated entity; and

1642 (C) engage, or will engage, in a construction trade in the state as owners of the
1643 contractor described in Subsection (10)(a)(i)(A).

1644 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
1645 licensee shall provide the ownership status report with an application for renewal of licensure.

1646 (b) An ownership status report required under this Subsection (10) shall:

1647 (i) specify each addition or deletion of an owner:

1648 (A) for the first ownership status report, after the day on which the unincorporated
1649 entity is licensed under this chapter; and

1650 (B) for a subsequent ownership status report, after the day on which the previous
1651 ownership status report is filed;

1652 (ii) be in a format prescribed by the division that includes for each owner, regardless of
1653 the owner's percentage ownership in the unincorporated entity, the information described in

1654 Subsection(1)(e)(v);
1655 (iii) list the name of:
1656 (A) each officer or manager of the unincorporated entity; and
1657 (B) each other individual involved in the operation, supervision, or management of the
1658 unincorporated entity; and
1659 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
1660 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).
1661 (c) The division may, at any time, audit an ownership status report under this
1662 Subsection (10):
1663 (i) to determine if financial responsibility has been demonstrated or maintained as
1664 required under Section 58-55-306; and
1665 (ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or
1666 Subsection 58-55-502(8) or (9).
1667 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
1668 chapter by providing an individual who owns an interest in the unincorporated entity to engage
1669 in a construction trade in Utah shall file with the division:
1670 (i) before the individual who owns an interest in the unincorporated entity engages in a
1671 construction trade in Utah, a current list of the one or more individuals who hold an ownership
1672 interest in the unincorporated entity that includes for each individual:
1673 (A) the individual's name, address, birth date, and social security number; and
1674 (B) whether the individual will engage in a construction trade; and
1675 (ii) every 30 days after the day on which the unincorporated entity provides the list
1676 described in Subsection (11)(a)(i), an ownership status report containing the information that
1677 would be required under Subsection (10) if the unincorporated entity were a licensed
1678 contractor.
1679 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
1680 status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by
1681 the division in accordance with Section 63J-1-504.

1682 (12) This chapter may not be interpreted to create or support an express or implied
1683 independent contractor relationship between an unincorporated entity described in Subsection
1684 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
1685 withholding.

1686 (13) A social security number provided under Subsection (1)(e)(v) is a private record
1687 under Subsection 63G-2-302(1)(i).

1688 Section 24. Section 58-55-307 is amended to read:

1689 **58-55-307. Confidentiality of records and reports.**

1690 (1) Credit reports, financial statements, and other information submitted to the division
1691 by or at the request and direction of an applicant or licensee for the purpose of supporting a
1692 representation of financial responsibility:

1693 (a) constitute protected records under Title 63G, Chapter 2, Government Records
1694 Access and Management Act^[7]; and

1695 (b) notwithstanding Subsection (1)(a), may be considered by the commission in a
1696 public meeting, unless the owner of the information requests that the meeting be closed to the
1697 public in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

1698 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
1699 Access and Management Act, the records described in Subsection (1) are not open for public
1700 inspection and are not subject to discovery in civil or administrative proceedings.

1701 Section 25. Section 58-60-508 is amended to read:

1702 **58-60-508. Substance use disorder counselor supervisor's qualifications --**
1703 **Functions.**

1704 (1) A mental health therapist supervisor of a substance use disorder counselor shall:

1705 (a) be qualified by education or experience to treat substance use disorders;

1706 (b) be currently working in the substance use disorder treatment field;

1707 (c) review substance use disorder counselor assessment procedures and
1708 recommendations;

1709 (d) provide substance use disorder diagnosis and other mental health diagnoses in

1710 accordance with Subsection 58-60-102(7);

1711 (e) supervise the development of a treatment plan;

1712 (f) approve the treatment plan; and

1713 (g) provide direct supervision for not more than five persons, unless granted an

1714 exception in writing from the board and the division.

1715 (2) A supervisor of a certified substance use disorder counselor, certified substance use

1716 disorder counselor intern, certified advanced substance use disorder counselor, certified

1717 advanced substance use disorder counselor intern, or licensed substance use disorder counselor

1718 ~~[may]~~ shall:

1719 (a) be a licensed advanced substance use disorder counselor ~~[with:];~~

1720 ~~[(i) until July 1, 2014, at least two years of experience as a substance use disorder~~

1721 ~~counselor; or]~~

1722 ~~[(ii) beginning on July 1, 2014,]~~

1723 (b) have at least two years of experience as a licensed advanced substance use disorder

1724 counselor;

1725 ~~[(b)]~~ (c) be currently working in the substance use disorder field; and

1726 ~~[(c)]~~ (d) provide direct supervision for no more than three persons, unless granted an

1727 exception in writing from the board and the division.

1728 Section 26. Section 58-63-302 is amended to read:

1729 **58-63-302. Qualifications for licensure.**

1730 (1) Each applicant for licensure as an armored car company or a contract security

1731 company shall:

1732 (a) submit an application in a form prescribed by the division;

1733 (b) pay a fee determined by the department under Section 63J-1-504;

1734 (c) have a qualifying agent who:

1735 (i) is a resident of the state and an officer, director, partner, proprietor, or manager of

1736 the applicant;

1737 (ii) passes an examination component established by rule by the division in

1738 collaboration with the board; and
1739 (iii) (A) demonstrates 6,000 hours of compensated experience as a manager,
1740 supervisor, or administrator of an armored car company or a contract security company; or
1741 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in
1742 collaboration with the board with a federal, United States military, state, county, or municipal
1743 law enforcement agency;
1744 (d) if a corporation, provide:
1745 (i) the names, addresses, dates of birth, and social security numbers of all corporate
1746 officers, directors, and those responsible management personnel employed within the state or
1747 having direct responsibility for managing operations of the applicant within the state; and
1748 (ii) the names, addresses, dates of birth, and social security numbers, of all
1749 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by
1750 the division if the stock is publicly listed and traded;
1751 (e) if a limited liability company, provide:
1752 (i) the names, addresses, dates of birth, and social security numbers of all company
1753 officers, and those responsible management personnel employed within the state or having
1754 direct responsibility for managing operations of the applicant within the state; and
1755 (ii) the names, addresses, dates of birth, and social security numbers of all individuals
1756 owning 5% or more of the equity of the company;
1757 (f) if a partnership, provide the names, addresses, dates of birth, and social security
1758 numbers of all general partners, and those responsible management personnel employed within
1759 the state or having direct responsibility for managing operations of the applicant within the
1760 state;
1761 (g) if a proprietorship, provide the names, addresses, dates of birth, and social security
1762 numbers of the proprietor, and those responsible management personnel employed within the
1763 state or having direct responsibility for managing operations of the applicant within the state;
1764 (h) have good moral character in that officers, directors, shareholders described in
1765 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not

1766 been convicted of:

1767 (i) a felony;

1768 (ii) a misdemeanor involving moral turpitude; or

1769 (iii) a crime that when considered with the duties and responsibilities of a contract

1770 security company or an armored car company by the division and the board indicates that the

1771 best interests of the public are not served by granting the applicant a license;

1772 (i) document that none of the applicant's officers, directors, shareholders described in

1773 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

1774 (i) have been declared by a court of competent jurisdiction incompetent by reason of

1775 mental defect or disease and not been restored; and

1776 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

1777 (j) file and maintain with the division evidence of:

1778 (i) comprehensive general liability insurance in a form and in amounts established by

1779 rule by the division in collaboration with the board;

1780 (ii) workers' compensation insurance that covers employees of the applicant in

1781 accordance with applicable Utah law;

1782 (iii) registration with the Division of Corporations and Commercial Code; and

1783 (iv) registration as required by applicable law with the:

1784 (A) Unemployment Insurance Division in the Department of Workforce Services, for

1785 purposes of Title 35A, Chapter 4, Employment Security Act;

1786 (B) State Tax Commission; and

1787 (C) Internal Revenue Service; and

1788 (k) meet with the division and board if requested by the division or board.

1789 (2) Each applicant for licensure as an armed private security officer shall:

1790 (a) submit an application in a form prescribed by the division;

1791 (b) pay a fee determined by the department under Section [63J-1-504](#);

1792 (c) have good moral character in that the applicant has not been convicted of:

1793 (i) a felony;

1794 (ii) a misdemeanor involving moral turpitude; or
1795 (iii) a crime that when considered with the duties and responsibilities of an armed
1796 private security officer by the division and the board indicates that the best interests of the
1797 public are not served by granting the applicant a license;
1798 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
1799 Sec. 922(g);
1800 ~~[(d)]~~ (e) not have been declared incompetent by a court of competent jurisdiction by
1801 reason of mental defect or disease and not been restored;
1802 ~~[(e)]~~ (f) not be currently suffering from habitual drunkenness or from drug addiction or
1803 dependence;
1804 ~~[(f)]~~ (g) successfully complete basic education and training requirements established by
1805 rule by the division in collaboration with the board;
1806 ~~[(g)]~~ (h) successfully complete firearms training requirements established by rule by
1807 the division in collaboration with the board;
1808 ~~[(h)]~~ (i) pass the examination requirement established by rule by the division in
1809 collaboration with the board; and
1810 ~~[(i)]~~ (j) meet with the division and board if requested by the division or the board.
1811 (3) Each applicant for licensure as an unarmed private security officer shall:
1812 (a) submit an application in a form prescribed by the division;
1813 (b) pay a fee determined by the department under Section [63J-1-504](#);
1814 (c) have good moral character in that the applicant has not been convicted of:
1815 (i) a felony;
1816 (ii) a misdemeanor involving moral turpitude; or
1817 (iii) a crime that when considered with the duties and responsibilities of an unarmed
1818 private security officer by the division and the board indicates that the best interests of the
1819 public are not served by granting the applicant a license;
1820 (d) not have been declared incompetent by a court of competent jurisdiction by reason
1821 of mental defect or disease and not been restored;

1822 (e) not be currently suffering from habitual drunkenness or from drug addiction or
1823 dependence;

1824 (f) successfully complete basic education and training requirements established by rule
1825 by the division in collaboration with the board;

1826 (g) pass the examination requirement established by rule by the division in
1827 collaboration with the board; and

1828 (h) meet with the division and board if requested by the division or board.

1829 (4) Each applicant for licensure as an armored car security officer shall:

1830 (a) submit an application in a form prescribed by the division;

1831 (b) pay a fee determined by the department under Section [63J-1-504](#);

1832 (c) have good moral character in that the applicant has not been convicted of:

1833 (i) a felony;

1834 (ii) a misdemeanor involving moral turpitude; or

1835 (iii) a crime that when considered with the duties and responsibilities of an armored car
1836 security officer by the division and the board indicates that the best interests of the public are
1837 not served by granting the applicant a license;

1838 (d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C.
1839 Sec. 922(g);

1840 [~~(d)~~] (e) not have been declared incompetent by a court of competent jurisdiction by
1841 reason of mental defect or disease and not been restored;

1842 [~~(e)~~] (f) not be currently suffering from habitual drunkenness or from drug addiction or
1843 dependence;

1844 [~~(f)~~] (g) successfully complete basic education and training requirements established by
1845 rule by the division in collaboration with the board;

1846 [~~(g)~~] (h) successfully complete firearms training requirements established by rule by
1847 the division in collaboration with the board;

1848 [~~(h)~~] (i) pass the examination requirements established by rule by the division in
1849 collaboration with the board; and

1850 [(†)] (j) meet with the division and board if requested by the division or the board.

1851 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1852 division may make a rule establishing when the division shall request a Federal Bureau of
1853 Investigation records' review for an applicant.

1854 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),
1855 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint
1856 cards to the Department of Public Safety with the division's request to:

1857 (a) conduct a search of records of the Department of Public Safety for criminal history
1858 information relating to each applicant for licensure under this chapter and each applicant's
1859 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and
1860 responsible management personnel; and

1861 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
1862 requiring a check of records of the FBI for criminal history information under this section.

1863 (7) The Department of Public Safety shall send the division:

1864 (a) a written record of criminal history, or certification of no criminal history record, as
1865 contained in the records of the Department of Public Safety in a timely manner after receipt of
1866 a fingerprint card from the division and a request for review of Department of Public Safety
1867 records; and

1868 (b) the results of the FBI review concerning an applicant in a timely manner after
1869 receipt of information from the FBI.

1870 (8) (a) The division shall charge each applicant a fee, in accordance with Section
1871 [63J-1-504](#), equal to the cost of performing the records reviews under this section.

1872 (b) The division shall pay the Department of Public Safety the costs of all records
1873 reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews
1874 under this chapter.

1875 (9) The division shall use or disseminate the information it obtains from the reviews of
1876 criminal history records of the Department of Public Safety and the FBI only to determine if an
1877 applicant for licensure under this chapter is qualified for licensure.

1878 Section 27. Section **58-64-304** is amended to read:

1879 **58-64-304. Exemptions from licensure.**

1880 [~~The~~] In addition to the exemptions from licensure [~~under the provisions of this chapter~~
1881 are limited to those set forth] described in Section 58-1-307[~~;~~], a law enforcement officer, as
1882 defined under Section 53-13-103, who is not licensed under this chapter may operate a voice
1883 stress analyzer in the course of the officer's full-time employment with a federal, state, or local
1884 law enforcement agency if the officer:

1885 (1) has completed the manufacturer's training course and is certified by the
1886 manufacturer to operate that voice stress analyzer; and

1887 (2) is operating the voice stress analyzer in accordance with Section 58-64-601,
1888 regarding deception detection instruments.

1889 Section 28. Section **58-70a-305** is amended to read:

1890 **58-70a-305. Exemptions from licensure.**

1891 In addition to the exemptions from licensure in Section 58-1-307, the following persons
1892 may engage in acts included within the definition of practice as a physician assistant, subject to
1893 the stated circumstances and limitations, without being licensed under this chapter:

1894 (1) a student enrolled in an accredited physician assistant education program while
1895 engaged in activities as a physician assistant:

1896 (a) that are a part of the education program;

1897 (b) that are conducted under the direct supervision of a:

1898 (i) physician associated with the program; or

1899 (ii) licensed physician assistant, at the request of the supervising physician and on a
1900 temporary basis, as defined by rule;

1901 (c) for which the program accepts in writing the responsibility for the student; and

1902 (2) a "medical assistant," as defined in Sections 58-67-102 and 58-68-102, who:

1903 [~~(a) is working under the direct supervision of a physician;~~]

1904 [(b)] (a) does not diagnose, advise, independently treat, or prescribe to or on behalf of
1905 any person; and

1906 [(e)] (b) for whom the supervising physician accepts responsibility.

1907 Section 29. Section **58-74-102** is amended to read:

1908 **58-74-102. Definitions.**

1909 In addition to the definitions in Section **58-1-102**, as used in this chapter:

1910 (1) "Board" means the Certified Court Reporters Licensing Board created in Section
1911 **58-74-201**.

1912 [(2) "Certified Shorthand Reporter" means any person licensed under this chapter who
1913 is engaged in the practice of shorthand reporting.]

1914 [(3)] (2) "Certified court reporter" means any person who engages in the practice of
1915 court reporting who is:

1916 (a) a shorthand reporter certified by the National Court Reporters Association; or

1917 (b) a voice reporter certified by the National Verbatim Reporters Association.

1918 [(4)] (3) "Certified voice reporter" means any person licensed under this chapter who
1919 engages in the practice of voice reporting.

1920 [(5)] (4) "Official court reporter" means a certified shorthand reporter employed by the
1921 courts.

1922 [(6)] (5) "Official court transcriber" means a person certified in accordance with rules
1923 of the Judicial Council as competent to transcribe into written form an audio or video recording
1924 of court proceedings.

1925 [(7)] (6) "Practice of court reporting" means the making of a verbatim record of any
1926 trial, legislative public hearing, state agency public hearing, deposition, examination before
1927 trial, hearing or proceeding before any grand jury, referee, board, commission, master or
1928 arbitrator, or other sworn testimony given under oath.

1929 [(8) "Practice of shorthand reporting" means the practice of making a verbatim record,
1930 using symbols or abbreviations.]

1931 [(9)] (7) "Practice of voice reporting" means the practice of making a verbatim record,
1932 using voice writing.

1933 [(10)] (8) "Voice writing" means the making of a verbatim record of the spoken word

1934 by means of repeating the words of the speaker into a device capable of either digital
1935 translation into English text or creation of a tape or digital recording.

1936 ~~[(H)]~~ (9) "Unlawful conduct" ~~[is-as]~~ means the same as that term is defined in Sections
1937 58-1-501 and 58-74-501.

1938 ~~[(H2)]~~ (10) "Unprofessional conduct" ~~[is-as]~~ means the same as that term is defined in
1939 Sections 58-1-501 and 58-74-502 and as may be further defined by rule.

1940 Section 30. Section 58-77-601 is amended to read:

1941 **58-77-601. Standards of practice.**

1942 (1) (a) Prior to providing any services, a licensed direct-entry midwife must obtain an
1943 informed consent from a client.

1944 (b) The consent must include:

1945 (i) the name and license number of the direct-entry midwife;

1946 (ii) the client's name, address, telephone number, and primary care provider, if the
1947 client has one;

1948 (iii) the fact, if true, that the licensed direct-entry midwife is not a certified nurse
1949 midwife or a physician;

1950 (iv) a description of the licensed direct-entry midwife's education, training, continuing
1951 education, and experience in midwifery;

1952 (v) a description of the licensed direct-entry midwife's peer review process;

1953 (vi) the licensed direct-entry midwife's philosophy of practice;

1954 (vii) a promise to provide the client, upon request, separate documents describing the
1955 rules governing licensed direct-entry midwifery practice, including a list of conditions

1956 indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and
1957 the licensed direct-entry midwife's personal written practice guidelines;

1958 (viii) a medical back-up or transfer plan;

1959 (ix) a description of the services provided to the client by the licensed direct-entry
1960 midwife;

1961 (x) the licensed direct-entry midwife's current legal status;

- 1962 (xi) the availability of a grievance process;
- 1963 (xii) client and licensed direct-entry midwife signatures and the date of signing; and
- 1964 (xiii) whether the licensed direct-entry midwife is covered by a professional liability
- 1965 insurance policy.
- 1966 (2) A licensed direct-entry midwife shall:
- 1967 (a) (i) limit the licensed direct-entry midwife's practice to a normal pregnancy, labor,
- 1968 postpartum, newborn and interconceptual care, which for purposes of this section means a
- 1969 normal labor:
- 1970 (A) that is not pharmacologically induced;
- 1971 (B) that is low risk at the start of labor;
- 1972 (C) that remains low risk through out the course of labor and delivery;
- 1973 (D) in which the infant is born spontaneously in the vertex position between 37 and 43
- 1974 completed weeks of pregnancy; and
- 1975 (E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and
- 1976 infant remain low risk; and
- 1977 (ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed direct-entry
- 1978 midwife from delivering an infant when there is:
- 1979 (A) intrauterine fetal demise; or
- 1980 (B) a fetal anomaly incompatible with life; and
- 1981 (b) appropriately recommend and facilitate consultation with, collaboration with,
- 1982 referral to, or transfer or mandatory transfer of care to a licensed health care professional when
- 1983 the circumstances require that action in accordance with this section and standards established
- 1984 by division rule.
- 1985 (3) If after a client has been informed that she has or may have a condition indicating
- 1986 the need for medical consultation, collaboration, referral, or transfer and the client chooses to
- 1987 decline, then the licensed direct-entry midwife shall:
- 1988 (a) terminate care in accordance with procedures established by division rule; or
- 1989 (b) continue to provide care for the client if the client signs a waiver of medical

1990 consultation, collaboration, referral, or transfer.

1991 (4) If after a client has been informed that she has or may have a condition indicating
1992 the need for mandatory transfer, the licensed direct-entry midwife shall, in accordance with
1993 procedures established by division rule, terminate the care or initiate transfer by:

1994 (a) calling 911 and reporting the need for immediate transfer;

1995 (b) immediately transporting the client by private vehicle to the receiving provider; or

1996 (c) contacting the physician to whom the client will be transferred and following that
1997 physician's orders.

1998 (5) The standards for consultation and transfer are the minimum standards that a
1999 licensed direct-entry midwife must follow. A licensed direct-entry midwife shall initiate
2000 consultation, collaboration, referral, or transfer of a patient sooner than required by
2001 administrative rule if in the opinion and experience of the licensed direct-entry midwife, the
2002 condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

2003 [~~(6) For the period from 2006 through 2011, a licensed direct-entry midwife must~~
2004 ~~submit outcome data to the Midwives' Alliance of North America's Division of Research on the~~
2005 ~~form and in the manner prescribed by rule.]~~

2006 [(7)] (6) This chapter does not mandate health insurance coverage for midwifery
2007 services.

2008 Section 31. Section **58-81-102** is amended to read:

2009 **58-81-102. Definitions.**

2010 For purposes of this chapter:

2011 (1) "Board" means the state licensing board created for each of the health care
2012 practitioners included in Subsection (2).

2013 (2) "Health care practitioner" includes:

2014 (a) a podiatrist licensed under Chapter 5a, Podiatric Physician Licensing Act;

2015 (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

2016 (c) a nurse or advanced practice registered nurse licensed under Chapter 31b, Nurse
2017 Practice Act;

2018 (d) a recreational therapist licensed under Chapter 40, Recreational Therapy Practice
2019 Act;

2020 (e) an occupational therapist licensed under Chapter 42a, Occupational Therapy
2021 Practice Act;

2022 (f) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;

2023 (g) a mental health professional licensed under Chapter 60, Mental Health Professional
2024 Practice Act;

2025 (h) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

2026 [~~(h)~~] (i) a physician licensed under Chapter 67, Utah Medical Practice Act;

2027 [~~(i)~~] (j) an osteopath licensed under Chapter 68, Utah Osteopathic Medical Practice
2028 Act;

2029 [~~(j)~~] (k) a dentist or dental hygienist licensed under Chapter 69, Dentist and Dental
2030 Hygienist Practice Act;

2031 [~~(k)~~] (l) a physician assistant licensed under Chapter 70a, Physician Assistant Act;

2032 [~~(l)~~] (m) a pharmacist licensed under Chapter 17b, Pharmacy Practice Act; or

2033 [~~(m)~~] (n) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act.

2034 (3) "Qualified location" means:

2035 (a) a clinic, hospital, church, or organization whose primary purpose is to sponsor,
2036 promote, or organize uncompensated health care services for people unable to pay for health
2037 care services; and

2038 (b) is a location approved by the division.

2039 (4) "Remuneration or compensation" [~~is as~~] means the same as that term is defined in
2040 Section [58-13-3](#).

2041 (5) "Supervising professional" means a health care practitioner:

2042 (a) who has an active license in the state in good standing;

2043 (b) with a scope of practice that is appropriate for supervising the applicant as
2044 determined by the division and board; and

2045 (c) who is practicing at the qualified location.

- 2046 (6) "Supervision" means:
- 2047 (a) the level of supervision required for:
- 2048 (i) a social service worker in Chapter 60, Mental Health Professional Practice Act;
- 2049 (ii) a dental hygienist in Chapter 69, Dentist and Dental Hygienist Practice Act;
- 2050 (iii) a recreational therapist technician in Chapter 40, Recreational Therapy Practice
- 2051 Act; and
- 2052 (iv) an occupational technician assistant in Chapter 42a, Occupational Therapy Practice
- 2053 Act; and
- 2054 (b) for the health care practitioners listed in Subsections (2)(a) through (m) and not
- 2055 included in Subsection (5)(a):
- 2056 (i) entering into a delegation of service agreement with a supervising professional in
- 2057 accordance with Subsection 58-81-103(2);
- 2058 (ii) having the ability to contact the supervising professional during the time the
- 2059 volunteer is providing volunteer services; and
- 2060 (iii) for every 40 hours of volunteer service hours, meeting with the supervising
- 2061 professional.
- 2062 (7) "Volunteer" means the individual health care practitioner:
- 2063 (a) will devote the health care practitioner's practice exclusively to providing care to
- 2064 the needy and indigent in the state:
- 2065 (i) within:
- 2066 (A) the practitioner's scope of practice; and
- 2067 (B) the delegation of service agreement between the volunteer and the supervising
- 2068 professional; and
- 2069 (ii) at a qualified location;
- 2070 (b) will agree to donate professional services in a qualified location; and
- 2071 (c) will not receive remuneration or compensation for the health care practitioner's
- 2072 services.
- 2073 Section 32. **Coordinating S.B. 136 with H.B. 185 -- Substantive and technical**

2074 **amendments.**

2075 If this S.B. 136 and H.B. 185, Deception Detection Examiners Licensing Amendments,
2076 both pass and become law, it is the intent of the Legislature that the Office of Legislative
2077 Research and General Counsel, in preparing the Utah Code database for publication, modify
2078 Section 58-64-304 to read:

2079 "[The] In addition to the exemptions from licensure [under the provisions of this
2080 chapter are limited to those set forth] described in Section 58-1-307[-], a law enforcement
2081 officer, as defined under Section 53-13-103, who is not licensed under this chapter, may
2082 operate a voice stress analyzer or software application designed for detecting deception in the
2083 course of the officer's employment with a federal, state, or local law enforcement agency, if the
2084 officer:

2085 (1) has completed the manufacturer's training course and is certified by the
2086 manufacturer to operate the voice stress analyzer or software application designed for detecting
2087 deception; and

2088 (2) is operating the voice stress analyzer or software application designed for detecting
2089 deception in accordance with Section 58-64-601, regarding deception detection instruments."