

VETERANS PREFERENCE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim M. Cosgrove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides exceptions to professional state licensure for veterans and active duty spouses.

Highlighted Provisions:

This bill:

▶ provides an exception to state licensure for active duty spouses for some professions provided the spouse holds a license in another recognized jurisdiction and the license is valid and in good standing;

▶ allows the Department of Health to take military education, training, and experience into consideration when certifying or licensing persons under the Emergency Medical Services System; and

▶ adds military education and training programs to programs the Division of Occupational and Professional Licensing considers for licensing.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-106, as enacted by Laws of Utah 1999, Chapter 141



28 58-1-203, as last amended by Laws of Utah 2002, Chapter 241

29 58-1-307, as last amended by Laws of Utah 2008, Chapter 242



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

32 Section 1. Section 26-8a-106 is amended to read:

33 **26-8a-106. Waiver of rules.**

34 (1) Upon application, the committee or department may waive the requirements of a
35 rule it has adopted if:

36 (a) the person applying for the waiver satisfactorily demonstrates that:

- 37 (i) the waiver is necessary for a pilot project to be undertaken by the applicant;
 - 38 (ii) in the particular situation, the requirement serves no beneficial public purpose; or
 - 39 (iii) circumstances warrant that waiver of the requirement outweighs the public benefit
- 40 to be gained by adherence to the rule; and

41 (b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or
42 department:

- 43 (i) extends the waiver to similarly situated persons upon application; or
- 44 (ii) amends the rule to be consistent with the waiver.

45 (2) A waiver of education, licensing, or certification requirements may be granted to a
46 veteran, as defined in Section 71-8-1, if the veteran:

47 (a) provides to the committee or department documentation showing military education
48 and training in the field in which certification or licensure is sought; and

49 (b) successfully passes any examination required, unless the department or committee
50 determines the examination is unnecessary.

51 [~~2~~] (3) No waiver may be granted under this section that is inconsistent with the
52 provisions of this chapter.

53 Section 2. Section 58-1-203 is amended to read:

54 **58-1-203. Duties, functions, and responsibilities of division in collaboration with**
55 **board -- Construction Services Commission.**

56 (1) The following duties, functions, and responsibilities of the division shall be
57 performed by the division with the collaboration and assistance of the appropriate board:

58 (a) defining which schools, colleges, universities, departments of universities, military

59 educational and training programs, or other institutions of learning are reputable and in good
60 standing with the division;

61 (b) prescribing license qualifications;

62 (c) prescribing rules governing applications for licenses;

63 (d) providing for a fair and impartial method of examination of applicants;

64 (e) defining unprofessional conduct, by rule, to supplement the definitions under this
65 chapter or other licensing chapters;

66 (f) establishing advisory peer committees to the board and prescribing their scope of
67 authority; and

68 (g) establishing conditions for reinstatement and renewal of licenses.

69 (2) Notwithstanding Subsection (1), the duties, functions, and responsibilities of the
70 division outlined in Subsection (1) shall, instead, be performed by the Construction Services
71 Commission for all purposes of Title 58, Chapter 55, Utah Construction Trades Licensing.

72 Section 3. Section **58-1-307** is amended to read:

73 **58-1-307. Exemptions from licensure.**

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

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

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

86 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
87 fellowship, apprenticeship, or on-the-job training program approved by the division while
88 under the supervision of qualified individuals;

89 (d) an individual residing in another state and licensed to practice a regulated

90 occupation or profession in that state, who is called in for a consultation by an individual
91 licensed in this state, and the services provided are limited to that consultation;

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

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

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

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

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

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

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

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

114 (j) a law enforcement officer, as defined under Section 53-13-103, who:

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

117 (ii) has completed the manufacturer's training course and is certified by the
118 manufacturer to operate that voice stress analyzer; and

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

121 (k) the spouse of an individual serving in the armed forces of the United States while
122 the individual is stationed within this state, provided:

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

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

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

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

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

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

139 (a) suspend the requirements for permanent or temporary licensure of individuals who
140 are licensed in another state [~~Individuals exempt under this Subsection (4)(a) are exempt from~~
141 ~~licensure~~] for the duration of the emergency while engaged in the scope of practice for which
142 they are licensed in the other state;

143 (b) modify, under the circumstances described in this Subsection (4) and Subsection
144 (5), the scope of practice restrictions under this title for individuals who are licensed under this
145 title as:

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

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

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

151 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,

152 Pharmacy Practice Act;

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

154 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist

155 Practice Act; and

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

157 (c) suspend the requirements for licensure under this title and modify the scope of

158 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical

159 services personnel or paramedics required to be certified under Section 26-8a-302;

160 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require

161 certain prescriptive procedures;

162 (e) exempt or modify the requirement for licensure of an individual who is activated as

163 a member of a medical reserve corps during a time of emergency as provided in Section

164 26A-1-126; and

165 (f) exempt or modify the requirement for licensure of an individual who is registered as

166 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency

167 Volunteer Health Practitioners Act.

168 (5) Individuals exempt under Subsection (4)(c) and individuals operating under

169 modified scope of practice provisions under Subsection (4)(b):

170 (a) are exempt from licensure or subject to modified scope of practice for the duration

171 of the emergency;

172 (b) must be engaged in the distribution of medicines or medical devices in response to

173 the emergency or declaration; and

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

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

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

Legislative Review Note
as of 2-22-11 8:01 AM

Office of Legislative Research and General Counsel