

BOARDS AND COMMISSIONS MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies boards and commissions.

Highlighted Provisions:

This bill:

► repeals on May 1, 2024, the following boards, commissions, and entities and provisions related to the following boards, commissions, and entities:

- Air Quality Policy Advisory Board;
- Alcoholic Beverage Services Advisory Board;
- Board of State Parks;
- County Recorder Standards Board;
- Criminal Code Evaluation Task Force;
- Decision and Action Committee;
- Deep Technology Talent Advisory Council;
- Heritage Trees Advisory Committee;
- Interpreter Certification Board;
- Labor Relations Board;
- Local Food Advisory Council;
- Mental Health Protections for First Responders Workgroup;
- Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board;
- Sex Offense Management Board;



- 28 • State Instruction Materials Commission;
- 29 • Technology Initiative Advisory Board;
- 30 • Transportation Advisory Committee;
- 31 • the advisory board for motor vehicle business regulation;
- 32 • the advisory council to the Division of Services for the Blind and Visually
- 33 Impaired;
- 34 • the committee to review requests for the Charter School Revolving Account;
- 35 and
- 36 • the county recorder appeal authority;
- 37 ▶ as of October 1, 2024:
- 38 • renames the Physical Therapy Licensing Board as the Physical Therapies
- 39 Licensing Board and modifies the board to include the duties of the Board of
- 40 Occupational Therapy and the Athletic Trainers Licensing Board;
- 41 • renames the Board of Nursing as the Board of Nursing and Certified Nurse
- 42 Midwives and modifies the board to include the duties of the Certified Nurse
- 43 Midwife Board;
- 44 • renames the Architects Licensing Board to the Architects and Landscape
- 45 Architects Licensing Board and modifies the board to include the duties of the
- 46 Landscape Architects Board;
- 47 • renames the Plumbers Licensing Board as the Electricians and Plumbers
- 48 Licensing Board and modifies the board to include the duties of the Electricians
- 49 Licensing Board;
- 50 • modifies the membership of the Construction Services Commission;
- 51 • renames the Board of Massage Therapy as the Board of Massage Therapy and
- 52 Acupuncture and modifies the board to include the duties of the Acupuncture
- 53 Licensing Board; and
- 54 • renames the Physicians Licensing Board as the Medical Licensing Board and
- 55 modifies the board to include the duties of the Osteopathic Physician and
- 56 Surgeon's Licensing Board and the Physician Assistant Licensing Board;
- 57 ▶ repeals on October 1, 2024, the following boards:
- 58 • Board of Occupational Therapy;

- 59 • Athletic Trainers Licensing Board;
- 60 • Certified Nurse Midwife Board;
- 61 • Landscape Architects Board;
- 62 • Electricians Licensing Board;
- 63 • Acupuncture Licensing Board;
- 64 • Osteopathic Physician and Surgeon's Licensing Board;
- 65 • Physician Assistant Licensing Board;
- 66 • Utah Motor Vehicle Franchise Advisory Board;
- 67 • Utah Powersport Vehicle Franchise Advisory Board;
- 68 • Board of Bank Advisors; and
- 69 • Board of Credit Union Advisors; and
- 70 ▶ repeals on July 1, 2026, the following:
- 71 • Cannabis Research Review Board; and
- 72 • Title 53, Chapter 2c, COVID-19 Health and Economic Response Act.

73 **Money Appropriated in this Bill:**

74 None

75 **Other Special Clauses:**

76 This bill provides a special effective date.

77 **Utah Code Sections Affected:**

78 AMENDS:

- 79 4-35-102, as last amended by Laws of Utah 2020, Chapter 326
- 80 4-35-105, as last amended by Laws of Utah 2020, Chapter 326
- 81 7-1-203, as last amended by Laws of Utah 2020, Chapter 352
- 82 13-14-102, as last amended by Laws of Utah 2020, Chapter 367
- 83 13-14-104, as last amended by Laws of Utah 2015, Chapter 268
- 84 13-14-106, as last amended by Laws of Utah 2008, Chapter 382
- 85 13-14-107, as last amended by Laws of Utah 2008, Chapter 382
- 86 13-14-201, as last amended by Laws of Utah 2023, Chapter 240
- 87 13-14-202, as last amended by Laws of Utah 2005, Chapter 249
- 88 13-14-203, as last amended by Laws of Utah 2005, Chapter 249
- 89 13-14-301, as last amended by Laws of Utah 2009, Chapter 318

- 90 **13-14-302**, as last amended by Laws of Utah 2015, Chapter 268
- 91 **13-14-303**, as last amended by Laws of Utah 2005, Chapter 249
- 92 **13-14-304**, as last amended by Laws of Utah 2015, Chapter 268
- 93 **13-14-305**, as last amended by Laws of Utah 2005, Chapter 249
- 94 **13-14-306**, as last amended by Laws of Utah 2015, Chapter 268
- 95 **13-32a-102**, as last amended by Laws of Utah 2022, Chapter 201
- 96 **13-35-102**, as last amended by Laws of Utah 2018, Chapter 166
- 97 **13-35-104**, as last amended by Laws of Utah 2008, Chapter 382
- 98 **13-35-106**, as last amended by Laws of Utah 2008, Chapter 382
- 99 **13-35-107**, as last amended by Laws of Utah 2008, Chapter 382
- 100 **13-35-201**, as last amended by Laws of Utah 2005, Chapter 268
- 101 **13-35-202**, as last amended by Laws of Utah 2005, Chapter 268
- 102 **13-35-203**, as last amended by Laws of Utah 2005, Chapter 268
- 103 **13-35-301**, as last amended by Laws of Utah 2005, Chapter 268
- 104 **13-35-302**, as last amended by Laws of Utah 2016, Chapter 414
- 105 **13-35-303**, as last amended by Laws of Utah 2005, Chapter 268
- 106 **13-35-305**, as last amended by Laws of Utah 2005, Chapter 268
- 107 **13-35-306**, as last amended by Laws of Utah 2005, Chapter 268
- 108 **15A-1-204**, as last amended by Laws of Utah 2023, Chapter 209
- 109 **15A-1-206**, as enacted by Laws of Utah 2011, Chapter 14
- 110 **17-21-1**, as last amended by Laws of Utah 2023, Chapter 413
- 111 **26B-1-239**, as enacted by Laws of Utah 2023, Chapter 2
- 112 **26B-1-421**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
- 113 and amended by Laws of Utah 2023, Chapter 305
- 114 **26B-3-303**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 115 **26B-4-219**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
- 116 and amended by Laws of Utah 2023, Chapter 307 and last amended by
- 117 Coordination Clause, Laws of Utah 2023, Chapter 307
- 118 **26B-4-506**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 119 **26B-4-513**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 120 **34-20-2**, as last amended by Laws of Utah 2016, Chapter 370

121 [34-20-8](#), as last amended by Laws of Utah 2016, Chapter 348
122 [34-20-9](#), as last amended by Laws of Utah 1987, Chapter 161
123 [34A-1-202](#), as last amended by Laws of Utah 2013, Chapter 413
124 [35A-13-602](#), as last amended by Laws of Utah 2019, Chapter 89
125 [35A-13-604](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
126 [35A-13-605](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
127 [35A-13-606](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
128 [35A-13-608](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
129 [35A-13-609](#), as renumbered and amended by Laws of Utah 2016, Chapter 271
130 [41-3-102](#), as last amended by Laws of Utah 2023, Chapter 63
131 [41-3-105](#), as last amended by Laws of Utah 2022, Chapter 259
132 [41-3-107](#), as renumbered and amended by Laws of Utah 1992, Chapter 234
133 [41-3-109](#), as last amended by Laws of Utah 2008, Chapter 382
134 [41-22-12](#), as last amended by Laws of Utah 2015, Chapter 412
135 [53B-6-105.7](#), as last amended by Laws of Utah 2019, Chapter 444
136 [53B-6-105.9](#), as last amended by Laws of Utah 2020, Chapter 365
137 [53B-26-301](#), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
138 [53B-26-302](#), as enacted by Laws of Utah 2020, Chapter 361
139 [53E-4-403](#), as last amended by Laws of Utah 2022, Chapter 377
140 [53E-4-405](#), as renumbered and amended by Laws of Utah 2018, Chapter 1
141 [53E-4-407](#), as last amended by Laws of Utah 2019, Chapter 186
142 [53E-4-408](#), as last amended by Laws of Utah 2020, Chapter 408
143 [53F-2-403](#), as last amended by Laws of Utah 2021, Chapter 303
144 [53F-9-203](#), as last amended by Laws of Utah 2020, Chapter 154
145 [53G-10-206](#), as enacted by Laws of Utah 2023, Chapter 294
146 [53G-10-402](#), as last amended by Laws of Utah 2020, Chapters 354, 408
147 [58-3a-102](#), as last amended by Laws of Utah 2011, Chapter 14
148 [58-3a-201](#), as enacted by Laws of Utah 1996, Chapter 260
149 [58-17b-102](#), as last amended by Laws of Utah 2023, Chapters 223, 328
150 [58-17b-605](#), as last amended by Laws of Utah 2020, Chapter 372
151 [58-17b-610.8](#), as last amended by Laws of Utah 2022, Chapter 465

- 152 [58-17b-625](#), as last amended by Laws of Utah 2023, Chapter 223
- 153 [58-17b-1005](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 154 [58-24b-102](#), as last amended by Laws of Utah 2014, Chapter 354
- 155 [58-24b-201](#), as enacted by Laws of Utah 2009, Chapter 220
- 156 [58-24c-104](#), as enacted by Laws of Utah 2017, Chapter 164
- 157 [58-31b-102](#), as last amended by Laws of Utah 2023, Chapters 223, 329
- 158 [58-31b-201](#), as last amended by Laws of Utah 2018, Chapter 318
- 159 [58-31e-103](#), as enacted by Laws of Utah 2017, Chapter 26
- 160 [58-37f-304](#), as last amended by Laws of Utah 2020, Chapter 147
- 161 [58-38a-201](#), as last amended by Laws of Utah 2022, Chapter 415
- 162 [58-40a-102](#), as enacted by Laws of Utah 2006, Chapter 206
- 163 [58-42a-102](#), as last amended by Laws of Utah 2015, Chapter 432
- 164 [58-44a-102](#), as last amended by Laws of Utah 2012, Chapter 285
- 165 [58-47b-102](#), as last amended by Laws of Utah 2023, Chapter 225
- 166 [58-47b-201](#), as last amended by Laws of Utah 1998, Chapter 159
- 167 [58-53-102](#), as renumbered and amended by Laws of Utah 1998, Chapter 191
- 168 [58-54-201](#), as renumbered and amended by Laws of Utah 2011, Chapter 61
- 169 [58-55-102](#), as last amended by Laws of Utah 2023, Chapter 223
- 170 [58-55-103](#), as last amended by Laws of Utah 2020, Chapter 339
- 171 [58-55-201](#), as last amended by Laws of Utah 2022, Chapters 32, 413
- 172 [58-55-302](#), as last amended by Laws of Utah 2023, Chapter 223
- 173 [58-67-102](#), as last amended by Laws of Utah 2023, Chapter 2
- 174 [58-67-201](#), as last amended by Laws of Utah 2022, Chapter 284
- 175 [58-68-102](#), as last amended by Laws of Utah 2023, Chapter 2
- 176 [58-70a-102](#), as last amended by Laws of Utah 2023, Chapter 329
- 177 [58-70b-101](#), as enacted by Laws of Utah 2022, Chapter 284
- 178 [58-71-102](#), as last amended by Laws of Utah 2023, Chapters 249 and 311
- 179 [58-72-102](#), as last amended by Laws of Utah 2019, Chapter 485
- 180 [58-88-205](#), as enacted by Laws of Utah 2022, Chapter 353
- 181 [63I-1-204](#), as last amended by Laws of Utah 2023, Chapters 79, 210
- 182 [63I-1-207](#), as last amended by Laws of Utah 2023, Chapter 29

183 **63I-1-213**, as last amended by Laws of Utah 2022, Chapters 244, 413
184 **63I-1-219**, as last amended by Laws of Utah 2022, Chapter 194
185 **63I-1-234**, as last amended by Laws of Utah 2020, Chapters 154, 332
186 **63I-1-235**, as last amended by Laws of Utah 2023, Chapters 27, 52
187 **63I-1-236**, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475
188 **63I-1-241**, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335
189 **63I-1-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 30,
190 52, 133, 161, 367, and 494
191 **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)**, as last amended by Laws of Utah 2023,
192 Chapters 30, 52, 133, 161, 310, 367, and 494
193 **63I-1-253 (Contingently Effective 01/01/25)**, as last amended by Laws of Utah 2023,
194 Chapters 30, 52, 133, 161, 187, 310, 367, and 494
195 **63I-1-258**, as last amended by Laws of Utah 2023, Chapter 303
196 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,
197 212, 218, 249, 270, 448, 489, and 534
198 **63I-1-265**, as enacted by Laws of Utah 2020, Chapter 154
199 **63I-1-279**, as last amended by Laws of Utah 2023, Chapter 211
200 **63I-2-204**, as last amended by Laws of Utah 2023, Chapters 33, 273
201 **63I-2-209**, as last amended by Laws of Utah 2023, Chapter 33
202 **63I-2-213**, as last amended by Laws of Utah 2023, Chapter 33
203 **63I-2-226 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,
204 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter
205 329
206 **63I-2-226 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 33,
207 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023,
208 Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter
209 329
210 **63I-2-234**, as last amended by Laws of Utah 2023, Chapter 364
211 **63I-2-253 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7,
212 21, 33, 142, 167, 168, 380, 383, and 467
213 **63I-2-253 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 7, 21,

- 214 33, 142, 167, 168, 310, 380, 383, and 467
- 215 **63I-2-258**, as last amended by Laws of Utah 2020, Chapter 354
- 216 **63I-2-263**, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
- 217 **65A-8-302**, as last amended by Laws of Utah 2009, Chapter 344
- 218 **65A-8-304**, as renumbered and amended by Laws of Utah 2007, Chapter 136
- 219 **76-7-314**, as last amended by Laws of Utah 2023, Chapters 301, 330
- 220 **76-7-328**, as enacted by Laws of Utah 2004, Chapter 272
- 221 **79-2-201**, as last amended by Laws of Utah 2023, Chapters 34, 205
- 222 **79-4-102**, as last amended by Laws of Utah 2021, Chapter 280

223 ENACTS:

- 224 **63C-1-103**, Utah Code Annotated 1953
- 225 **63I-2-207**, Utah Code Annotated 1953

226 REPEALS:

- 227 **4-2-601**, as enacted by Laws of Utah 2018, Chapter 51
- 228 **4-2-602**, as last amended by Laws of Utah 2022, Chapter 67
- 229 **4-2-603**, as enacted by Laws of Utah 2018, Chapter 51
- 230 **4-2-604**, as enacted by Laws of Utah 2018, Chapter 51
- 231 **4-35-103**, as last amended by Laws of Utah 2020, Chapter 326
- 232 **13-32a-112**, as last amended by Laws of Utah 2022, Chapter 201
- 233 **17-50-340**, as enacted by Laws of Utah 2023, Chapter 413
- 234 **19-2a-102**, as last amended by Laws of Utah 2021, Chapter 69
- 235 **32B-2-210**, as last amended by Laws of Utah 2022, Chapter 447
- 236 **34-20-3**, as last amended by Laws of Utah 2020, Chapters 352, 373
- 237 **34-20-4**, as last amended by Laws of Utah 1997, Chapter 375
- 238 **34-20-5**, as last amended by Laws of Utah 2011, Chapter 297
- 239 **34-20-6**, as enacted by Laws of Utah 1969, Chapter 85
- 240 **34-20-10**, as last amended by Laws of Utah 2008, Chapter 382
- 241 **34-20-11**, as last amended by Laws of Utah 1997, Chapter 296
- 242 **34-20-12**, as enacted by Laws of Utah 1969, Chapter 85
- 243 **34A-2-107.3**, as enacted by Laws of Utah 2021, Chapter 82
- 244 **35A-13-404**, as renumbered and amended by Laws of Utah 2016, Chapter 271

- 245 **35A-13-603**, as last amended by Laws of Utah 2020, Chapter 365
- 246 **36-29-108**, as last amended by Laws of Utah 2023, Chapter 112
- 247 **41-3-106**, as last amended by Laws of Utah 2010, Chapters 286, 324
- 248 **53B-6-105.5**, as last amended by Laws of Utah 2020, Chapter 365
- 249 **53B-26-303**, as last amended by Laws of Utah 2021, Chapter 282
- 250 **53E-4-402**, as last amended by Laws of Utah 2019, Chapter 186
- 251 **53E-4-404**, as last amended by Laws of Utah 2019, Chapter 186
- 252 **63C-30-101**, as enacted by Laws of Utah 2023, Chapter 413
- 253 **63C-30-201**, as enacted by Laws of Utah 2023, Chapter 413
- 254 **63C-30-202**, as enacted by Laws of Utah 2023, Chapter 413
- 255 **63M-7-801**, as enacted by Laws of Utah 2023, Chapter 155
- 256 **63M-7-802**, as enacted by Laws of Utah 2023, Chapter 155
- 257 **63M-7-803**, as enacted by Laws of Utah 2023, Chapter 155
- 258 **65A-8-306**, as last amended by Laws of Utah 2010, Chapter 286
- 259 **79-4-301**, as last amended by Laws of Utah 2021, Chapter 280
- 260 **79-4-302**, as last amended by Laws of Utah 2021, Chapter 280
- 261 **79-4-303**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 262 **79-4-304**, as last amended by Laws of Utah 2022, Chapter 140
- 263 **79-4-305**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 264 **79-4-502**, as last amended by Laws of Utah 2021, Chapter 280

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

267 Section 1. Section **4-35-102** is amended to read:

268 **4-35-102. Definitions.**

269 As used in this chapter:

270 [~~(1)~~] "~~Committee~~" means the ~~Decision and Action Committee created by this chapter.~~]

271 [~~(2)~~] (1) "Department" means the Department of Agriculture and Food.

272 [~~(3)~~] (2) "Fund" means the Plant Pest Fund created by Section **4-35-106**.

273 [~~(4)~~] (3) "Plant pest" means a biological agent that the commissioner determines to be a
 274 threat to agriculture in the state as described in Subsection **4-2-103(1)(k)(i)**.

275 Section 2. Section **4-35-105** is amended to read:

276 **4-35-105. Commissioner to act upon declaration of a plant pest emergency.**

277 (1) The commissioner initiates operations to control a plant pest in the designated area
278 or upon declaration of an infestation emergency.

279 (2) The commissioner [~~and the members of the committee~~] may suspend or terminate
280 control operations upon a determination that the operations will not significantly reduce the
281 plant pest population in the designated emergency area.

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

283 **7-1-203. Board of Financial Institutions.**

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

288 (a) one representative from the commercial banking business;

289 (b) one representative from the consumer lending, money services business, or escrow
290 agency business;

291 (c) one representative from the industrial bank business;

292 (d) one representative from the credit union business; and

293 (e) one representative of the general public who, as a result of education, training,
294 experience, or interest, is well qualified to consider economic and financial issues and data as
295 they may affect the public interest in the soundness of the financial systems of this state.

296 (2) The commissioner shall act as chair.

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

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

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

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

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

305 (b) The governor shall, at the time of appointment or reappointment, adjust the length
306 of terms to ensure that the terms of board members are staggered so that approximately half of

307 the board is appointed every two years.

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

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

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

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

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

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

316 (e) A meeting of the board and records of the board's proceedings are subject to Title
317 52, Chapter 4, Open and Public Meetings Act, except for discussion of confidential
318 information pertaining to a particular financial institution.

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

322 (b) The member shall:

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

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

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

329 (a) Section [63A-3-106](#);

330 (b) Section [63A-3-107](#); and

331 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
332 [63A-3-107](#).

333 (8) The board shall:

334 (a) advise the commissioner with respect to:

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

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

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

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

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

345 **13-14-102. Definitions.**

346 As used in this chapter:

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

349 ~~[(2)] (1)~~ "Affected municipality" means an incorporated city or town:

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

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

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

357 ~~[(3)] (2)~~ "Affiliate" has the meaning set forth in Section [16-10a-102](#).

358 ~~[(4)] (3)~~ "Aftermarket product" means any product or service not included in the
359 franchisor's suggested retail price of the new motor vehicle, as that price appears on the label
360 required by 15 U.S.C. Sec. 1232(f).

361 ~~[(5)] (4)~~ "Dealership" means a site or location in this state:

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

363 (b) that is identified as a new motor vehicle dealer's principal place of business for
364 licensing purposes under Section [41-3-204](#).

365 ~~[(6)] (5)~~ "Department" means the Department of Commerce.

366 ~~[(7)] (6)~~ "Do-not-drive order" means an order issued by a franchisor that instructs an
367 individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

368 ~~[(8)] (7)~~ "Executive director" means the executive director of the Department of

369 Commerce.

370 ~~[(9)]~~ (8) (a) "Franchise" or "franchise agreement" means a written agreement, or in the
371 absence of a written agreement, then a course of dealing or a practice for a definite or indefinite
372 period, in which:

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

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

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

379 ~~[(10)]~~ (9) "Franchisee" means a person with whom a franchisor has agreed or
380 permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles
381 manufactured, produced, represented, or distributed by the franchisor.

382 ~~[(11)]~~ (10) "Franchisor" means a person who has, in writing or in practice, agreed with
383 or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured,
384 produced, assembled, represented, or distributed by the franchisor, and includes:

385 (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

386 (b) an intermediate distributor; and

387 (c) an agent, officer, or field or area representative of the franchisor.

388 ~~[(12)]~~ (11) "Lead" means the referral by a franchisor to a franchisee of a potential
389 customer whose contact information was obtained from a franchisor's program, process, or
390 system designed to generate referrals for the purchase or lease of a new motor vehicle, or for
391 service work related to the franchisor's vehicles.

392 ~~[(13)]~~ (12) "Line-make" means:

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

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

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

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

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

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

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

407 ~~[(14)]~~ (13) "Mile" means 5,280 feet.

408 ~~[(15)]~~ (14) "Motor home" means a self-propelled vehicle, primarily designed as a
409 temporary dwelling for travel, recreational, or vacation use.

410 ~~[(16)]~~ (15) (a) "Motor vehicle" means:

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

412 (ii) a travel trailer;

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

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

416 (v) a recreational vehicle.

417 (b) "Motor vehicle" does not include:

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

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

420 (iii) a small trailer;

421 (iv) a trailer that:

422 (A) is not designed for human habitation; and

423 (B) has a gross vehicle weight rating of less than 26,000 pounds;

424 (v) a mobile home as defined in Section 41-1a-102;

425 (vi) a trailer of 750 pounds or less unladen weight; and

426 (vii) a farm tractor or other machine or tool used in the production, harvesting, or care
427 of a farm product.

428 ~~[(17)]~~ (16) "New motor vehicle" means a motor vehicle that:

429 (a) has never been titled or registered; and

430 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven

431 less than 7,500 miles.

432 ~~[(18)]~~ (17) "New motor vehicle dealer" is a person who is licensed under Subsection
433 41-3-202(1) to sell new motor vehicles.

434 ~~[(19)]~~ (18) "Notice" or "notify" includes both traditional written communications and
435 all reliable forms of electronic communication unless expressly prohibited by statute or rule.

436 ~~[(20)]~~ (19) "Notice area" means the geographic area that is:

437 (a) within a radius of at least six miles and no more than 10 miles from the site of an
438 existing dealership; and

439 (b) located within a county with a population of at least 225,000.

440 ~~[(21)]~~ (20) "Primary market area" means:

441 (a) for an existing dealership, the geographic area established by the franchisor that the
442 existing dealership is intended to serve; or

443 (b) for a new or relocated dealership, the geographic area proposed by the franchisor
444 that the new or relocated dealership is intended to serve.

445 ~~[(22)]~~ (21) "Recall" means a determination by a franchisor or the National Highway
446 Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a
447 federal safety or emissions standard.

448 ~~[(23)]~~ (22) "Recall repair" means any diagnostic work, labor, or part necessary to
449 resolve an issue that is the basis of a recall.

450 ~~[(24)]~~ (23) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,
451 primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is
452 either self-propelled or pulled by another vehicle.

453 (b) "Recreational vehicle" includes:

454 (i) a travel trailer;

455 (ii) a camping trailer;

456 (iii) a motor home;

457 (iv) a fifth wheel trailer; and

458 (v) a van.

459 ~~[(25)]~~ (24) (a) "Relevant market area," except with respect to recreational vehicles,
460 means:

461 (i) as applied to an existing dealership that is located in a county with a population of

462 less than 225,000:

463 (A) the county in which the existing dealership is located; and

464 (B) the area within a 15-mile radius of the existing dealership; or

465 (ii) as applied to an existing dealership that is located in a county with a population of

466 225,000 or more, the area within a 10-mile radius of the existing dealership.

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

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

469 (ii) the area within a 35-mile radius from the site of the existing dealership.

470 [~~26~~] (25) "Sale, transfer, or assignment" means any disposition of a franchise or an

471 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,

472 exchange, lease, or license.

473 [~~27~~] (26) "Serve" or "served," unless expressly indicated otherwise by statute or rule,

474 includes any reliable form of communication.

475 [~~28~~] (27) "Site-control agreement" means an agreement, however denominated and

476 regardless of the agreement's form or of the parties to the agreement, that has the effect of:

477 (a) controlling in any way the use and development of the premises upon which a

478 franchisee's business operations are located;

479 (b) requiring a franchisee to establish or maintain an exclusive dealership facility on

480 the premises upon which the franchisee's business operations are located; or

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

482 premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of

483 some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease,

484 right of first refusal to purchase or lease, option to purchase or lease, or any similar

485 arrangement.

486 [~~29~~] (28) "Small trailer" means the same as that term is defined in Section [41-3-102](#).

487 [~~30~~] (29) "Stop-sale order" means an order issued by a franchisor that prohibits a

488 franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make,

489 which then or thereafter is in the franchisee's inventory, due to a recall.

490 [~~31~~] (30) "Trailer" means the same as that term is defined in Section [41-3-102](#).

491 [~~32~~] (31) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable

492 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or

493 vacation use that does not require a special highway movement permit when drawn by a
494 self-propelled motor vehicle.

495 ~~[(33)]~~ (32) "Used motor vehicle" means a motor vehicle that:

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

497 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
498 7,500 or more miles.

499 ~~[(34)]~~ (33) "Value of a used motor vehicle" means the average trade-in value for a used
500 motor vehicle of the same year, make, and model as reported in a recognized, independent
501 third-party used motor vehicle guide.

502 ~~[(35)]~~ (34) "Written," "write," "in writing," or other variations of those terms shall
503 include all reliable forms of electronic communication.

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

505 **13-14-104. Powers and duties of the executive director.**

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

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

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

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

512 ~~[(2)]~~ (1) The executive director~~[, in consultation with the advisory board,]~~ shall:

513 (a) administer and enforce this chapter; and

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

516 ~~[(3)]~~ (2) (a) An adjudicative proceeding under this chapter shall be conducted in
517 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

518 (b) In an adjudicative proceeding under this chapter, any order issued by the executive
519 director~~[: (i)]~~ shall comply with Section 63G-4-208, whether the proceeding is a formal or an
520 informal adjudicative proceeding under ~~[Title 63G, Chapter 4, Administrative Procedures Act;~~
521 ~~and]~~ Title 63G, Chapter 4, Administrative Procedures Act.

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

524 director's:]

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

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

527 [~~(4)~~] (3) The executive director's decision under this section shall be made available to
528 the public.

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

530 **13-14-106. Administrative proceedings commenced by the agency.**

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

534 (a) issue a cease and desist order; and

535 (b) assess an administrative fine.

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

538 (i) the gravity of the violation;

539 (ii) any history of previous violations; and

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

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

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

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

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

553 **13-14-107. Administrative proceedings -- Request for agency action.**

554 (1) (a) A person may commence an adjudicative proceeding in accordance with this

555 chapter and Title 63G, Chapter 4, Administrative Procedures Act to:

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

560 (b) A person shall commence an adjudicative proceeding by filing a request for agency

561 action in accordance with Section 63G-4-201.

562 (2) [~~After receipt of the advisory board's recommendation, the~~] The executive director

563 shall apportion in a fair and equitable manner between the parties any costs of the adjudicative

564 proceeding, including reasonable attorney fees.

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

566 **13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.**

567 (1) A franchisor may not in this state:

568 (a) except as provided in Subsection (3), require a franchisee to order or accept

569 delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise

570 required by law that is not voluntarily ordered by the franchisee;

571 (b) require a franchisee to:

572 (i) participate monetarily in any advertising campaign; or

573 (ii) contest, or purchase any promotional materials, display devices, or display

574 decorations or materials;

575 (c) require a franchisee to change the capital structure of the franchisee's dealership or

576 the means by or through which the franchisee finances the operation of the franchisee's

577 dealership, if the dealership at all times meets reasonable capital standards determined by and

578 applied in a nondiscriminatory manner by the franchisor;

579 (d) require a franchisee to refrain from participating in the management of, investment

580 in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

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

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

583 (e) require a franchisee to prospectively agree to a release, assignment, novation,

584 waiver, or estoppel that would:

585 (i) relieve a franchisor from any liability, including notice and hearing rights imposed

586 on the franchisor by this chapter; or

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

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

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

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

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

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

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

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

614 (A) strict liability;

615 (B) negligence;

616 (C) misrepresentation;

- 617 (D) express or implied warranty;
- 618 (E) revocation as described in Section 70A-2-608; or
- 619 (F) rejection as described in Section 70A-2-602; and
- 620 (ii) to the extent the judgment or settlement relates to alleged defective or negligent
- 621 actions by the franchisor;
- 622 (l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest
- 623 the establishment or relocation of a same line-make franchisee in the relevant market area of
- 624 the affected franchisee;
- 625 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of
- 626 new motor vehicles of each make, series, and model needed by the franchisee to achieve a
- 627 percentage of total new vehicle sales of each make, series, and model equitably related to the
- 628 total new vehicle production or importation being achieved nationally at the time of the order
- 629 by each make, series, and model covered under the franchise agreement;
- 630 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
- 631 dealer facility or facilities, including by:
- 632 (i) requiring or otherwise coercing a franchisee to exclude or remove from the
- 633 franchisee's facility operations the selling or servicing of a line-make of vehicles for which the
- 634 franchisee has a franchise agreement to utilize the facilities; or
- 635 (ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or
- 636 line-make in an existing facility owned or occupied by the franchisee that includes the selling
- 637 or servicing of another franchise or line-make at the facility provided that the franchisee gives
- 638 the franchisor written notice of the franchise co-location;
- 639 (o) fail to include in any franchise agreement or other agreement governing a
- 640 franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise
- 641 the following language or language to the effect that: "If any provision in this agreement
- 642 contravenes the laws or regulations of any state or other jurisdiction where this agreement is to
- 643 be performed, or provided for by such laws or regulations, the provision is considered to be
- 644 modified to conform to such laws or regulations, and all other terms and provisions shall
- 645 remain in full force.";
- 646 (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to
- 647 purchasers who acquire the vehicle in this state except through a franchisee with whom the

648 franchisor has established a written franchise agreement, if the franchisor's trade name,
649 trademark, service mark, or related characteristic is an integral element in the distribution, sale,
650 offer for sale, or lease;

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

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

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

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

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

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

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

666 (B) unreasonably require a dealer to:

667 (I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or

668 (II) purchase unreasonable advertising displays or other materials as a prerequisite to
669 receiving a model or series of vehicles; and

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

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

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

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

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

676 or

677 (iv) operate a motor vehicle service facility;

678 (v) fail to timely pay for all reimbursements to a franchisee for incentives and other

679 payments made by the franchisor;

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

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

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

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

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

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

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

696 (aa) make available for public disclosure, except with the franchisee's permission or
697 under subpoena or in any administrative or judicial proceeding in which the franchisee or the
698 franchisor is a party, any confidential financial information regarding a franchisee, including:

699 (i) monthly financial statements provided by the franchisee;

700 (ii) the profitability of a franchisee; or

701 (iii) the status of a franchisee's inventory of products;

702 (bb) use any performance standard, incentive program, or similar method to measure
703 the performance of franchisees unless the standard or program:

704 (i) is designed and administered in a fair, reasonable, and equitable manner;

705 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;

706 and

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

709 (A) how the standard or program is designed;

710 (B) how the standard or program will be administered; and
711 (C) the types of data that will be collected and used in the application of the standard or
712 program;

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

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

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

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

726 (i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual
727 price, including the price for vehicle transportation, than the actual price at which the same
728 model similarly equipped is offered to or is made available by the franchisor to another
729 franchisee in the state during a similar time period;

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

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

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

- 741 (A) dealer's eligibility to purchase program, certified, or other used motor vehicles
742 from the franchisor;
- 743 (B) volume, type, or model of program, certified, or other used motor vehicles the
744 dealer is eligible to purchase from the franchisor;
- 745 (C) price of any program, certified, or other used motor vehicles that the dealer is
746 eligible to purchase from the franchisor; or
- 747 (D) availability or amount of any discount, credit, rebate, or sales incentive the dealer
748 is eligible to receive from the manufacturer for the purchase of any program, certified, or other
749 motor vehicle offered for sale by the franchisor;
- 750 (gg) (i) take control over funds owned or under the control of a franchisee based on the
751 findings of a warranty audit, sales incentive audit, or recall repair audit, unless the following
752 conditions are satisfied:
- 753 (A) the franchisor fully identifies in writing the basis for the franchisor's claim or
754 charge back arising from the audit, including notifying the franchisee that the franchisee has 20
755 days from the day on which the franchisee receives the franchisor's claim or charge back to
756 assert a protest in writing to the franchisor identifying the basis for the protest;
- 757 (B) the franchisee's protest shall inform the franchisor that the protest shall be
758 submitted to a mediator in the state who is identified by name and address in the franchisee's
759 notice to the franchisor;
- 760 (C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no
761 later than 30 days after the day on which the franchisor receives the franchisee's protest of a
762 claim or charge back;
- 763 (D) if mediation does not lead to a resolution of the protest, the protest shall be set for
764 binding arbitration in the same venue in which the mediation occurred;
- 765 (E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:
- 766 (I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and
767 (II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be
768 held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;
- 769 (F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair
770 audits, and sales incentive audits;
- 771 (G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably

772 believes that the amount of the claim or charge back is related to a fraudulent act by the
773 franchisee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

812 (II) are listed in the current parts catalog;

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

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

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

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

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

821 (oo) coerce a franchisee to establish, or provide by agreement, program, or incentive
822 provision that a franchisee must establish, a price at which the franchisee is required to sell a
823 product or service that is:

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

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

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

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

832 (i) construct a new dealer facility or materially alter or remodel an existing dealer
833 facility before the date that is 10 years after the date the construction of the new dealer facility

834 at that location was completed, if the construction substantially complied with the franchisor's
835 brand image standards or plans that the franchisor provided or approved; or

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

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

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

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

851 (rr) when providing a new motor vehicle to a franchisee for offer or sale to the public,
852 fail to provide to the franchisee a written disclosure that may be provided to a potential buyer
853 of the new motor vehicle of each accessory or function of the vehicle that may be initiated,
854 updated, changed, or maintained by the franchisor or affiliate through over the air or remote
855 means, and the charge to the customer at the time of sale for such initiation, update, change, or
856 maintenance; or

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

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

864 (3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee

865 carry a reasonable inventory of:

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

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

868 (4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee

869 maintain separate sales personnel or display space.

870 (5) Upon the written request of any franchisee, a franchisor shall disclose in writing to

871 the franchisee the basis on which new motor vehicles, parts, and accessories are allocated,

872 scheduled, and delivered among the franchisor's dealers of the same line-make.

873 (6) (a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a

874 period not to exceed 12 months if:

875 (i) (A) the person from whom the franchisor acquired the interest in or control of the

876 new motor vehicle dealership was a franchised new motor vehicle dealer; and

877 (B) the franchisor's interest in the new motor vehicle dealership is for sale at a

878 reasonable price and on reasonable terms and conditions; or

879 (ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose

880 of broadening the diversity of its dealer body and facilitating the ownership of a new motor

881 vehicle dealership by a person who:

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

883 dealer body;

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

885 (C) has made a significant investment in the new motor vehicle dealership which is

886 subject to loss;

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

888 (E) operates the new motor vehicle dealership under a plan to acquire full ownership of

889 the dealership within a reasonable period of time and under reasonable terms and conditions.

890 (b) ~~[After receipt of the advisory board's recommendation, the]~~ The executive director

891 may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an

892 additional period not to exceed 12 months.

893 (c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in

894 this state prior to May 1, 2000, may continue to engage in that activity, but may not expand that

895 activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle

896 service facilities after May 1, 2000.

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

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

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

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

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

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

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

914 (8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is
915 functionally available to all competing franchisees of the same line-make in the state on
916 substantially comparable terms.

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

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

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

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

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

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

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

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

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

937 (i) "Materially alter":

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

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

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

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

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

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

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

954 (iv) a written agreement between a franchisor and franchisee, in effect before May 8,
955 2012, under which a franchisee agrees to construct a new dealer facility.

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

957 (i) signage purchased by a franchisee in which the franchisor has an intellectual

958 property right; or

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

960 (A) a moveable interior display that contains material subject to a franchisor's

961 intellectual property right; or

962 (B) specifically eligible for reimbursement of over one-half its cost pursuant to a

963 franchisor or distributor program or incentive granted to the franchisee on reasonable, written

964 terms.

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

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

967 (ii) erect or maintain a sign that does not conform to the franchisor's reasonable

968 fabrication specifications and intellectual property usage guidelines.

969 (15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that

970 the information in a written disclosure described in Subsection (1)(rr) is available on a website

971 or by other digital means.

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

973 **13-14-202. Sale or transfer of ownership.**

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

976 (i) subject to Subsection [13-14-305\(2\)\(b\)](#); and

977 (ii) unless exempted under Subsection (2).

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

980 (i) sale of a dealership;

981 (ii) contract for sale of a dealership;

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

983 (A) sale;

984 (B) transfer of the business; or

985 (C) stock transfer; or

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

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

988 (a) the transferee is denied, or would be denied, a new motor vehicle franchisee's

989 license pursuant to Title 41, Chapter 3, Motor Vehicle Business Regulation Act; or

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

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

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

999 (iii) (A) a written description of the business experience of the executive management
1000 of the transferee in the case of a proposed sale or transfer of the franchisee's business; or

1001 (B) a written description of the business experience of the person involved in the
1002 proposed change of the franchisee's executive management in the case of a proposed change of
1003 executive management.

1004 (3) For purposes of this section, the refusal by the franchisor to accept a proposed
1005 transferee is presumed to be unreasonable and undertaken without good cause if the proposed
1006 franchisee:

1007 (a) is of good moral character; and

1008 (b) otherwise meets the written, reasonable, and uniformly applied standards or
1009 qualifications, if any, of the franchisor relating to the business experience of executive
1010 management and financial capacity to operate and maintain the dealership required by the
1011 franchisor of its franchisees.

1012 (4) (a) If after receipt of the written notice from the franchisor described in Subsection
1013 (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of
1014 the business or change of executive management, the franchisee may file an application for a
1015 hearing before the ~~[advisory board]~~ executive director up to 60 days from the date of receipt of
1016 the notice.

1017 (b) After a hearing ~~[and the executive director's receipt of the advisory board's~~
1018 ~~recommendation]~~, the executive director shall determine, and enter an order providing that:

1019 (i) the proposed transferee or change in executive management:

- 1020 (A) shall be approved; or
- 1021 (B) may not be approved for specified reasons; or
- 1022 (ii) a proposed transferee or change in executive management is approved if specific
- 1023 conditions are timely satisfied.
- 1024 (c) (i) The franchisee shall have the burden of proof with respect to all issues raised by
- 1025 the franchisee's application for a hearing as provided in this section.
- 1026 (ii) During the pendency of the hearing, the franchise agreement shall continue in effect
- 1027 in accordance with its terms.
- 1028 (d) The [~~advisory board and the~~] executive director shall expedite, upon written
- 1029 request, any determination sought under this section.
- 1030 Section 10. Section **13-14-203** is amended to read:
- 1031 **13-14-203. Succession to franchise.**
- 1032 (1) (a) A successor, including a family member of a deceased or incapacitated
- 1033 franchisee, who is designated by the franchisee may succeed the franchisee in the ownership
- 1034 and operation of the dealership under the existing franchise agreement if:
- 1035 (i) the designated successor gives the franchisor written notice of an intent to succeed
- 1036 to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180
- 1037 days after the franchisee's death or incapacity;
- 1038 (ii) the designated successor agrees to be bound by all of the terms and conditions of
- 1039 the franchise agreement; and
- 1040 (iii) the designated successor meets the criteria generally applied by the franchisor in
- 1041 qualifying franchisees.
- 1042 (b) A franchisor may refuse to honor the existing franchise agreement with the
- 1043 designated successor only for good cause.
- 1044 (2) The franchisor may request in writing from a designated successor the personal and
- 1045 financial data that is reasonably necessary to determine whether the existing franchise
- 1046 agreement should be honored. The designated successor shall supply the personal and financial
- 1047 data promptly upon the request.
- 1048 (3) (a) If a franchisor believes that good cause exists for refusing to honor the requested
- 1049 succession, the franchisor shall serve upon the designated successor notice of its refusal to
- 1050 approve the succession, within 60 days after the later of:

1051 (i) receipt of the notice of the designated successor's intent to succeed the franchisee in
1052 the ownership and operation of the dealership; or

1053 (ii) receipt of the requested personal and financial data.

1054 (b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of
1055 the designated successor and the franchise agreement is considered amended to reflect the
1056 approval of the succession the day following the last day the franchisor can serve notice under
1057 Subsection (3)(a).

1058 (4) The notice of the franchisor provided in Subsection (3) shall:

1059 (a) state the specific grounds for the refusal to approve the succession; and

1060 (b) that discontinuance of the franchise agreement shall take effect not less than 180
1061 days after the date the notice of refusal is served unless the proposed successor files an
1062 application for hearing under Subsection (6).

1063 (5) (a) This section does not prevent a franchisee from designating a person as the
1064 successor by written instrument filed with the franchisor.

1065 (b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs
1066 the succession rights to the management and operation of the dealership subject to the
1067 designated successor satisfying the franchisor's qualification requirements as described in this
1068 section.

1069 (6) (a) If a franchisor serves a notice of refusal to a designated successor pursuant to
1070 Subsection (3), the designated successor may, within the 180-day period provided in
1071 Subsection (4), file with the [~~advisory board~~] executive director an application for a hearing
1072 and a determination by the executive director regarding whether good cause exists for the
1073 refusal.

1074 (b) If application for a hearing is timely filed, the franchisor shall continue to honor the
1075 franchise agreement until after:

1076 (i) the requested hearing has been concluded;

1077 (ii) a decision is rendered by the executive director; and

1078 (iii) the applicable appeal period has expired following a decision by the executive
1079 director.

1080 Section 11. Section **13-14-301** is amended to read:

1081 **13-14-301. Termination or noncontinuance of franchise.**

1082 (1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to
1083 continue a franchise agreement or the rights to sell and service a line-make pursuant to a
1084 franchise agreement, whether through termination or noncontinuance of the franchise,
1085 termination or noncontinuance of a line-make, or otherwise, unless:

1086 (a) the franchisee has received written notice from the franchisor 60 days before the
1087 effective date of termination or noncontinuance setting forth the specific grounds for
1088 termination or noncontinuance that are relied on by the franchisor as establishing good cause
1089 for the termination or noncontinuance;

1090 (b) the franchisor has good cause for termination or noncontinuance; and

1091 (c) the franchisor is willing and able to comply with Section 13-14-307.

1092 (2) A franchisor may terminate a franchise, without complying with Subsection (1):

1093 (a) if the franchisee's license as a new motor vehicle dealer is revoked under Title 41,
1094 Chapter 3, Motor Vehicle Business Regulation Act; or

1095 (b) upon a mutual written agreement of the franchisor and franchisee.

1096 (3) (a) At any time before the effective date of termination or noncontinuance of the
1097 franchise, the franchisee may apply to the [~~advisory board~~] executive director for a hearing on
1098 the merits, and following notice to all parties concerned, the hearing shall be promptly held as
1099 provided in Section 13-14-304.

1100 (b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may
1101 not become effective until:

1102 (i) final determination of the issue by the executive director; and

1103 (ii) the applicable appeal period has lapsed.

1104 (4) A franchisee may voluntarily terminate its franchise if the franchisee provides
1105 written notice to the franchisor at least 30 days prior to the termination.

1106 Section 12. Section 13-14-302 is amended to read:

1107 **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

1108 (1) Except as provided in Subsection [~~(6)~~] (7), a franchisor shall provide the notice and
1109 documentation required under Subsection [~~(2)~~] (3) if the franchisor seeks to:

1110 (a) enter into a franchise agreement establishing a motor vehicle dealership within a
1111 relevant market area where the same line-make is represented by another franchisee; or

1112 (b) relocate an existing motor vehicle franchisee.

1113 (2) In determining whether a new or relocated dealership is within a relevant market
1114 area where the same line-make is represented by an existing dealership, the relevant market
1115 area is measured from the closest property boundary line of the existing dealership to the
1116 closest property boundary line of the new or relocated dealership.

1117 (3) (a) If a franchisor seeks to take an action listed in Subsection (1), before taking the
1118 action, the franchisor shall, in writing, notify the [~~advisory board~~] executive director, the clerk
1119 of each affected municipality, and each franchisee in that line-make in the relevant market area.

1120 (b) The notice required by Subsection (3)(a) shall:

1121 (i) specify the intended action described under Subsection (1);

1122 (ii) specify the good cause on which it intends to rely for the action; and

1123 (iii) be delivered by registered or certified mail or by any form of reliable delivery
1124 through which receipt is verifiable.

1125 (4) (a) Except as provided in Subsection (4)(c), the franchisor shall provide to the
1126 [~~advisory board~~] executive director, each affected municipality, and each franchisee in that
1127 line-make in the relevant market area the following documents relating to the notice described
1128 under Subsection (3):

1129 (i) (A) any aggregate economic data and all existing reports, analyses, or opinions
1130 based on the aggregate economic data that were relied on by the franchisor in reaching the
1131 decision to proceed with the action described in the notice; and

1132 (B) the aggregate economic data under Subsection (4)(a)(i)(A) includes:

1133 (I) motor vehicle registration data;

1134 (II) market penetration data; and

1135 (III) demographic data;

1136 (ii) written documentation that the franchisor has in the franchisor's possession that it
1137 intends to rely on in establishing good cause under Section 13-14-306 relating to the notice;

1138 (iii) a statement that describes in reasonable detail how the establishment of a new
1139 franchisee or the relocation of an existing franchisee will affect the amount of business
1140 transacted by other franchisees of the same line-make in the relevant market area, as compared
1141 to business available to the franchisees; and

1142 (iv) a statement that describes in reasonable detail how the establishment of a new
1143 franchisee or the relocation of an existing franchisee will be beneficial or injurious to the

1144 public welfare or public interest.

1145 (b) The franchisor shall provide the documents described under Subsection (4)(a) with
1146 the notice required under Subsection (3).

1147 (c) The franchisor is not required to disclose any documents under Subsection (4)(a) if:

1148 (i) the documents would be privileged under the Utah Rules of Evidence;

1149 (ii) the documents contain confidential proprietary information;

1150 (iii) the documents are subject to federal or state privacy laws;

1151 (iv) the documents are correspondence between the franchisor and existing franchisees

1152 in that line-make in the relevant market area; or

1153 (v) the franchisor reasonably believes that disclosure of the documents would violate:

1154 (A) the privacy of another franchisee; or

1155 (B) Section 13-14-201.

1156 (5) (a) Within 30 days of receiving notice required by Subsection (3), any franchisee

1157 that is required to receive notice under Subsection (3) may protest to the [~~advisory board~~]

1158 executive director the establishment or relocation of the dealership.

1159 (b) No later than 10 days after the day on which a protest is filed, the department shall
1160 inform the franchisor that:

1161 (i) a timely protest has been filed;

1162 (ii) a hearing is required;

1163 (iii) the franchisor may not establish or relocate the proposed dealership until the

1164 [~~advisory board~~] executive director has held a hearing; and

1165 (iv) the franchisor may not establish or relocate a proposed dealership if the executive

1166 director determines that there is not good cause for permitting the establishment or relocation

1167 of the dealership.

1168 (6) If multiple protests are filed under Subsection (5), hearings may be consolidated to
1169 expedite the disposition of the issue.

1170 (7) Subsections (1) through (6) do not apply to a relocation of an existing or successor
1171 dealer to a location that is:

1172 (a) within the same county and less than two miles from the existing location of the
1173 existing or successor franchisee's dealership; or

1174 (b) further away from a dealership of a franchisee of the same line-make.

1175 (8) For purposes of this section:

1176 (a) relocation of an existing franchisee's dealership in excess of two miles from the
1177 dealership's existing location is considered the establishment of an additional franchise in the
1178 line-make of the relocating franchise;

1179 (b) the reopening in a relevant market area of a dealership that has not been in
1180 operation for one year or more is considered the establishment of an additional motor vehicle
1181 dealership; and

1182 (c) (i) except as provided in Subsection (8)(c)(ii), the establishment of a temporary
1183 additional place of business by a recreational vehicle franchisee is considered the establishment
1184 of an additional motor vehicle dealership; and

1185 (ii) the establishment of a temporary additional place of business by a recreational
1186 vehicle franchisee is not considered the establishment of an additional motor vehicle dealership
1187 if the recreational vehicle franchisee is participating in a trade show where three or more
1188 recreational vehicle dealers are participating.

1189 Section 13. Section **13-14-303** is amended to read:

1190 **13-14-303. Effect of terminating a franchise.**

1191 If under Section **13-14-301** the executive director permits a franchisor to terminate or
1192 not continue a franchise and prohibits the franchisor from entering into a franchise for the sale
1193 of new motor vehicles of a line-make in a relevant market area, the franchisor may not enter
1194 into a franchise for the sale of new motor vehicles of that line-make in the specified relevant
1195 market area unless the executive director determines~~[, after a recommendation by the advisory~~
1196 ~~board,]~~ that there has been a change of circumstances so that the relevant market area at the
1197 time of the establishment of the new franchise agreement can reasonably be expected to
1198 support the new franchisee.

1199 Section 14. Section **13-14-304** is amended to read:

1200 **13-14-304. Hearing regarding termination, relocation, or establishment of**
1201 **franchises.**

1202 (1) (a) Within 10 days after the day on which the ~~[advisory board]~~ executive director
1203 receives an application from a franchisee under Subsection **13-14-301**(3) challenging a
1204 franchisor's right to terminate or not continue a franchise, or an application under Section
1205 **13-14-302** challenging the establishment or relocation of a franchise, the executive director

1206 shall:

1207 (i) enter an order designating the time and place for the hearing; and

1208 (ii) send a copy of the order by certified or registered mail, with return receipt

1209 requested, or by any form of reliable delivery through which receipt is verifiable to:

1210 (A) the applicant;

1211 (B) the franchisor; and

1212 (C) if the application involves the establishment of a new franchise or the relocation of

1213 an existing dealership, each affected municipality and to each franchisee in the relevant market

1214 area engaged in the business of offering to sell or lease the same line-make.

1215 (b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the

1216 franchisee at the place where the franchisee's business is conducted.

1217 (2) An affected municipality and any other person who can establish an interest in the

1218 application may intervene as a party to the hearing, whether or not that person receives notice.

1219 (3) Any person, including an affected municipality, may appear and testify on the

1220 question of the public interest in the termination or noncontinuation of a franchise or in the

1221 establishment of an additional franchise.

1222 (4) (a) (i) Any hearing ordered under Subsection (1) shall be conducted no later than 90

1223 days after the day on which the application for hearing is filed.

1224 (ii) A final decision on the challenge shall be made by the executive director no later

1225 than 20 days after the day on which the hearing ends.

1226 (b) Failure to comply with the time requirements of Subsection (4)(a) is considered a

1227 determination that the franchisor acted with good cause or, in the case of a protest of a

1228 proposed establishment or relocation of a dealer, that good cause exists for permitting the

1229 proposed additional or relocated new motor vehicle dealer, unless:

1230 (i) the delay is caused by acts of the franchisor or the additional or relocating

1231 franchisee; or

1232 (ii) the delay is waived by the parties.

1233 (5) The franchisor has the burden of proof to establish by a preponderance of the

1234 evidence that under the provisions of this chapter it should be granted permission to:

1235 (a) terminate or not continue the franchise;

1236 (b) enter into a franchise agreement establishing an additional franchise; or

1237 (c) relocate the dealership of an existing franchisee.

1238 (6) Any party to the hearing may appeal the executive director's final decision in
1239 accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor,
1240 an existing franchisee of the same line-make whose relevant market area includes the site of the
1241 proposed dealership, or an affected municipality.

1242 Section 15. Section **13-14-305** is amended to read:

1243 **13-14-305. Evidence to be considered in determining cause to terminate or**
1244 **discontinue.**

1245 (1) In determining whether a franchisor has established good cause for terminating or
1246 not continuing a franchise agreement, [~~the advisory board and~~] the executive director shall
1247 consider:

1248 (a) the amount of business transacted by the franchisee, as compared to business
1249 available to the franchisee;

1250 (b) the investment necessarily made and obligations incurred by the franchisee in the
1251 performance of the franchisee's part of the franchise agreement;

1252 (c) the permanency of the investment;

1253 (d) whether it is injurious or beneficial to the public welfare or public interest for the
1254 business of the franchisee to be disrupted;

1255 (e) whether the franchisee has adequate motor vehicle sales and service facilities,
1256 equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of
1257 the consumer for the new motor vehicles handled by the franchisee and has been and is
1258 rendering adequate services to the public;

1259 (f) whether the franchisee refuses to honor warranties of the franchisor under which the
1260 warranty service work is to be performed pursuant to the franchise agreement, if the franchisor
1261 reimburses the franchisee for the warranty service work;

1262 (g) failure by the franchisee to substantially comply with those requirements of the
1263 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

1264 (i) reasonable;

1265 (ii) material; and

1266 (iii) not in violation of this chapter;

1267 (h) evidence of bad faith by the franchisee in complying with those terms of the

1268 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

1269 (i) reasonable;

1270 (ii) material; and

1271 (iii) not in violation of this chapter;

1272 (i) prior misrepresentation by the franchisee in applying for the franchise;

1273 (j) transfer of any ownership or interest in the franchise without first obtaining

1274 approval from the franchisor or the executive director [~~after receipt of the advisory board's~~
1275 ~~recommendation~~]; and

1276 (k) any other factor [~~the advisory board or~~] the executive director [~~consider~~] considers
1277 relevant.

1278 (2) Notwithstanding any franchise agreement, the following do not constitute good
1279 cause, as used in this chapter for the termination or noncontinuation of a franchise:

1280 (a) the sole fact that the franchisor desires greater market penetration or more sales or
1281 leases of new motor vehicles;

1282 (b) the change of ownership of the franchisee's dealership or the change of executive
1283 management of the franchisee's dealership unless the franchisor proves that the change of
1284 ownership or executive management will be substantially detrimental to the distribution of the
1285 franchisor's motor vehicles; or

1286 (c) the fact that the franchisee has justifiably refused or declined to participate in any
1287 conduct covered by Section [13-14-201](#).

1288 (3) For purposes of Subsection (2), "substantially detrimental" includes the failure of
1289 any proposed transferee to meet the objective criteria applied by the franchisor in qualifying
1290 franchisees at the time of application.

1291 Section 16. Section **13-14-306** is amended to read:

1292 **13-14-306. Evidence to be considered in determining cause to relocate or**
1293 **establish a new franchised dealership.**

1294 In determining whether a franchisor has established good cause for relocating an
1295 existing franchisee or establishing a new franchised dealership for the same line-make in a
1296 given relevant market area, [~~the advisory board and~~] the executive director shall consider:

1297 (1) the amount of business transacted by other franchisees of the same line-make in
1298 that relevant market area, as compared to business available to the franchisees;

- 1299 (2) the investment necessarily made and obligations incurred by other franchisees of
1300 the same line-make in that relevant market area in the performance of their part of their
1301 franchisee agreements;
- 1302 (3) the permanency of the existing and proposed investment;
- 1303 (4) whether it is injurious or beneficial to the public welfare or public interest for an
1304 additional franchise to be established, including:
- 1305 (a) the impact on any affected municipality;
- 1306 (b) population growth trends in any affected municipality;
- 1307 (c) the number of dealerships in the primary market area of the new or relocated
1308 dealership compared to the number of dealerships in each primary market area adjacent to the
1309 new or relocated dealership's primary market area; and
- 1310 (d) how the new or relocated dealership would impact the distance and time that an
1311 individual in the new or relocated dealership's primary market area would have to travel to
1312 access a dealership in the same line-make as the new or relocated dealership[-];
- 1313 (5) whether the franchisees of the same line-make in that relevant market area are
1314 providing adequate service to consumers for the motor vehicles of the line-make, which shall
1315 include the adequacy of:
- 1316 (a) the motor vehicle sale and service facilities;
- 1317 (b) equipment;
- 1318 (c) supply of vehicle parts; and
- 1319 (d) qualified service personnel; and
- 1320 (6) whether the relocation or establishment would cause any material negative
1321 economic effect on a dealer of the same line-make in the relevant market area.
- 1322 Section 17. Section **13-32a-102** is amended to read:
- 1323 **13-32a-102. Definitions.**
- 1324 As used in this chapter:
- 1325 (1) "Account" means the Pawnbroker, Secondhand Merchandise, and Catalytic
1326 Converter Operations Restricted Account created in Section [13-32a-113](#).
- 1327 (2) "Antique item" means an item:
- 1328 (a) that is generally older than 25 years;
- 1329 (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

1330 (c) that is furniture or other decorative objects produced in a previous time period, as
1331 distinguished from new items of a similar nature; and

1332 (d) obtained from auctions, estate sales, other antique shops, and individuals.

1333 (3) "Antique shop" means a business operating at an established location that deals
1334 primarily in the purchase, exchange, or sale of antique items.

1335 (4) "Automated recycling kiosk" means an interactive machine that:

1336 (a) is installed inside a commercial site used for the selling of goods and services to
1337 consumers;

1338 (b) is monitored remotely by a live representative during the hours of operation;

1339 (c) only engages in secondhand merchandise transactions involving wireless
1340 communication devices; and

1341 (d) has the following technological functions:

1342 (i) verifies the seller's identity by a live representative using the individual's
1343 identification;

1344 (ii) generates a ticket; and

1345 (iii) electronically transmits the secondhand merchandise transaction information to the
1346 central database.

1347 (5) "Automated recycling kiosk operator" means a person whose sole business activity
1348 is the operation of one or more automated recycling kiosks.

1349 [~~(6) "Board" means the Pawnshop, Secondhand Merchandise, and Catalytic Converter~~
1350 ~~Advisory Board created by this chapter.]~~

1351 [(~~7~~) (6) "Catalytic converter" means the same as that term is defined in Section
1352 76-6-1402.

1353 [(~~8~~) (7) (a) "Catalytic converter purchase" means a purchase from an individual of a
1354 used catalytic converter that is no longer affixed to a vehicle.

1355 (b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

1356 (i) from a business regularly engaged in automobile repair, crushing, dismantling,
1357 recycling, or salvage;

1358 (ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor
1359 Vehicle Business Regulation Act;

1360 (iii) from another catalytic converter purchaser; or

1361 (iv) that has never been affixed to a vehicle.

1362 [~~(9)~~] (8) "Catalytic converter purchaser" means a person who purchases a used catalytic
1363 converter in a catalytic converter purchase.

1364 [~~(10)~~] (9) "Central database" or "database" means the electronic database created and
1365 operated under Section 13-32a-105.

1366 [~~(11)~~] (10) "Children's product" means a used item that is for the exclusive use of
1367 children, or for the care of children, including clothing and toys.

1368 [~~(12)~~] (11) "Children's product resale business" means a business operating at a
1369 commercial location and primarily selling children's products.

1370 [~~(13)~~] (12) "Coin" means a piece of currency, usually metallic and usually in the shape
1371 of a disc that is:

1372 (a) stamped metal, and issued by a government as monetary currency; or

1373 (b) (i) worth more than its current value as currency; and

1374 (ii) worth more than its metal content value.

1375 [~~(14)~~] (13) "Coin dealer" means a person whose sole business activity is the selling and
1376 purchasing of numismatic items and precious metals.

1377 [~~(15)~~] (14) "Collectible paper money" means paper currency that is no longer in
1378 circulation and is sold and purchased for the paper currency's collectible value.

1379 [~~(16)~~] (15) (a) "Commercial grade precious metals" or "precious metals" means ingots,
1380 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the
1381 refiner or fabricator indicating their fineness and include:

1382 (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals;

1383 or

1384 (ii) .925 fine sterling silver ingots, art bars, and medallions.

1385 (b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

1386 [~~(17)~~] (16) "Consignment shop" means a business, operating at an established location:

1387 (a) that deals primarily in the offering for sale property owned by a third party; and

1388 (b) where the owner of the property only receives consideration upon the sale of the
1389 property by the business.

1390 [~~(18)~~] (17) "Division" means the Division of Consumer Protection created in Chapter
1391 1, Department of Commerce.

1392 [~~(19)~~] (18) "Exonumia" means a privately issued token for trade that is sold and
1393 purchased for the token's collectible value.

1394 [~~(20)~~] (19) "Gift card" means a record that:

1395 (a) is usable at:

1396 (i) a single merchant; or

1397 (ii) a specified group of merchants;

1398 (b) is prefunded before the record is used; and

1399 (c) can be used for the purchase of goods or services.

1400 [~~(21)~~] (20) "Identification" means any of the following non-expired forms of
1401 identification issued by a state government, the United States government, or a federally
1402 recognized Indian tribe, if the identification includes a unique number, photograph of the
1403 bearer, and date of birth:

1404 (a) a United States Passport or United States Passport Card;

1405 (b) a state-issued driver license;

1406 (c) a state-issued identification card;

1407 (d) a state-issued concealed carry permit;

1408 (e) a United States military identification;

1409 (f) a United States resident alien card;

1410 (g) an identification of a federally recognized Indian tribe; or

1411 (h) notwithstanding Section [53-3-207](#), a Utah driving privilege card.

1412 [~~(22)~~] (21) "IMEI number" means an International Mobile Equipment Identity number.

1413 [~~(23)~~] (22) "Indicia of being new" means property that:

1414 (a) is represented by the individual pawning or selling the property as new;

1415 (b) is unopened in the original packaging; or

1416 (c) possesses other distinguishing characteristics that indicate the property is new.

1417 [~~(24)~~] (23) "Local law enforcement agency" means the law enforcement agency that
1418 has direct responsibility for ensuring compliance with central database reporting requirements
1419 for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is
1420 located.

1421 [~~(25)~~] (24) "Numismatic item" means a coin, collectible paper money, or exonumia.

1422 [~~(26)~~] (25) "Original victim" means a victim who is not a party to the pawn or sale

1423 transaction or catalytic converter purchase and includes:

1424 (a) an authorized representative designated in writing by the original victim; and

1425 (b) an insurer who has indemnified the original victim for the loss of the described
1426 property.

1427 ~~[(27)]~~ (26) "Pawn or secondhand business" means a business operated by a pawnbroker
1428 or secondhand merchandise dealer, or the owner or operator of the business.

1429 ~~[(28)]~~ (27) "Pawn transaction" means:

1430 (a) an extension of credit in which an individual delivers property to a pawnbroker for
1431 an advance of money and retains the right to redeem the property for the redemption price
1432 within a fixed period of time;

1433 (b) a loan of money on one or more deposits of personal property;

1434 (c) the purchase, exchange, or possession of personal property on condition of selling
1435 the same property back again to the pledgor or depositor; or

1436 (d) a loan or advance of money on personal property by the pawnbroker taking chattel
1437 mortgage security on the personal property, taking or receiving the personal property into the
1438 pawnbroker's possession, and selling the unredeemed pledges.

1439 ~~[(29)]~~ (28) "Pawnbroker" means a person whose business:

1440 (a) engages in a pawn transaction; or

1441 (b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of
1442 whether the person or business enters into pawn transactions or secondhand merchandise
1443 transactions.

1444 ~~[(30)]~~ (29) "Pawnshop" means the physical location or premises where a pawnbroker
1445 conducts business.

1446 ~~[(31)]~~ (30) "Pledgor" means an individual who conducts a pawn transaction with a
1447 pawnshop.

1448 ~~[(32)]~~ (31) "Property" means an article of tangible personal property, numismatic item,
1449 precious metal, gift card, transaction card, or other physical or digital card or certificate
1450 evidencing store credit, and includes a wireless communication device.

1451 ~~[(33)]~~ (32) "Retail media item" means recorded music, a movie, or a video game that is
1452 produced and distributed in hard copy format for retail sale.

1453 ~~[(34)]~~ (33) "Scrap jewelry" means an item purchased solely:

- 1454 (a) for its gold, silver, or platinum content; and
- 1455 (b) for the purpose of reuse of the metal content.
- 1456 [~~(35)~~] (34) (a) "Secondhand merchandise dealer" means a person whose business:
- 1457 (i) engages in a secondhand merchandise transaction; and
- 1458 (ii) does not engage in a pawn transaction.
- 1459 (b) "Secondhand merchandise dealer" includes a coin dealer and an automated
- 1460 recycling kiosk operator.
- 1461 (c) "Secondhand merchandise dealer" does not include:
- 1462 (i) an antique shop when dealing in antique items;
- 1463 (ii) a person who operates an auction house, flea market, or vehicle, vessel, and
- 1464 outboard motor dealers as defined in Section [41-1a-102](#);
- 1465 (iii) the sale of secondhand goods at events commonly known as "garage sales," "yard
- 1466 sales," "estate sales," "storage unit sales," or "storage unit auctions";
- 1467 (iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:
- 1468 (A) card games;
- 1469 (B) table-top games; or
- 1470 (C) magic tricks;
- 1471 (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
- 1472 or charitable organizations or any school-sponsored association, and for which no
- 1473 compensation is paid;
- 1474 (vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;
- 1475 (vii) a person offering the person's own personal property for sale, purchase,
- 1476 consignment, or trade via the Internet;
- 1477 (viii) a person offering the personal property of others for sale, purchase, consignment,
- 1478 or trade via the Internet, when that person does not have, and is not required to have, a local
- 1479 business or occupational license or other authorization for this activity;
- 1480 (ix) an owner or operator of a retail business that:
- 1481 (A) receives used merchandise as a trade-in for similar new merchandise; or
- 1482 (B) receives used retail media items as a trade-in for similar new or used retail media
- 1483 items;
- 1484 (x) an owner or operator of a business that contracts with other persons to offer those

1485 persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

1486 (xi) any dealer as defined in Section [76-6-1402](#), that concerns scrap metal and
1487 secondary metals;

1488 (xii) the purchase of items in bulk that are:

1489 (A) sold at wholesale in bulk packaging;

1490 (B) sold by a person licensed to conduct business in Utah; and

1491 (C) regularly sold in bulk quantities as a recognized form of sale;

1492 (xiii) the owner or operator of a children's product resale business;

1493 (xiv) a consignment shop when dealing in consigned property; or

1494 (xv) a catalytic converter purchaser.

1495 ~~[(36)]~~ [\(35\)](#) "Secondhand merchandise transaction" means the purchase or exchange of
1496 used or secondhand property.

1497 ~~[(37)]~~ [\(36\)](#) "Ticket" means a document upon which information is entered when a
1498 pawn transaction or secondhand merchandise transaction is made.

1499 ~~[(38)]~~ [\(37\)](#) "Transaction card" means a card, code, or other means of access to a value
1500 with the retail business issued to a person that allows the person to obtain, purchase, or receive
1501 any of the following:

1502 (a) goods;

1503 (b) services;

1504 (c) money; or

1505 (d) anything else of value.

1506 ~~[(39)]~~ [\(38\)](#) "Wireless communication device" means a cellular telephone or a portable
1507 electronic device designed to receive and transmit a text message, email, video, or voice
1508 communication.

1509 Section 18. Section **13-35-102** is amended to read:

1510 **13-35-102. Definitions.**

1511 As used in this chapter:

1512 ~~[(1) "Advisory board" or "board" means the Utah Powersport Vehicle Franchise
1513 Advisory Board created in Section [13-35-103](#).]~~

1514 ~~[(2)]~~ [\(1\)](#) "Dealership" means a site or location in this state:

1515 (a) at which a franchisee conducts the business of a new powersport vehicle dealer; and

1516 (b) that is identified as a new powersport vehicle dealer's principal place of business
1517 for registration purposes under Section 13-35-105.

1518 ~~[(3)]~~ (2) "Department" means the Department of Commerce.

1519 ~~[(4)]~~ (3) "Executive director" means the executive director of the Department of
1520 Commerce.

1521 ~~[(5)]~~ (4) "Franchise" or "franchise agreement" means a written agreement, for a definite
1522 or indefinite period, in which:

1523 (a) a person grants to another person a license to use a trade name, trademark, service
1524 mark, or related characteristic; and

1525 (b) a community of interest exists in the marketing of new powersport vehicles, new
1526 powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at
1527 wholesale or retail.

1528 ~~[(6)]~~ (5) "Franchisee" means a person with whom a franchisor has agreed or permitted,
1529 in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles
1530 manufactured, produced, represented, or distributed by the franchisor.

1531 ~~[(7)]~~ (6) (a) "Franchisor" means a person who has, in writing or in practice, agreed with
1532 or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles
1533 manufactured, produced, represented, or distributed by the franchisor, and includes:

1534 (i) the manufacturer or distributor of the new powersport vehicles;

1535 (ii) an intermediate distributor;

1536 (iii) an agent, officer, or field or area representative of the franchisor; and

1537 (iv) a person who is affiliated with a manufacturer or a representative or who directly
1538 or indirectly through an intermediary is controlled by, or is under common control with the
1539 manufacturer.

1540 (b) For purposes of Subsection ~~[(7)(a)(iv)]~~ (6)(a)(iv), a person is controlled by a
1541 manufacturer if the manufacturer has the authority directly or indirectly by law or by an
1542 agreement of the parties, to direct or influence the management and policies of the person.

1543 ~~[(8)]~~ (7) "Lead" means the referral by a franchisor to a franchisee of an actual or
1544 potential customer for the purchase or lease of a new powersport vehicle, or for service work
1545 related to the franchisor's vehicles.

1546 ~~[(9)]~~ (8) "Line-make" means the powersport vehicles that are offered for sale, lease, or

1547 distribution under a common name, trademark, service mark, or brand name of the franchisor,
1548 or manufacturer of the powersport vehicle.

1549 ~~[(10)]~~ (9) "New powersport vehicle dealer" means a person who is engaged in the
1550 business of buying, selling, offering for sale, or exchanging new powersport vehicles either
1551 outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has
1552 established a place of business for the sale, lease, trade, or display of powersport vehicles.

1553 ~~[(11)]~~ (10) "Notice" or "notify" includes both traditional written communications and
1554 all reliable forms of electronic communication unless expressly prohibited by statute or rule.

1555 ~~[(12)]~~ (11) (a) "Powersport vehicle" means:

1556 (i) an all-terrain type I, type II, or type III vehicle "ATV" defined in Section 41-22-2;

1557 (ii) a snowmobile as defined in Section 41-22-2;

1558 (iii) a motorcycle as defined in Section 41-1a-102;

1559 (iv) a personal watercraft as defined in Section 73-18-2;

1560 (v) except as provided in Subsection ~~[(12)(b)]~~ (11)(b), a motor-driven cycle as defined
1561 in Section 41-6a-102; or

1562 (vi) a moped as defined in Section 41-6a-102.

1563 (b) "Powersport vehicle" does not include:

1564 (i) an electric assisted bicycle defined in Section 41-6a-102;

1565 (ii) a motor assisted scooter as defined in Section 41-6a-102; or

1566 (iii) an electric personal assistive mobility device as defined in Section 41-6a-102.

1567 ~~[(13)]~~ (12) "Relevant market area" means:

1568 (a) for a powersport dealership in a county that has a population of less than 225,000:

1569 (i) the county in which the powersport dealership exists or is to be established or
1570 relocated; and

1571 (ii) in addition to the county described in Subsection ~~[(13)(a)(i)]~~ (12)(a)(i), the area
1572 within a 15-mile radius from the site of the existing, new, or relocated dealership; or

1573 (b) for a powersport dealership in a county that has a population of 225,000 or more,
1574 the area within a 10-mile radius from the site of the existing, new, or relocated dealership.

1575 ~~[(14)]~~ (13) "Sale, transfer, or assignment" means any disposition of a franchise or an
1576 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,
1577 exchange, lease, or license.

1578 ~~[(15)]~~ (14) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
1579 includes any reliable form of communication.

1580 ~~[(16)]~~ (15) "Written," "write," "in writing," or other variations of those terms shall
1581 include all reliable forms of electronic communication.

1582 Section 19. Section **13-35-104** is amended to read:

1583 **13-35-104. Powers and duties of the executive director.**

1584 ~~[(1) (a) Except as provided in Subsection **13-35-106**(3), the advisory board shall make~~
1585 ~~recommendations to the executive director on the administration and enforcement of this~~
1586 ~~chapter, including adjudicative and rulemaking proceedings.]~~

1587 ~~[(b) The executive director shall:]~~

1588 ~~[(i) consider the advisory board's recommendations; and]~~

1589 ~~[(ii) issue any final decision by the department.]~~

1590 ~~[(2)]~~ (1) The executive director~~[, in consultation with the advisory board,]~~ shall:

1591 (a) administer and enforce this chapter; and

1592 (b) make rules for the administration of this chapter in accordance with Title 63G,
1593 Chapter 3, Utah Administrative Rulemaking Act.

1594 ~~[(3)]~~ (2) (a) An adjudicative proceeding under this chapter shall be conducted in
1595 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1596 (b) In an adjudicative proceeding under this chapter, any order issued by the executive
1597 director~~[: (i)]~~ shall comply with Section **63G-4-208**, whether the proceeding is a formal or an
1598 informal adjudicative proceeding under ~~[Title 63G, Chapter 4, Administrative Procedures Act;~~
1599 ~~and]~~ Title 63G, Chapter 4, Administrative Procedures Act.

1600 ~~[(ii) if the order modifies or rejects a finding of fact in a recommendation from the~~
1601 ~~advisory board, shall be made on the basis of information learned from the executive~~
1602 ~~director's:]~~

1603 ~~[(A) personal attendance at the hearing; or]~~

1604 ~~[(B) review of the record developed at the hearing.]~~

1605 Section 20. Section **13-35-106** is amended to read:

1606 **13-35-106. Administrative proceedings commenced by the agency.**

1607 (1) Except as provided in Subsection (3), after a hearing ~~[and after receipt of the~~
1608 ~~advisory board's recommendation]~~, if the executive director finds that a person has violated this

1609 chapter or any rule made under this chapter, the executive director may:

1610 (a) issue a cease and desist order; and

1611 (b) assess an administrative fine.

1612 (2) (a) In determining the amount and appropriateness of an administrative fine under

1613 Subsection (1), the executive director shall consider:

1614 (i) the gravity of the violation;

1615 (ii) any history of previous violations; and

1616 (iii) any attempt made by the person to retaliate against another person for seeking

1617 relief under this chapter or other federal or state law relating to the motor vehicle industry.

1618 (b) In addition to any other action permitted under Subsection (1), the department may

1619 file an action with a court seeking to enforce the executive director's order and pursue the

1620 executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a

1621 person violates an order of the executive director.

1622 (3) (a) In addition to the grounds for issuing an order on an emergency basis listed in

1623 Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if

1624 the executive director determines that irreparable damage is likely to occur if immediate action

1625 is not taken.

1626 (b) In issuing an emergency order under Subsection (3)(a), the executive director shall

1627 comply with the requirements of Subsections 63G-4-502(2) and (3).

1628 Section 21. Section 13-35-107 is amended to read:

1629 **13-35-107. Administrative proceedings -- Request for agency action.**

1630 (1) (a) A person may commence an adjudicative proceeding in accordance with this

1631 chapter and with Title 63G, Chapter 4, Administrative Procedures Act, to:

1632 (i) remedy a violation of this chapter;

1633 (ii) obtain approval of an act regulated by this chapter; or

1634 (iii) obtain any determination that this chapter specifically authorizes that person to

1635 request.

1636 (b) A person shall commence an adjudicative proceeding by filing a request for agency

1637 action in accordance with Section 63G-4-201.

1638 (2) [~~After receipt of the advisory board's recommendation, the~~] The executive director

1639 shall apportion in a fair and equitable manner between the parties any costs of the adjudicative

1640 proceeding, including reasonable attorney fees.

1641 Section 22. Section **13-35-201** is amended to read:

1642 **13-35-201. Prohibited acts by franchisors -- Disclosures.**

1643 (1) A franchisor in this state may not:

1644 (a) except as provided in Subsection (2), require a franchisee to order or accept
1645 delivery of any new powersport vehicle, part, accessory, equipment, or other item not otherwise
1646 required by law that is not voluntarily ordered by the franchisee;

1647 (b) require a franchisee to:

1648 (i) participate monetarily in any advertising campaign or contest; or

1649 (ii) purchase any promotional materials, display devices, or display decorations or
1650 materials;

1651 (c) require a franchisee to change the capital structure of the franchisee's dealership or
1652 the means by or through which the franchisee finances the operation of the franchisee's
1653 dealership, if the dealership at all times meets reasonable capital standards determined by and
1654 applied in a nondiscriminatory manner by the franchisor;

1655 (d) require a franchisee to refrain from participating in the management of, investment
1656 in, or acquisition of any other line of new powersport vehicles or related products, if the
1657 franchisee:

1658 (i) maintains a reasonable line of credit for each make or line of powersport vehicles;
1659 and

1660 (ii) complies with reasonable capital and facilities requirements of the franchisor;

1661 (e) require a franchisee to prospectively agree to a release, assignment, novation,
1662 waiver, or estoppel that would:

1663 (i) relieve a franchisor from any liability, including notice and hearing rights imposed
1664 on the franchisor by this chapter; or

1665 (ii) require any controversy between the franchisee and a franchisor to be referred to a
1666 third party if the decision by the third party would be binding;

1667 (f) require a franchisee to change the location of the principal place of business of the
1668 franchisee's dealership or make any substantial alterations to the dealership premises, if the
1669 change or alterations would be unreasonable;

1670 (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an

1671 advertising association;

1672 (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the
1673 franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to
1674 cancel a franchise agreement or other contractual agreement or understanding existing between
1675 the franchisor and franchisee;

1676 (i) adopt, change, establish, modify, or implement a plan or system for the allocation,
1677 scheduling, or delivery of new powersport vehicles, parts, or accessories to its franchisees so
1678 that the plan or system is not fair, reasonable, and equitable;

1679 (j) increase the price of any new powersport vehicle that the franchisee has ordered
1680 from the franchisor and for which there exists at the time of the order a bona fide sale to a retail
1681 purchaser if the order was made prior to the franchisee's receipt of an official written price
1682 increase notification;

1683 (k) fail to indemnify and hold harmless its franchisee against any judgment for
1684 damages or settlement approved in writing by the franchisor:

1685 (i) including court costs and attorneys' fees arising out of actions, claims, or
1686 proceedings including those based on:

1687 (A) strict liability;

1688 (B) negligence;

1689 (C) misrepresentation;

1690 (D) express or implied warranty;

1691 (E) revocation as described in Section 70A-2-608; or

1692 (F) rejection as described in Section 70A-2-602; and

1693 (ii) to the extent the judgment or settlement relates to alleged defective or negligent
1694 actions by the franchisor;

1695 (l) threaten or coerce a franchisee to waive or forbear its right to protest the
1696 establishment or relocation of a same line-make franchisee in the relevant market area of the
1697 affected franchisee;

1698 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of
1699 new powersport vehicles of each make, series, and model needed by the franchisee to achieve a
1700 percentage of total new vehicle sales of each make, series, and model equitably related to the
1701 total new vehicle production or importation being achieved nationally at the time of the order

1702 by each make, series, and model covered under the franchise agreement;

1703 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
1704 facilities;

1705 (o) fail to include in any franchise agreement the following language or language to the
1706 effect that: "If any provision in this agreement contravenes the laws, rules, or regulations of any
1707 state or other jurisdiction where this agreement is to be performed, or provided for by such
1708 laws or regulations, the provision is considered to be modified to conform to such laws, rules,
1709 or regulations, and all other terms and provisions shall remain in full force.";

1710 (p) engage in the distribution, sale, offer for sale, or lease of a new powersport vehicle
1711 to purchasers who acquire the vehicle in this state except through a franchisee with whom the
1712 franchisor has established a written franchise agreement, if the franchisor's trade name,
1713 trademark, service mark, or related characteristic is an integral element in the distribution, sale,
1714 offer for sale, or lease;

1715 (q) except as provided in Subsection (2), authorize or permit a person to perform
1716 warranty service repairs on powersport vehicles, except warranty service repairs:

1717 (i) by a franchisee with whom the franchisor has entered into a franchise agreement for
1718 the sale and service of the franchisor's powersport vehicles; or

1719 (ii) on owned powersport vehicles by a person or government entity who has purchased
1720 new powersport vehicles pursuant to a franchisor's or manufacturer's fleet discount program;

1721 (r) fail to provide a franchisee with a written franchise agreement;

1722 (s) notwithstanding any other provisions of this chapter, unreasonably fail or refuse to
1723 offer to its same line-make franchised dealers all models manufactured for that line-make, or
1724 unreasonably require a dealer to pay any extra fee, remodel, renovate, recondition the dealer's
1725 existing facilities, or purchase unreasonable advertising displays or other materials as a
1726 prerequisite to receiving a model or series of vehicles;

1727 (t) except as provided in Subsection (5), directly or indirectly:

1728 (i) own an interest in a new powersport vehicle dealer or dealership;

1729 (ii) operate or control a new powersport vehicle dealer or dealership;

1730 (iii) act in the capacity of a new powersport vehicle dealer, as defined in Section
1731 [13-35-102](#); or

1732 (iv) operate a powersport vehicle service facility;

- 1733 (u) fail to timely pay for all reimbursements to a franchisee for incentives and other
1734 payments made by the franchisor;
- 1735 (v) directly or indirectly influence or direct potential customers to franchisees in an
1736 inequitable manner, including:
- 1737 (i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of
1738 the franchisee's products or services in an amount exceeding the actual cost of the referral;
- 1739 (ii) giving a customer referral to a franchisee on the condition that the franchisee agree
1740 to sell the vehicle at a price fixed by the franchisor; or
- 1741 (iii) advising a potential customer as to the amount that the potential customer should
1742 pay for a particular product;
- 1743 (w) fail to provide comparable delivery terms to each franchisee for a product of the
1744 franchisor, including the time of delivery after the placement of an order by the franchisee;
- 1745 (x) if personnel training is provided by the franchisor to its franchisees, unreasonably
1746 fail to make that training available to each franchisee on proportionally equal terms;
- 1747 (y) condition a franchisee's eligibility to participate in a sales incentive program on the
1748 requirement that a franchisee use the financing services of the franchisor or a subsidiary or
1749 affiliate of the franchisor for inventory financing;
- 1750 (z) make available for public disclosure, except with the franchisee's permission or
1751 under subpoena or in any administrative or judicial proceeding in which the franchisee or the
1752 franchisor is a party, any confidential financial information regarding a franchisee, including:
- 1753 (i) monthly financial statements provided by the franchisee;
- 1754 (ii) the profitability of a franchisee; or
- 1755 (iii) the status of a franchisee's inventory of products;
- 1756 (aa) use any performance standard, incentive program, or similar method to measure
1757 the performance of franchisees unless the standard or program:
- 1758 (i) is designed and administered in a fair, reasonable, and equitable manner;
- 1759 (ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample;
- 1760 and
- 1761 (iii) is, upon request by a franchisee, disclosed and explained in writing to the
1762 franchisee, including:
- 1763 (A) how the standard or program is designed;

1764 (B) how the standard or program will be administered; and
1765 (C) the types of data that will be collected and used in the application of the standard or
1766 program;

1767 (bb) other than sales to the federal government, directly or indirectly, sell, lease, offer
1768 to sell, or offer to lease, a new powersport vehicle or any powersport vehicle owned by the
1769 franchisor, except through a franchised new powersport vehicle dealer;

1770 (cc) compel a franchisee, through a finance subsidiary, to agree to unreasonable
1771 operating requirements, except that this Subsection (1)(cc) may not be construed to limit the
1772 right of a financing subsidiary to engage in business practices in accordance with the usage of
1773 trade in retail and wholesale powersport vehicle financing;

1774 (dd) condition the franchisor's participation in co-op advertising for a product category
1775 on the franchisee's participation in any program related to another product category or on the
1776 franchisee's achievement of any level of sales in a product category other than that which is the
1777 subject of the co-op advertising;

1778 (ee) discriminate against a franchisee in the state in favor of another franchisee of the
1779 same line-make in the state by:

1780 (i) selling or offering to sell a new powersport vehicle to one franchisee at a higher
1781 actual price, including the price for vehicle transportation, than the actual price at which the
1782 same model similarly equipped is offered to or is made available by the franchisor to another
1783 franchisee in the state during a similar time period;

1784 (ii) except as provided in Subsection (6), using a promotional program or device or an
1785 incentive, payment, or other benefit, whether paid at the time of the sale of the new powersport
1786 vehicle to the franchisee or later, that results in the sale of or offer to sell a new powersport
1787 vehicle to one franchisee in the state at a higher price, including the price for vehicle
1788 transportation, than the price at which the same model similarly equipped is offered or is made
1789 available by the franchisor to another franchisee in the state during a similar time period; or

1790 (iii) except as provided in Subsection (7), failing to provide or direct a lead in a fair,
1791 equitable, and timely manner; or

1792 (ff) through an affiliate, take any action that would otherwise be prohibited under this
1793 chapter.

1794 (2) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee

1795 carry a reasonable inventory of:

1796 (a) new powersport vehicle models offered for sale by the franchisor; and

1797 (b) parts to service the repair of the new powersport vehicles.

1798 (3) Subsection (1)(d) does not prevent a franchisor from:

1799 (a) requiring that a franchisee maintain separate sales personnel or display space; or

1800 (b) refusing to permit a combination of new powersport vehicle lines, if justified by

1801 reasonable business considerations.

1802 (4) Upon the written request of any franchisee, a franchisor shall disclose in writing to

1803 the franchisee the basis on which new powersport vehicles, parts, and accessories are allocated,

1804 scheduled, and delivered among the franchisor's dealers of the same line-make.

1805 (5) (a) A franchisor may engage in any of the activities listed in Subsection (1)(t), for a

1806 period not to exceed 12 months if:

1807 (i) (A) the person from whom the franchisor acquired the interest in or control of the

1808 new powersport vehicle dealership was a franchised new powersport vehicle dealer; and

1809 (B) the franchisor's interest in the new powersport vehicle dealership is for sale at a

1810 reasonable price and on reasonable terms and conditions; or

1811 (ii) the franchisor is engaging in the activity listed in Subsection (1)(t) for the purpose

1812 of broadening the diversity of its dealer body and facilitating the ownership of a new

1813 powersport vehicle dealership by a person who:

1814 (A) is part of a group that has been historically underrepresented in the franchisor's

1815 dealer body;

1816 (B) would not otherwise be able to purchase a new powersport vehicle dealership;

1817 (C) has made a significant investment in the new powersport vehicle dealership which

1818 is subject to loss;

1819 (D) has an ownership interest in the new powersport vehicle dealership; and

1820 (E) operates the new powersport vehicle dealership under a plan to acquire full

1821 ownership of the dealership within a reasonable period of time and under reasonable terms and

1822 conditions.

1823 (b) ~~[After receipt of the advisory board's recommendation, the]~~ The executive director

1824 may, for good cause shown, extend the time limit set forth in Subsection (5)(a) for an

1825 additional period not to exceed 12 months.

1826 (c) Notwithstanding Subsection (1)(t), a franchisor may own, operate, or control a new
1827 powersport vehicle dealership trading in a line-make of powersport vehicle if:

1828 (i) as to that line-make of powersport vehicle, there are no more than four franchised
1829 new powersport vehicle dealerships licensed and in operation within the state as of January 1,
1830 2002;

1831 (ii) the franchisor does not own directly or indirectly, more than a 45% interest in the
1832 dealership;

1833 (iii) at the time the franchisor first acquires ownership or assumes operation or control
1834 of the dealership, the distance between the dealership thus owned, operated, or controlled and
1835 the nearest unaffiliated new powersport vehicle dealership trading in the same line-make is not
1836 less than 150 miles;

1837 (iv) all the franchisor's franchise agreements confer rights on the franchisee to develop
1838 and operate as many dealership facilities as the franchisee and franchisor shall agree are
1839 appropriate within a defined geographic territory or area; and

1840 (v) as of January 1, 2002, no fewer than half of the franchisees of the line-make within
1841 the state own and operate two or more dealership facilities in the geographic area covered by
1842 the franchise agreement.

1843 (6) Subsection (1)(ee)(ii) does not prohibit a promotional or incentive program that is
1844 functionally available to all franchisees of the same line-make in the state on substantially
1845 comparable terms.

1846 (7) Subsection (1)(ee)(iii) may not be construed to:

1847 (a) permit provision of or access to customer information that is otherwise protected
1848 from disclosure by law or by contract between franchisor and a franchisee; or

1849 (b) require a franchisor to disregard the preference of a potential customer in providing
1850 or directing a lead, provided that the franchisor does not direct the customer to such a
1851 preference.

1852 (8) Subsection (1)(ff) does not limit the right of an affiliate to engage in business
1853 practices in accordance with the usage of trade in which the affiliate is engaged.

1854 Section 23. Section **13-35-202** is amended to read:

1855 **13-35-202. Sale or transfer of ownership.**

1856 (1) (a) The franchisor shall give effect to the change in a franchise agreement as a

- 1857 result of an event listed in Subsection (1)(b):
- 1858 (i) subject to Subsection 13-35-305(2)(b); and
- 1859 (ii) unless exempted under Subsection (2).
- 1860 (b) The franchisor shall give effect to the change in a franchise agreement pursuant to
- 1861 Subsection (1)(a) for the:
- 1862 (i) sale of a dealership;
- 1863 (ii) contract for sale of a dealership;
- 1864 (iii) transfer of ownership of a franchisee's dealership by sale, transfer of the business,
- 1865 or by stock transfer; or
- 1866 (iv) change in the executive management of the franchisee's dealership.
- 1867 (2) A franchisor is exempted from the requirements of Subsection (1) if:
- 1868 (a) the transferee is denied, or would be denied, a new powersport vehicle franchisee's
- 1869 registration pursuant to Section 13-35-105; or
- 1870 (b) the proposed sale or transfer of the business or change of executive management
- 1871 will be substantially detrimental to the distribution of the franchisor's new powersport vehicles
- 1872 or to competition in the relevant market area, provided that the franchisor has given written
- 1873 notice to the franchisee within 60 days following receipt by the franchisor of the following:
- 1874 (i) a copy of the proposed contract of sale or transfer executed by the franchisee and the
- 1875 proposed transferee;
- 1876 (ii) a completed copy of the franchisor's written application for approval of the change
- 1877 in ownership or executive management, if any, including the information customarily required
- 1878 by the franchisor; and
- 1879 (iii) (A) a written description of the business experience of the executive management
- 1880 of the transferee in the case of a proposed sale or transfer of the franchisee's business; or
- 1881 (B) a written description of the business experience of the person involved in the
- 1882 proposed change of the franchisee's executive management in the case of a proposed change of
- 1883 executive management.
- 1884 (3) For purposes of this section, the refusal by the franchisor to accept a proposed
- 1885 transferee is presumed to be unreasonable and undertaken without good cause if the proposed
- 1886 franchisee:
- 1887 (a) is of good moral character; and

1888 (b) otherwise meets the written, reasonable, and uniformly applied standards or
1889 qualifications, if any, of the franchisor relating to the business experience of executive
1890 management and financial capacity to operate and maintain the dealership required by the
1891 franchisor of its franchisees.

1892 (4) (a) If after receipt of the written notice from the franchisor described in Subsection
1893 (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of
1894 the business or change of executive management, the franchisee may file an application for a
1895 hearing before the ~~[board]~~ executive director up to 60 days from the date of receipt of the
1896 notice.

1897 (b) After a hearing, ~~[and the executive director's receipt of the advisory board's~~
1898 ~~recommendation,]~~ the executive director shall determine, and enter an order providing that:

1899 (i) the proposed transferee or change in executive management:

1900 (A) shall be approved; or

1901 (B) may not be approved for specified reasons; or

1902 (ii) a proposed transferee or change in executive management is approved if specific
1903 conditions are timely satisfied.

1904 (c) (i) The franchisee shall have the burden of proof with respect to all issues raised by
1905 the franchisee's application for a hearing as provided in this section.

1906 (ii) During the pendency of the hearing, the franchise agreement shall continue in effect
1907 in accordance with its terms.

1908 (d) The ~~[advisory board and the]~~ executive director shall expedite, upon written
1909 request, any determination sought under this section.

1910 Section 24. Section ~~13-35-203~~ is amended to read:

1911 **13-35-203. Succession to franchise.**

1912 (1) (a) A successor, including a family member of a deceased or incapacitated
1913 franchisee, who is designated by the franchisee may succeed the franchisee in the ownership
1914 and operation of the dealership under the existing franchise agreement if:

1915 (i) the designated successor gives the franchisor written notice of an intent to succeed
1916 to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180
1917 days after the franchisee's death or incapacity;

1918 (ii) the designated successor agrees to be bound by all of the terms and conditions of

1919 the franchise agreement; and

1920 (iii) the designated successor meets the criteria generally applied by the franchisor in
1921 qualifying franchisees.

1922 (b) A franchisor may refuse to honor the existing franchise agreement with the
1923 designated successor only for good cause.

1924 (2) (a) The franchisor may request in writing from a designated successor the personal
1925 and financial data that is reasonably necessary to determine whether the existing franchise
1926 agreement should be honored.

1927 (b) The designated successor shall supply the personal and financial data promptly
1928 upon the request.

1929 (3) (a) If a franchisor believes that good cause exists for refusing to honor the requested
1930 succession, the franchisor shall serve upon the designated successor notice of its refusal to
1931 approve the succession, within 60 days after the later of:

1932 (i) receipt of the notice of the designated successor's intent to succeed the franchisee in
1933 the ownership and operation of the dealership; or

1934 (ii) the receipt of the requested personal and financial data.

1935 (b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of
1936 the designated successor and the franchise agreement is considered amended to reflect the
1937 approval of the succession the day following the last day the franchisor can serve notice under
1938 Subsection (3)(a).

1939 (4) The notice of the franchisor provided in Subsection (3) shall state:

1940 (a) the specific grounds for the refusal to approve the succession; and

1941 (b) that discontinuance of the franchise agreement shall take effect not less than 180
1942 days after the date the notice of refusal is served unless the proposed successor files an
1943 application for hearing under Subsection (6).

1944 (5) (a) This section does not prevent a franchisee from designating a person as the
1945 successor by written instrument filed with the franchisor.

1946 (b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs
1947 the succession rights to the management and operation of the dealership subject to the
1948 designated successor satisfying the franchisor's qualification requirements as described in this
1949 section.

1950 (6) (a) If a franchisor serves a notice of refusal to a designated successor pursuant to
1951 Subsection (3), the designated successor may, within the 180-day period provided in
1952 Subsection (4), file with the [~~advisory board~~] executive director an application for a hearing
1953 and a determination by the executive director regarding whether good cause exists for the
1954 refusal.

1955 (b) If application for a hearing is timely filed, the franchisor shall continue to honor the
1956 franchise agreement until after:

1957 (i) the requested hearing has been concluded;

1958 (ii) a decision is rendered by the executive director; and

1959 (iii) the applicable appeal period has expired following a decision by the executive
1960 director.

1961 Section 25. Section **13-35-301** is amended to read:

1962 **13-35-301. Termination or noncontinuance of franchise.**

1963 (1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to
1964 continue a franchise agreement unless:

1965 (a) the franchisee has received written notice from the franchisor 60 days before the
1966 effective date of termination or noncontinuance setting forth the specific grounds for
1967 termination or noncontinuance that are relied on by the franchisor as establishing good cause
1968 for the termination or noncontinuance;

1969 (b) the franchisor has good cause for termination or noncontinuance; and

1970 (c) the franchisor is willing and able to comply with Section [13-35-105](#).

1971 (2) A franchisor may terminate a franchise, without complying with Subsection (1):

1972 (a) if for a particular line-make the franchisor or manufacturer discontinues that
1973 line-make;

1974 (b) if the franchisee's registration as a new powersport vehicle dealer is revoked under
1975 Section [13-35-105](#); or

1976 (c) upon a mutual written agreement of the franchisor and franchisee.

1977 (3) (a) At any time before the effective date of termination or noncontinuance of the
1978 franchise, the franchisee may apply to the [~~advisory board~~] executive director for a hearing on
1979 the merits, and following notice to all parties concerned, the hearing shall be promptly held as
1980 provided in Section [13-35-304](#).

1981 (b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may
1982 not become effective until:

1983 (i) final determination of the issue by the executive director; and

1984 (ii) the applicable appeal period has lapsed.

1985 Section 26. Section **13-35-302** is amended to read:

1986 **13-35-302. Issuance of additional franchises -- Relocation of existing franchisees.**

1987 (1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection
1988 (1)(b) if the franchisor seeks to:

1989 (i) enter into a franchise establishing a powersport vehicle dealership within a relevant
1990 market area where the same line-make is represented by another franchisee; or

1991 (ii) relocate an existing powersport vehicle dealership.

1992 (b) (i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking
1993 the action, the franchisor shall in writing notify the [~~advisory board~~] executive director and
1994 each franchisee in that line-make in the relevant market area that the franchisor intends to take
1995 an action described in Subsection (1)(a).

1996 (ii) The notice required by Subsection (1)(b)(i) shall:

1997 (A) specify the good cause on which it intends to rely for the action; and

1998 (B) be delivered by registered or certified mail or by any form of reliable delivery
1999 through which receipt is verifiable.

2000 (c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee
2001 that is required to receive notice under Subsection (1)(b) may protest to the [~~advisory board~~]
2002 executive director the establishing or relocating of the dealership. When a protest is filed, the
2003 department shall inform the franchisor that:

2004 (i) a timely protest has been filed;

2005 (ii) a hearing is required;

2006 (iii) the franchisor may not establish or relocate the proposed dealership until the
2007 [~~advisory board~~] executive director has held a hearing; and

2008 (iv) the franchisor may not establish or relocate a proposed dealership if the executive
2009 director determines that there is not good cause for permitting the establishment or relocation
2010 of the dealership.

2011 (d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated

2012 to expedite the disposition of the issue.

2013 (2) Subsection (1) does not apply to the relocation of a franchisee's dealership:

2014 (a) less than two miles from the existing location of the franchisee's dealership; or

2015 (b) farther away from all powersport dealerships that are:

2016 (i) of the same line-make as the franchisee's dealership; and

2017 (ii) in the franchisee's existing dealership's relevant market area.

2018 (3) For purposes of this section:

2019 (a) relocation of an existing franchisee's dealership in excess of one mile from its
2020 existing location is considered the establishment of an additional franchise in the line-make of
2021 the relocating franchise;

2022 (b) the reopening in a relevant market area of a dealership that has not been in
2023 operation for one year or more is considered the establishment of an additional powersport
2024 vehicle dealership; and

2025 (c) (i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary
2026 additional place of business by a powersport vehicle franchisee is considered the establishment
2027 of an additional powersport vehicle dealership; and

2028 (ii) the establishment of a temporary additional place of business by a powersport
2029 vehicle franchisee is not considered the establishment of an additional powersport vehicle
2030 dealership if the powersport vehicle franchisee is participating in a trade show where three or
2031 more powersport vehicle dealers are participating.

2032 Section 27. Section **13-35-303** is amended to read:

2033 **13-35-303. Effect of terminating a franchise.**

2034 If under Section **13-35-301** the executive director permits a franchisor to terminate or
2035 not continue a franchise and prohibits the franchisor from entering into a franchise for the sale
2036 of new powersport vehicles of a line-make in a relevant market area, the franchisor may not
2037 enter into a franchise for the sale of new powersport vehicles of that line-make in the specified
2038 relevant market area unless the executive director determines[~~after a recommendation by the~~
2039 ~~advisory board,~~] that there has been a change of circumstances so that the relevant market area
2040 at the time of the establishment of the new franchise agreement can reasonably be expected to
2041 support the new franchisee.

2042 Section 28. Section **13-35-305** is amended to read:

2043 **13-35-305. Evidence to be considered in determining cause to terminate or**
2044 **discontinue.**

2045 (1) In determining whether a franchisor has established good cause for terminating or
2046 not continuing a franchise agreement, [~~the advisory board and~~] the executive director shall
2047 consider:

2048 (a) the amount of business transacted by the franchisee, as compared to business
2049 available to the franchisee;

2050 (b) the investment necessarily made and obligations incurred by the franchisee in the
2051 performance of the franchisee's part of the franchise agreement;

2052 (c) the permanency of the investment;

2053 (d) whether it is injurious or beneficial to the public welfare or public interest for the
2054 business of the franchisee to be disrupted;

2055 (e) whether the franchisee has adequate powersport vehicle sales and service facilities,
2056 equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of
2057 the consumer for the new powersport vehicles handled by the franchisee and has been and is
2058 rendering adequate services to the public;

2059 (f) whether the franchisee refuses to honor warranties of the franchisor under which the
2060 warranty service work is to be performed pursuant to the franchise agreement, if the franchisor
2061 reimburses the franchisee for the warranty service work;

2062 (g) failure by the franchisee to substantially comply with those requirements of the
2063 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

2064 (i) reasonable;

2065 (ii) material; and

2066 (iii) not in violation of this chapter;

2067 (h) evidence of bad faith by the franchisee in complying with those terms of the

2068 franchise agreement that are determined by [~~the advisory board or~~] the executive director to be:

2069 (i) reasonable;

2070 (ii) material; and

2071 (iii) not in violation of this chapter;

2072 (i) prior misrepresentation by the franchisee in applying for the franchise;

2073 (j) transfer of any ownership or interest in the franchise without first obtaining

2074 approval from the franchisor or the executive director [~~after receipt of the advisory board's~~
2075 ~~recommendation~~]; and

2076 (k) any other factor [~~the advisory board or~~] the executive director [~~consider~~] considers
2077 relevant.

2078 (2) Notwithstanding any franchise agreement, the following do not constitute good
2079 cause, as used in this chapter for the termination or noncontinuation of a franchise:

2080 (a) the sole fact that the franchisor desires:

2081 (i) greater market penetration; or

2082 (ii) more sales or leases of new powersport vehicles;

2083 (b) the change of ownership of the franchisee's dealership or the change of executive
2084 management of the franchisee's dealership unless the franchisor proves that the change of
2085 ownership or executive management will be substantially detrimental to the distribution of the
2086 franchisor's powersport vehicles; or

2087 (c) the fact that the franchisee has justifiably refused or declined to participate in any
2088 conduct covered by Section [13-35-201](#).

2089 (3) For purposes of Subsection (2), "substantially detrimental" includes the failure of
2090 any proposed transferee to meet the objective criteria applied by the franchisor in qualifying
2091 franchisees at the time of application.

2092 Section 29. Section **13-35-306** is amended to read:

2093 **13-35-306. Evidence to be considered in determining cause to relocate existing**
2094 **franchisee or establish a new franchised dealership.**

2095 In determining whether a franchisor has established good cause for relocating an
2096 existing franchisee or establishing a new franchised dealership for the same line-make in a
2097 given relevant market area, [~~the advisory board and~~] the executive director shall consider:

2098 (1) the amount of business transacted by other franchisees of the same line-make in
2099 that relevant market area, as compared to business available to the franchisees;

2100 (2) the investment necessarily made and obligations incurred by other franchisees of
2101 the same line-make in that relevant market area in the performance of their part of their
2102 franchisee agreements;

2103 (3) the permanency of the existing and proposed investment;

2104 (4) whether it is injurious or beneficial to the public welfare or public interest for an

2105 additional franchise to be established; and

2106 (5) whether the franchisees of the same line-make in that relevant market area are
2107 providing adequate service to consumers for the powersport vehicles of the line-make, which
2108 shall include the adequacy of:

- 2109 (a) the powersport vehicle sale and service facilities;
- 2110 (b) equipment;
- 2111 (c) supply of vehicle parts; and
- 2112 (d) qualified service personnel.

2113 Section 30. Section **15A-1-204** is amended to read:

2114 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
2115 **-- Approved codes -- Exemptions.**

2116 (1) (a) The State Construction Code is the construction codes adopted with any
2117 modifications in accordance with this section that the state and each political subdivision of the
2118 state shall follow.

2119 (b) A person shall comply with the applicable provisions of the State Construction
2120 Code when:

- 2121 (i) new construction is involved; and
- 2122 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:
 - 2123 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
2124 conservation, or reconstruction of the building; or
 - 2125 (B) changing the character or use of the building in a manner that increases the
2126 occupancy loads, other demands, or safety risks of the building.

2127 (c) On and after July 1, 2010, the State Construction Code is the State Construction
2128 Code in effect on July 1, 2010, until in accordance with this section:

- 2129 (i) a new State Construction Code is adopted; or
- 2130 (ii) one or more provisions of the State Construction Code are amended or repealed in
2131 accordance with this section.

2132 (d) A provision of the State Construction Code may be applicable:

- 2133 (i) to the entire state; or
- 2134 (ii) within a county, city, or town.

2135 (2) (a) The Legislature shall adopt a State Construction Code by enacting legislation

2136 that adopts a nationally recognized construction code with any modifications.

2137 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect
2138 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the
2139 legislation.

2140 (c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is
2141 the State Construction Code until, in accordance with this section, the Legislature adopts a new
2142 State Construction Code by:

2143 (i) adopting a new State Construction Code in its entirety; or

2144 (ii) amending or repealing one or more provisions of the State Construction Code.

2145 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
2146 recognized construction code, the commission shall prepare a report described in Subsection
2147 (4).

2148 (b) For the provisions of a nationally recognized construction code that apply only to
2149 detached one- and two-family dwellings and townhouses not more than three stories above
2150 grade plane in height with separate means of egress and their accessory structures, the
2151 commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every
2152 second update of the nationally recognized construction code.

2153 (4) (a) In accordance with Subsection (3), on or before September 1 of the year after
2154 the year designated in the title of a nationally recognized construction code, the commission
2155 shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business
2156 and Labor Interim Committee that:

2157 (i) states whether the commission recommends the Legislature adopt the update with
2158 any modifications; and

2159 (ii) describes the costs and benefits of each recommended change in the update or in
2160 any modification.

2161 (b) After the Business and Labor Interim Committee receives the report described in
2162 Subsection (4)(a), the Business and Labor Interim Committee shall:

2163 (i) study the recommendations; and

2164 (ii) if the Business and Labor Interim Committee decides to recommend legislative
2165 action to the Legislature, prepare legislation for consideration by the Legislature in the next
2166 general session.

2167 (5) (a) (i) The commission shall, by no later than September 1 of each year in which
2168 the commission is not required to submit a report described in Subsection (4), submit, in
2169 accordance with Section 68-3-14, a written report to the Business and Labor Interim
2170 Committee recommending whether the Legislature should amend or repeal one or more
2171 provisions of the State Construction Code.

2172 (ii) As part of a recommendation described in Subsection (5)(a)(i), the commission
2173 shall describe the costs and benefits of each proposed amendment or repeal.

2174 (b) The commission may recommend legislative action related to the State
2175 Construction Code:

2176 (i) on the commission's own initiative;

2177 (ii) upon the recommendation of the division; or

2178 (iii) upon the receipt of a request by one of the following that the commission
2179 recommend legislative action related to the State Construction Code:

2180 (A) a local regulator;

2181 (B) a state regulator;

2182 (C) a state agency involved with the construction and design of a building;

2183 (D) the Construction Services Commission;

2184 [~~(E) the Electrician Licensing Board;~~]

2185 [~~(F)~~] (E) the Electricians and Plumbers Licensing Board; or

2186 [~~(G)~~] (F) a recognized construction-related association.

2187 (c) If the Business and Labor Interim Committee decides to recommend legislative
2188 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
2189 for consideration by the Legislature in the next general session.

2190 (6) (a) Notwithstanding the provisions of this section, the commission may, in
2191 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
2192 Construction Code if the commission determines that waiting for legislative action in the next
2193 general legislative session would:

2194 (i) cause an imminent peril to the public health, safety, or welfare; or

2195 (ii) place a person in violation of federal or other state law.

2196 (b) If the commission amends the State Construction Code in accordance with this
2197 Subsection (6), the commission shall file with the division:

2198 (i) the text of the amendment to the State Construction Code; and
2199 (ii) an analysis that includes the specific reasons and justifications for the commission's
2200 findings.

2201 (c) If the State Construction Code is amended under this Subsection (6), the division
2202 shall:

2203 (i) publish the amendment to the State Construction Code in accordance with Section
2204 15A-1-205; and

2205 (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the
2206 Business and Labor Interim Committee containing the amendment to the State Construction
2207 Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

2208 (d) If not formally adopted by the Legislature at the next annual general session, an
2209 amendment to the State Construction Code under this Subsection (6) is repealed on the July 1
2210 immediately following the next annual general session that follows the adoption of the
2211 amendment.

2212 (7) (a) The division, in consultation with the commission, may approve, without
2213 adopting, one or more approved codes, including a specific edition of a construction code, for
2214 use by a compliance agency.

2215 (b) If the code adopted by a compliance agency is an approved code described in
2216 Subsection (7)(a), the compliance agency may:

2217 (i) adopt an ordinance requiring removal, demolition, or repair of a building;

2218 (ii) adopt, by ordinance or rule, a dangerous building code; or

2219 (iii) adopt, by ordinance or rule, a building rehabilitation code.

2220 (8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in
2221 state law, a state executive branch entity or political subdivision of the state may not, after
2222 December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject
2223 specifically addressed by, and that is more restrictive than, the State Construction Code.

2224 (9) A state executive branch entity or political subdivision of the state may:

2225 (a) enforce a federal law or regulation;

2226 (b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or
2227 requirement applies only to a facility or construction owned or used by a state entity or a
2228 political subdivision of the state; or

2229 (c) enforce a rule, ordinance, or requirement:

2230 (i) that the state executive branch entity or political subdivision adopted or made
2231 effective before July 1, 2015; and

2232 (ii) for which the state executive branch entity or political subdivision can demonstrate,
2233 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an
2234 individual from a condition likely to cause imminent injury or death.

2235 (10) The Department of Health and Human Services or the Department of
2236 Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

2237 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
2238 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
2239 than 1,500 square feet and used solely for the type of sales described in Subsection
2240 [59-12-104](#)(20), is exempt from the requirements of the State Construction Code.

2241 (b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing,
2242 electrical, and mechanical permit may be required when that work is included in a structure
2243 described in Subsection (11)(a).

2244 (ii) Unless located in whole or in part in an agricultural protection area created under
2245 Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection
2246 Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if
2247 the structure is located on land that is:

2248 (A) within the boundaries of a city or town, and less than five contiguous acres; or

2249 (B) within a subdivision for which the county has approved a subdivision plat under
2250 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

2251 (12) (a) A remote yurt is exempt from the State Construction Code including the
2252 permit requirements of the State Construction Code.

2253 (b) Notwithstanding Subsection (12)(a), a county may by ordinance require remote
2254 yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to
2255 comply with all of the following:

2256 (i) the State Construction Code;

2257 (ii) notwithstanding Section [15A-5-104](#), the State Fire Code; and

2258 (iii) notwithstanding Section [19-5-125](#), Title 19, Chapter 5, Water Quality Act, rules
2259 made under that chapter, and local health department's jurisdiction over onsite wastewater

2260 disposal.

2261 Section 31. Section **15A-1-206** is amended to read:

2262 **15A-1-206. Code amendment process.**

2263 (1) The division, in consultation with the commission, shall establish by rule the
2264 procedure under which a request that the commission recommend legislative action is to be:

2265 (a) filed with the division;

2266 (b) reviewed by the commission; and

2267 (c) addressed by the commission in the commission's report to the Business and Labor

2268 Interim Committee required by Section [15A-1-204](#).

2269 (2) The division shall accept a request that the commission recommend legislative
2270 action in accordance with Section [15A-1-204](#) from:

2271 (a) a local regulator;

2272 (b) a state regulator;

2273 (c) a state agency involved with the construction and design of a building;

2274 (d) the Construction Services Commission;

2275 [~~(e) the Electrician Licensing Board;~~]

2276 [~~(f)~~] (e) the Electricians and Plumbers Licensing Board; or

2277 [~~(g)~~] (f) a recognized construction-related association.

2278 (3) (a) If one or more requests are received in accordance with this section, the division
2279 shall hold at least one public hearing before the commission concerning the requests.

2280 (b) The commission shall conduct a public hearing under this Subsection (3) in
2281 accordance with the rules of the commission, which may provide for coordinating the public
2282 hearing with a meeting of the commission.

2283 (c) After a public hearing described in this Subsection (3), the commission shall
2284 prepare a written report of its recommendations made on the basis of the public hearing. The
2285 commission shall include the information in the written report prepared under this Subsection
2286 (3)(c) in the commission's report to the Business and Labor Interim Committee under Section
2287 [15A-1-204](#).

2288 (4) In making rules required by this chapter, the division shall comply with Title 63G,
2289 Chapter 3, Utah Administrative Rulemaking Act.

2290 Section 32. Section **17-21-1** is amended to read:

2291 **17-21-1. Recorder -- Document custody responsibility .**

2292 The county recorder:

2293 (1) is custodian of all recorded documents and records required by law to be recorded;

2294 and2295 [~~(2) shall comply with rules made by the County Recorder Standards Board under~~
2296 ~~Section 63C-30-202, including rules that govern:]~~2297 [~~(a) the protection of recorded documents and records in the county recorder's~~
2298 ~~custody;~~]2299 [~~(b) the electronic submission of plats, records, and other documents to the county~~
2300 ~~recorder's office;~~]2301 [~~(c) the protection of privacy interests in the case of documents and records in the~~
2302 ~~county recorder's custody; and]~~2303 [~~(d) the formatting, recording, and redaction of documents and records in the county~~
2304 ~~recorder's custody;~~]2305 [~~(3) shall comply with the appeal authority established by the county legislative body in~~
2306 ~~accordance with Section 17-50-340; and]~~2307 [~~(4)~~] (2) may adopt policies and procedures governing the office of the county recorder
2308 that do not conflict with this chapter [~~or rules made by the County Recorder Standards Board~~
2309 ~~under Section 63C-30-202].~~2310 Section 33. Section **26B-1-239** is amended to read:2311 **26B-1-239. Systematic medical evidence review of hormonal transgender**
2312 **treatments.**2313 (1) As used in this section, "hormonal transgender treatment" means the same as that
2314 term is defined in Section 58-1-603.2315 (2) The department, in consultation with the Division of Professional Licensing created
2316 in Section 58-1-103, the [~~Physicians~~] Medical Licensing Board created in Section 58-67-201,
2317 [~~the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201;~~] the
2318 University of Utah, and a non-profit hospital system with multiple hospitals in Utah and
2319 experience in specialty pediatric care, shall conduct a systematic medical evidence review
2320 regarding the provision of hormonal transgender treatments to minors.

2321 (3) The purpose of the systematic medical evidence review is to provide the Legislature

2322 with recommendations to consider when deciding whether to lift the moratorium described in
2323 Section 58-1-603.1.

2324 (4) The systematic medical evidence review shall:

2325 (a) analyze hormonal transgender treatments that are prescribed to a minor with gender
2326 dysphoria, including:

2327 (i) analyzing any effects and side effects of the treatment; and

2328 (ii) whether each treatment has been approved by the federal Food and Drug
2329 Administration to treat gender dysphoria;

2330 (b) review the scientific literature regarding hormonal transgender treatments in
2331 minors, including short-term and long-term impacts, literature from other countries, and rates
2332 of desistence and time to desistence where applicable;

2333 (c) review the quality of evidence cited in any scientific literature including to analyze
2334 and report on the quality of the data based on techniques such as peer review, selection bias,
2335 self-selection bias, randomization, sample size, and other applicable best research practices;

2336 (d) include high quality clinical research assessing the short-term and long-term
2337 benefits and harms of hormonal transgender treatments prescribed to minors with gender
2338 dysphoria and the short-term and long-term benefits and harms of interrupting the natural
2339 puberty and development processes of the child;

2340 (e) specify the conditions under which the department recommends that a treatment not
2341 be permitted;

2342 (f) recommend what information a minor and the minor's parent should understand
2343 before consenting to a hormonal transgender treatment;

2344 (g) recommend the best practices a health care provider should follow to provide the
2345 information described in Subsection (4)(f);

2346 (h) describe the assumptions and value determinations used to reach a
2347 recommendation; and

2348 (i) include any other information the department, in consultation with the entities
2349 described in Subsection (2), determines would assist the Legislature in enacting legislation
2350 related to the provision of hormonal transgender treatment to minors.

2351 (5) Upon the completion of the systematic medical evidence review, the department
2352 shall provide the systematic medical evidence review to the Health and Human Services

2353 Interim Committee.

2354 Section 34. Section **26B-1-421** is amended to read:

2355 **26B-1-421. Compassionate Use Board.**

2356 (1) The definitions in Section **26B-4-201** apply to this section.

2357 (2) (a) The department shall establish a Compassionate Use Board consisting of:

2358 (i) seven qualified medical providers that the executive director appoints and the

2359 Senate confirms:

2360 (A) who are knowledgeable about the medicinal use of cannabis;

2361 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
2362 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2363 (C) who are board certified by the American Board of Medical Specialties or an
2364 American Osteopathic Association Specialty Certifying Board in the specialty of neurology,
2365 pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal
2366 medicine, pediatrics, family medicine, or gastroenterology; and

2367 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
2368 executive director or the director's designee.

2369 (b) In appointing the seven qualified medical providers described in Subsection (2)(a),
2370 the executive director shall ensure that at least two have a board certification in pediatrics.

2371 (3) (a) Of the members of the Compassionate Use Board that the executive director
2372 first appoints:

2373 (i) three shall serve an initial term of two years; and

2374 (ii) the remaining members shall serve an initial term of four years.

2375 (b) After an initial term described in Subsection (3)(a) expires:

2376 (i) each term is four years; and

2377 (ii) each board member is eligible for reappointment.

2378 (c) A member of the Compassionate Use Board may serve until a successor is
2379 appointed.

2380 (d) Four members constitute a quorum of the Compassionate Use Board.

2381 (4) A member of the Compassionate Use Board may receive:

2382 (a) notwithstanding Section **63A-3-106**, compensation or benefits for the member's
2383 service; and

2384 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
2385 Division of Finance in accordance with Section 63A-3-107.

2386 (5) The Compassionate Use Board shall:

2387 (a) review and recommend for department approval a petition to the board regarding an
2388 individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection
2389 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
2390 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
2391 period of validity, if:

2392 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
2393 the individual's qualified medical provider is actively treating the individual for an intractable
2394 condition that:

2395 (A) substantially impairs the individual's quality of life; and

2396 (B) has not, in the qualified medical provider's professional opinion, adequately
2397 responded to conventional treatments;

2398 (ii) the qualified medical provider:

2399 (A) recommends that the individual or minor be allowed to use medical cannabis; and

2400 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
2401 describing relevant treatment history including rationale for considering the use of medical
2402 cannabis; and

2403 (iii) the Compassionate Use Board determines that:

2404 (A) the recommendation of the individual's qualified medical provider is justified; and

2405 (B) based on available information, it may be in the best interests of the individual to
2406 allow the use of medical cannabis;

2407 (b) when a qualified medical provider recommends that an individual described in
2408 Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be
2409 allowed to use a medical cannabis device or medical cannabis product to vaporize a medical
2410 cannabis treatment, review and approve or deny the use of the medical cannabis device or
2411 medical cannabis product;

2412 (c) unless no petitions are pending:

2413 (i) meet to receive or review compassionate use petitions at least quarterly; and

2414 (ii) if there are more petitions than the board can receive or review during the board's

2415 regular schedule, as often as necessary;

2416 (d) except as provided in Subsection (6), complete a review of each petition and
2417 recommend to the department approval or denial of the applicant for qualification for a medical
2418 cannabis card within 90 days after the day on which the board received the petition;

2419 (e) consult with the department regarding the criteria described in Subsection (6); and

2420 (f) report, before November 1 of each year, to the Health and Human Services Interim
2421 Committee:

2422 (i) the number of compassionate use recommendations the board issued during the past
2423 year; and

2424 (ii) the types of conditions for which the board recommended compassionate use.

2425 (6) The department shall make rules, in consultation with the Compassionate Use
2426 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
2427 establish a process and criteria for a petition to the board to automatically qualify for expedited
2428 final review and approval or denial by the department in cases where, in the determination of
2429 the department and the board:

2430 (a) time is of the essence;

2431 (b) engaging the full review process would be unreasonable in light of the petitioner's
2432 physical condition; and

2433 (c) sufficient factors are present regarding the petitioner's safety.

2434 (7) (a) (i) The department shall review:

2435 (A) any compassionate use for which the Compassionate Use Board recommends
2436 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
2437 discretion under this section; and

2438 (B) any expedited petitions the department receives under the process described in
2439 Subsection (6).

2440 (ii) If the department determines that the Compassionate Use Board properly exercised
2441 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
2442 petition merits approval based on the criteria established in accordance with Subsection (6), the
2443 department shall:

2444 (A) issue the relevant medical cannabis card; and

2445 (B) provide for the renewal of the medical cannabis card in accordance with the

2446 recommendation of the qualified medical provider described in Subsection (5)(a).

2447 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),
2448 the individual seeking to obtain a medical cannabis card may petition the department to review
2449 the board's decision.

2450 (ii) If the department determines that the Compassionate Use Board's recommendation
2451 for denial under Subsection (5)(d) was arbitrary or capricious:

2452 (A) the department shall notify the Compassionate Use Board of the department's
2453 determination; and

2454 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend
2455 approval under this section.

2456 (c) In reviewing the Compassionate Use Board's recommendation for approval or
2457 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
2458 presume the board properly exercised the board's discretion unless the department determines
2459 that the board's recommendation was arbitrary or capricious.

2460 (8) Any individually identifiable health information contained in a petition that the
2461 Compassionate Use Board or department receives under this section is a protected record in
2462 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

2463 (9) The Compassionate Use Board shall annually report the board's activity to:

2464 (a) the Cannabis Research Review Board; and

2465 (b) the advisory board.

2466 Section 35. Section **26B-3-303** is amended to read:

2467 **26B-3-303. DUR Board -- Responsibilities.**

2468 The board shall:

2469 (1) develop rules necessary to carry out its responsibilities as defined in this part;

2470 (2) oversee the implementation of a Medicaid retrospective and prospective DUR
2471 program in accordance with this part, including responsibility for approving provisions of
2472 contractual agreements between the Medicaid program and any other entity that will process
2473 and review Medicaid drug claims and profiles for the DUR program in accordance with this
2474 part;

2475 (3) develop and apply predetermined criteria and standards to be used in retrospective
2476 and prospective DUR, ensuring that the criteria and standards are based on the compendia, and

2477 that they are developed with professional input, in a consensus fashion, with provisions for
2478 timely revision and assessment as necessary. The DUR standards developed by the board shall
2479 reflect the local practices of physicians in order to monitor:

2480 (a) therapeutic appropriateness;

2481 (b) overutilization or underutilization;

2482 (c) therapeutic duplication;

2483 (d) drug-disease contraindications;

2484 (e) drug-drug interactions;

2485 (f) incorrect drug dosage or duration of drug treatment; and

2486 (g) clinical abuse and misuse;

2487 (4) develop, select, apply, and assess interventions and remedial strategies for

2488 physicians, pharmacists, and recipients that are educational and not punitive in nature, in order

2489 to improve the quality of care;

2490 (5) disseminate information to physicians and pharmacists to ensure that they are aware

2491 of the board's duties and powers;

2492 (6) provide written, oral, or electronic reminders of patient-specific or drug-specific

2493 information, designed to ensure recipient, physician, and pharmacist confidentiality, and

2494 suggest changes in prescribing or dispensing practices designed to improve the quality of care;

2495 (7) utilize face-to-face discussions between experts in drug therapy and the prescriber

2496 or pharmacist who has been targeted for educational intervention;

2497 (8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;

2498 (9) create an educational program using data provided through DUR to provide active

2499 and ongoing educational outreach programs to improve prescribing and dispensing practices,

2500 either directly or by contract with other governmental or private entities;

2501 (10) provide a timely evaluation of intervention to determine if those interventions

2502 have improved the quality of care;

2503 (11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec.

2504 712;

2505 (12) develop a working agreement with related boards or agencies, including the State

2506 Board of Pharmacy, ~~[Physicians']~~ Medical Licensing Board, and SURS staff within the

2507 division, in order to clarify areas of responsibility for each, where those areas may overlap;

- 2508 (13) establish a grievance process for physicians and pharmacists under this part, in
2509 accordance with Title 63G, Chapter 4, Administrative Procedures Act;
- 2510 (14) publish and disseminate educational information to physicians and pharmacists
2511 concerning the board and the DUR program, including information regarding:
- 2512 (a) identification and reduction of the frequency of patterns of fraud, abuse, gross
2513 overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and
2514 recipients;
 - 2515 (b) potential or actual severe or adverse reactions to drugs;
 - 2516 (c) therapeutic appropriateness;
 - 2517 (d) overutilization or underutilization;
 - 2518 (e) appropriate use of generics;
 - 2519 (f) therapeutic duplication;
 - 2520 (g) drug-disease contraindications;
 - 2521 (h) drug-drug interactions;
 - 2522 (i) incorrect drug dosage and duration of drug treatment;
 - 2523 (j) drug allergy interactions; and
 - 2524 (k) clinical abuse and misuse;
- 2525 (15) develop and publish, with the input of the State Board of Pharmacy, guidelines
2526 and standards to be used by pharmacists in counseling Medicaid recipients in accordance with
2527 this part. The guidelines shall ensure that the recipient may refuse counseling and that the
2528 refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling
2529 include:
- 2530 (a) the name and description of the medication;
 - 2531 (b) administration, form, and duration of therapy;
 - 2532 (c) special directions and precautions for use;
 - 2533 (d) common severe side effects or interactions, and therapeutic interactions, and how to
2534 avoid those occurrences;
 - 2535 (e) techniques for self-monitoring drug therapy;
 - 2536 (f) proper storage;
 - 2537 (g) prescription refill information; and
 - 2538 (h) action to be taken in the event of a missed dose; and

2539 (16) establish procedures in cooperation with the State Board of Pharmacy for
2540 pharmacists to record information to be collected under this part. The recorded information
2541 shall include:

- 2542 (a) the name, address, age, and gender of the recipient;
- 2543 (b) individual history of the recipient where significant, including disease state, known
2544 allergies and drug reactions, and a comprehensive list of medications and relevant devices;
- 2545 (c) the pharmacist's comments on the individual's drug therapy;
- 2546 (d) name of prescriber; and
- 2547 (e) name of drug, dose, duration of therapy, and directions for use.

2548 Section 36. Section **26B-4-219** is amended to read:

2549 **26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.**

2550 (1) (a) A medical cannabis pharmacy:

2551 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
2552 Practice Act, as a pharmacy medical provider;

2553 (ii) may employ a physician who has the authority to write a prescription and is
2554 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
2555 Osteopathic Medical Practice Act, as a pharmacy medical provider;

2556 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
2557 works onsite during all business hours; and

2558 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
2559 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
2560 cannabis pharmacy.

2561 (b) An individual may not serve as a pharmacy medical provider unless the department
2562 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2563 (2) (a) The department shall, within 15 days after the day on which the department
2564 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
2565 medical provider, register and issue a pharmacy medical provider registration card to the
2566 prospective pharmacy medical provider if the medical cannabis pharmacy:

2567 (i) provides to the department:

2568 (A) the prospective pharmacy medical provider's name and address;

2569 (B) the name and location of the licensed medical cannabis pharmacy where the

2570 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
2571 (C) a report detailing the completion of the continuing education requirement described
2572 in Subsection (3); and
2573 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
2574 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
2575 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
2576 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
2577 (ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5),
2578 the department sets in accordance with Section 63J-1-504.
2579 (b) The department may not register a recommending medical provider as a pharmacy
2580 medical provider.
2581 (3) (a) A pharmacy medical provider shall complete the continuing education described
2582 in this Subsection (3) in the following amounts:
2583 (i) as a condition precedent to registration, four hours; and
2584 (ii) as a condition precedent to renewal of the registration, four hours every two years.
2585 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
2586 (i) complete continuing education:
2587 (A) regarding the topics described in Subsection (3)(d); and
2588 (B) offered by the department under Subsection (3)(c) or an accredited or approved
2589 continuing education provider that the department recognizes as offering continuing education
2590 appropriate for the medical cannabis pharmacy practice; and
2591 (ii) make a continuing education report to the department in accordance with a process
2592 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
2593 Administrative Rulemaking Act, and in collaboration with the Division of Professional
2594 Licensing and:
2595 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
2596 Pharmacy Practice Act, the Board of Pharmacy; or
2597 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
2598 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the [Physicians]
2599 Medical Licensing Board[; and].
2600 [~~(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah~~

2601 ~~Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.]~~

2602 (c) The department may, in consultation with the Division of Professional Licensing,
2603 develop the continuing education described in this Subsection (3).

2604 (d) The continuing education described in this Subsection (3) may discuss:

2605 (i) the provisions of this part;

2606 (ii) general information about medical cannabis under federal and state law;

2607 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
2608 including risks and benefits;

2609 (iv) recommendations for medical cannabis as it relates to the continuing care of a
2610 patient in pain management, risk management, potential addiction, and palliative care; or

2611 (v) best practices for recommending the form and dosage of a medical cannabis
2612 product based on the qualifying condition underlying a medical cannabis recommendation.

2613 (4) (a) A pharmacy medical provider registration card expires two years after the day
2614 on which the department issues or renews the card.

2615 (b) A pharmacy medical provider may renew the provider's registration card if the
2616 provider:

2617 (i) is eligible for a pharmacy medical provider registration card under this section;

2618 (ii) certifies to the department in a renewal application that the information in

2619 Subsection (2)(a) is accurate or updates the information;

2620 (iii) submits a report detailing the completion of the continuing education requirement
2621 described in Subsection (3); and

2622 (iv) pays to the department a renewal fee in an amount that:

2623 (A) subject to Subsection 26B-1-310(5), the department sets in accordance with
2624 Section 63J-1-504; and

2625 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2626 comparison to the original application process.

2627 (5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the
2628 person or another person dispenses medical cannabis.

2629 (b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy
2630 medical provider may advertise the following:

2631 (i) a green cross;

2632 (ii) that the person is registered as a pharmacy medical provider and dispenses medical
2633 cannabis; or

2634 (iii) a scientific study regarding medical cannabis use.

2635 (6) (a) The department may revoke a pharmacy medical provider's registration for a
2636 violation of this chapter.

2637 (b) The department may inspect patient records held by a medical cannabis pharmacy
2638 to ensure a pharmacy medical provider is practicing in accordance with this chapter and
2639 applicable rules.

2640 Section 37. Section **26B-4-506** is amended to read:

2641 **26B-4-506. Guidelines for dispensing a self-administered hormonal**
2642 **contraceptive.**

2643 (1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal
2644 contraceptive under Section [26B-4-504](#):

2645 (a) shall obtain a completed self-screening risk assessment questionnaire, that has been
2646 approved by the division in collaboration with the Board of Pharmacy and the [Physicians]
2647 Medical Licensing Board, from the patient before dispensing the self-administered hormonal
2648 contraceptive;

2649 (b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to
2650 dispense a self-administered hormonal contraceptive to a patient:

2651 (i) may not dispense a self-administered hormonal contraceptive to the patient; and

2652 (ii) shall refer the patient to a primary care or women's health care practitioner;

2653 (c) may not continue to dispense a self-administered hormonal contraceptive to a
2654 patient for more than 24 months after the date of the initial prescription without evidence that
2655 the patient has consulted with a primary care or women's health care practitioner during the
2656 preceding 24 months; and

2657 (d) shall provide the patient with:

2658 (i) written information regarding:

2659 (A) the importance of seeing the patient's primary care practitioner or women's health
2660 care practitioner to obtain recommended tests and screening; and

2661 (B) the effectiveness and availability of long-acting reversible contraceptives as an
2662 alternative to self-administered hormonal contraceptives; and

2663 (ii) a copy of the record of the encounter with the patient that includes:
2664 (A) the patient's completed self-assessment tool; and
2665 (B) a description of the contraceptives dispensed, or the basis for not dispensing a
2666 contraceptive.

2667 (2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient,
2668 the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

2669 (a) the appropriate administration and storage of the self-administered hormonal
2670 contraceptive;

2671 (b) potential side effects and risks of the self-administered hormonal contraceptive;

2672 (c) the need for backup contraception;

2673 (d) when to seek emergency medical attention; and

2674 (e) the risk of contracting a sexually transmitted infection or disease, and ways to
2675 reduce the risk of contraction.

2676 (3) The division, in collaboration with the Board of Pharmacy and the [Physicians]
2677 Medical Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah
2678 Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire
2679 described in Subsection (1)(a).

2680 Section 38. Section **26B-4-513** is amended to read:

2681 **26B-4-513. Coprescription guidelines.**

2682 (1) As used in this section:

2683 (a) "Controlled substance prescriber" means the same as that term is defined in Section
2684 [58-37-6.5](#).

2685 (b) "Coprescribe" means to issue a prescription for an opiate antagonist with a
2686 prescription for an opiate.

2687 (2) The department shall, in consultation with the [Physicians] Medical Licensing
2688 Board created in Section [58-67-201](#), [~~the Osteopathic Physician and Surgeon's Licensing Board~~
2689 ~~created in Section [58-68-201](#);~~] and the Division of Professional Licensing created in Section
2690 [58-1-103](#), establish by rule, made in accordance with Title 63G, Chapter 3, Utah
2691 Administrative Rulemaking Act, scientifically based guidelines for controlled substance
2692 prescribers to coprescribe an opiate antagonist to a patient.

2693 Section 39. Section **34-20-2** is amended to read:

2694 **34-20-2. Definitions.**

2695 As used in this chapter:

2696 (1) "Affecting commerce" means in commerce, or burdening or obstructing commerce
2697 or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or
2698 obstructing commerce or the free flow of commerce within the state.

2699 (2) "Commerce" means trade, traffic, commerce, transportation, or communication
2700 within the state.

2701 (3) "Election" means a proceeding in which the employees in a collective bargaining
2702 unit cast a secret ballot for collective bargaining representatives or for any other purpose
2703 specified in this chapter and includes elections conducted by the board or by any tribunal
2704 having competent jurisdiction or whose jurisdiction was accepted by the parties.

2705 (4) (a) "Employee" includes any employee unless this chapter explicitly states
2706 otherwise, and includes an individual whose work has ceased as a consequence of, or in
2707 connection with, any current labor dispute or because of any unfair labor practice, and who has
2708 not obtained any other regular and substantially equivalent employment.

2709 (b) "Employee" does not include an individual employed as an agricultural laborer, or
2710 in the domestic service of a family or person at his home, or an individual employed by his
2711 parent or spouse.

2712 (5) "Employer" includes a person acting in the interest of an employer, directly or
2713 indirectly, but does not include:

2714 (a) the United States;

2715 (b) a state or political subdivision of a state;

2716 (c) a person subject to the federal Railway Labor Act;

2717 (d) a labor organization, other than when acting as an employer;

2718 (e) a corporation or association operating a hospital if no part of the net earnings inures
2719 to the benefit of any private shareholder or individual; or

2720 (f) anyone acting in the capacity of officer or agent of a labor organization.

2721 (6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C.
2722 Sec.105, of the federal government.

2723 (7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

2724 (8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

2725 (9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

2726 (10) "Labor dispute" means any controversy between an employer and the majority of
2727 the employer's employees in a collective bargaining unit concerning the right or process or
2728 details of collective bargaining or the designation of representatives.

2729 (11) "Labor organization" means an organization of any kind or any agency or
2730 employee representation committee or plan in which employees participate that exists for the
2731 purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,
2732 wages, rates of pay, hours of employment, or conditions of work.

2733 [~~(12) "Labor relations board" or "board" means the board created in Section 34-20-3.~~]

2734 [~~(13)~~] (12) "Person" includes an individual, partnership, association, corporation, legal
2735 representative, trustee, trustee in bankruptcy, or receiver.

2736 [~~(14)~~] (13) "Representative" includes an individual or labor organization.

2737 [~~(15)~~] (14) "Secondary boycott" includes combining or conspiring to cause or threaten
2738 to cause injury to one with whom no labor dispute exists, whether by:

2739 (a) withholding patronage, labor, or other beneficial business intercourse;

2740 (b) picketing;

2741 (c) refusing to handle, install, use, or work on particular materials, equipment, or
2742 supplies; or

2743 (d) by any other unlawful means, in order to bring him against his will into a concerted
2744 plan to coerce or inflict damage upon another.

2745 [~~(16)~~] (15) "Unfair labor practice" means any unfair labor practice listed in Section
2746 34-20-8.

2747 Section 40. Section 34-20-8 is amended to read:

2748 **34-20-8. Unfair labor practices.**

2749 (1) It shall be an unfair labor practice for an employer, individually or in concert with
2750 others:

2751 (a) To interfere with, restrain or coerce employees in the exercise of the rights
2752 guaranteed in Section 34-20-7.

2753 (b) To dominate or interfere with the formation or administration of any labor
2754 organization or contribute financial or other support to it[; ~~provided, that subject to rules and~~
2755 ~~regulations made and published by the board pursuant to Section 34-20-6~~], provided that an

2756 employer is not prohibited from permitting employees to confer with the employer during
2757 working hours without loss of time or pay.

2758 (c) By discrimination in regard to hire or tenure of employment or any term or
2759 condition of employment to encourage or discourage membership in any labor organization;
2760 provided, that nothing in this act shall preclude an employer from making an agreement with a
2761 labor organization (not established, maintained or assisted by any action defined in this act as
2762 an unfair labor practice) to require as a condition of employment, membership therein, if such
2763 labor organization is the representative of the employees as provided in Subsection 34-20-9(1)
2764 in the appropriate collective bargaining unit covered by such agreement when made.

2765 (d) To refuse to bargain collectively with the representative of a majority of the
2766 employer's employees in any collective bargaining unit[; ~~provided, that, when two or more~~
2767 ~~labor organizations claim to represent a majority of the employees in the bargaining unit, the~~
2768 ~~employer shall be free to file with the board a petition for investigation of certification of~~
2769 ~~representatives and during the pendency of the proceedings the employer may not be~~
2770 ~~considered to have refused to bargain].~~

2771 (e) To bargain collectively with the representatives of less than a majority of the
2772 employer's employees in a collective bargaining unit.

2773 (f) To discharge or otherwise discriminate against an employee because the employee
2774 has filed charges or given testimony under this chapter.

2775 (2) It shall be an unfair labor practice for an employee individually or in concert with
2776 others:

2777 (a) To coerce or intimidate an employee in the enjoyment of the employee's legal
2778 rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family,
2779 picket the employee's domicile, or injure the person or property of the employee or the
2780 employee's family.

2781 (b) To coerce, intimidate or induce an employer to interfere with any of the employer's
2782 employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7,
2783 or to engage in any practice with regard to the employer's employees which would constitute an
2784 unfair labor practice if undertaken by the employer on the employer's own initiative.

2785 (c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an
2786 exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant

2787 of a strike unless a majority in a collective bargaining unit of the employees of an employer
2788 against whom such acts are primarily directed have voted by secret ballot to call a strike.

2789 (d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of
2790 any kind the pursuit of any lawful work or employment, or to obstruct or interfere with
2791 entrance to or egress from any place of employment, or to obstruct or interfere with free and
2792 uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel
2793 or conveyance.

2794 (e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation,
2795 force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or
2796 services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of
2797 materials, equipment or services, provided, however, that nothing herein shall prevent
2798 sympathetic strikes in support of those in similar occupations working for other employers in
2799 the same craft.

2800 (f) To take unauthorized possession of property of the employer.

2801 (3) It shall be an unfair labor practice for any person to do or cause to be done on
2802 behalf of or in the interest of employers or employees, or in connection with or to influence the
2803 outcome of any controversy as to employment relations, any act prohibited by Subsections (1)
2804 and (2) of this section.

2805 Section 41. Section **34-20-9** is amended to read:

2806 **34-20-9. Collective bargaining -- Representatives .**

2807 (1) ~~[(a)]~~ Representatives designated or selected for the purposes of collective
2808 bargaining by the majority of the employees in a unit appropriate for those purposes shall be
2809 the exclusive representatives of all the employees in that unit for the purposes of collective
2810 bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of
2811 employment.

2812 ~~[(b)]~~ (2) Any individual employee or group of employees may present grievances to
2813 their employer at any time.

2814 ~~[(2) The board shall decide in each case whether, in order to ensure to employees the
2815 full benefit of their right to self-organization and to collective bargaining, and otherwise to
2816 effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining
2817 shall be the employer unit, craft unit, plant unit, or subdivision of same.]~~

2818 ~~[(3) Whenever a question affecting intrastate commerce or the orderly operation of~~
2819 ~~industry arises concerning the representation of employees, the board may investigate such~~
2820 ~~controversy and certify to the parties in writing, the name or names of the representatives that~~
2821 ~~have been designated or selected. In any such investigation, the board shall provide for an~~
2822 ~~appropriate hearing upon due notice, either in conjunction with a proceeding under Section~~
2823 ~~34-20-10, or otherwise, and may take a secret ballot of employees, or utilize any other suitable~~
2824 ~~method to ascertain such representatives.]~~

2825 ~~[(4) (a) Whenever an order of the board made according to Section 34-20-10 is based~~
2826 ~~in whole or in part upon facts certified following an investigation under Subsection (3), and~~
2827 ~~there is a petition for the enforcement or review of such order, the certification and the record~~
2828 ~~of the investigation shall be included in the transcript of the entire record required to be filed~~
2829 ~~under Section 34-20-10.]~~

2830 ~~[(b) The decree of the court enforcing, modifying, or setting aside in whole or in part~~
2831 ~~the order of the board shall be made and entered upon the pleadings, testimony, and~~
2832 ~~proceedings set forth in the transcript.]~~

2833 Section 42. Section **34A-1-202** is amended to read:

2834 **34A-1-202. Divisions and office -- Creation -- Duties -- Appeals Board, councils,**
2835 **and panel.**

2836 (1) There is created within the commission the following divisions and office:

2837 (a) the Division of Industrial Accidents that shall administer the regulatory
2838 requirements of this title concerning industrial accidents and occupational disease;

2839 (b) the Division of Occupational Safety and Health that shall administer the regulatory
2840 requirements of Chapter 6, Utah Occupational Safety and Health Act;

2841 (c) the Division of Boiler and Elevator Safety that shall administer the regulatory
2842 requirements of Chapter 7, Safety;

2843 (d) the Division of Antidiscrimination and Labor that shall administer the regulatory
2844 requirements of:

2845 (i) Title 34, Labor in General, when specified by statute;

2846 (ii) Chapter 5, Utah Antidiscrimination Act;

2847 (iii) this title, when specified by statute; and

2848 (iv) Title 57, Chapter 21, Utah Fair Housing Act;

2849 (e) the Division of Adjudication that shall adjudicate claims or actions brought under
2850 this title; and

2851 (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

2852 (2) In addition to the divisions created under this section, within the commission are
2853 the following:

2854 [~~(a) the Labor Relations Board created in Section 34-20-3;~~]

2855 [~~(b)~~] (a) the Appeals Board created in Section 34A-1-205; and

2856 [~~(c)~~] (b) the following program advisory councils:

2857 (i) the workers' compensation advisory council created in Section 34A-2-107;

2858 (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and

2859 (iii) the Coal Miner Certification Panel created in Section 40-2-204.

2860 (3) In addition to the responsibilities described in this section, the commissioner may
2861 assign to a division a responsibility granted to the commission by law.

2862 Section 43. Section 35A-13-602 is amended to read:

2863 **35A-13-602. Definitions.**

2864 As used in this part:

2865 [~~(1) "Advisory board" or "board" means the Interpreter Certification Board created in~~
2866 ~~Section 35A-13-603;~~]

2867 [~~(2)~~] (1) "Assistant director" means the assistant director who administers the program
2868 called the Division of Services for the Deaf and Hard of Hearing created in Section
2869 35A-13-502.

2870 [~~(3)~~] (2) "Certified interpreter" means an individual who is certified as meeting the
2871 certification requirements of this part.

2872 [~~(4)~~] (3) "Interpreter services" means services that facilitate effective communication
2873 between a hearing individual and an individual who is deaf or hard of hearing through
2874 American Sign Language or a language system or code that is modeled after American Sign
2875 Language, in whole or in part, or is in any way derived from American Sign Language.

2876 Section 44. Section 35A-13-604 is amended to read:

2877 **35A-13-604. Powers and duties of the director.**

2878 [~~(1) The board shall function as an advisory board to the director and under the~~
2879 ~~director's direction shall perform the following duties concerning the certification of~~

2880 interpreters:]

2881 ~~[(a) make recommendations to the director regarding:]~~

2882 ~~[(i) appropriate rules;]~~

2883 ~~[(ii) policy and budgetary matters;]~~

2884 ~~[(iii) the appropriate passing score for applicant examinations; and]~~

2885 ~~[(iv) standards of supervision for individuals in training to become certified~~

2886 ~~interpreters;]~~

2887 ~~[(b) screen applicants for certification and make written recommendations to the~~

2888 ~~director regarding certification, renewal, reinstatement, and recertification actions; and]~~

2889 ~~[(c) act as the presiding officer in conducting hearings associated with adjudicative~~

2890 ~~proceedings and in issuing recommended orders as designated by the director. (2)]~~ The

2891 director~~[-, with the collaboration and assistance of the advisory board,]~~ shall:

2892 ~~[(a)]~~ (1) prescribe certification qualifications;

2893 ~~[(b)]~~ (2) prescribe rules governing applications for certification;

2894 ~~[(c)]~~ (3) provide for a fair and impartial method for the examination of applicants;

2895 ~~[(d)]~~ (4) define unprofessional conduct, by rule, to supplement the definition under this

2896 part; and

2897 ~~[(e)]~~ (5) establish conditions for reinstatement and renewal of certification.

2898 ~~[(3)(a) The advisory board shall designate one of its members on a permanent or~~

2899 ~~rotating basis to:]~~

2900 ~~[(i) assist the director in reviewing complaints involving the unlawful or~~

2901 ~~unprofessional conduct of a certified interpreter; and]~~

2902 ~~[(ii) advise the director when investigating complaints:]~~

2903 ~~[(b) An advisory board member who has, under Subsection (3)(a), reviewed or~~

2904 ~~investigated a complaint is disqualified from participating with the advisory board if the board~~

2905 ~~serves as a presiding officer of an administrative proceeding concerning the complaint.]~~

2906 Section 45. Section **35A-13-605** is amended to read:

2907 **35A-13-605. Certification required -- Classes of certification.**

2908 (1) Except as specifically provided in Section **35A-13-609**, an individual is required to

2909 be certified as a certified interpreter if that individual provides interpreter services and a state

2910 or federal law requires the interpreter to be certified or qualified.

2911 (2) The director shall issue a certification to an individual who qualifies under this
2912 chapter in classifications determined by the director [~~based upon recommendations from the~~
2913 ~~advisory board~~].

2914 Section 46. Section **35A-13-606** is amended to read:

2915 **35A-13-606. Qualifications for certification.**

2916 Each applicant for certification under this part shall:

2917 (1) submit an application in a form prescribed by the director;

2918 (2) pay a fee determined by the director under Section [63J-1-504](#) to help offset the
2919 costs of implementing this part for the administration of examinations for certification and for
2920 the issuance of certificates;

2921 (3) be of good moral character; and

2922 (4) comply with any other qualifications for certification established by the director in
2923 accordance with [~~Subsection [35A-13-604](#)(2)~~] Section [35A-13-604](#).

2924 Section 47. Section **35A-13-608** is amended to read:

2925 **35A-13-608. Continuing education.**

2926 (1) [~~(a)~~] As a condition for renewal of certification, each certified interpreter shall,
2927 during each three-year certification cycle or other cycle defined by rule, complete a number of
2928 hours of qualified continuing professional education, as determined by the director, in
2929 accordance with standards defined by rule.

2930 [~~(b) The director shall determine the number of hours based upon recommendations~~
2931 ~~from the advisory board.~~]

2932 (2) If the renewal cycle is extended or shortened under Section [35A-13-607](#), the
2933 continuing education hours determined for renewal under Subsection (1) shall be increased or
2934 decreased proportionately.

2935 Section 48. Section **35A-13-609** is amended to read:

2936 **35A-13-609. Exemptions from certification -- Temporary or restricted**
2937 **certification.**

2938 (1) The following individuals may engage in the practice of a certified interpreter,
2939 subject to the stated circumstances and limitations, without being certified under this chapter:

2940 (a) an individual serving in or employed by the Armed Forces of the United States, the
2941 United States Public Health Service, the United States Department of Veterans Affairs, or other

2942 federal agency and who is engaged in activities regulated under this part as a part of the
2943 individual's service or employment with that federal agency, if the individual holds a valid
2944 certificate or license to provide interpreter services issued by another state or jurisdiction
2945 recognized by the director;

2946 (b) a student engaged in providing interpreter services while in training in a recognized
2947 school approved by the director to the extent the student's activities are supervised by qualified
2948 faculty, staff, or a designee, and the services are a defined part of the training program;

2949 (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job
2950 training program approved by the director while under the supervision of a qualified individual;

2951 (d) an individual residing in another state and certified or licensed to provide
2952 interpreter services in that state, who is called in for a consultation by an individual certified to
2953 provide interpreter services in this state, and the services provided are limited to that
2954 consultation;

2955 (e) an individual who is invited by a recognized school, association, or other body
2956 approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if
2957 the individual does not establish a place of business or regularly engage in the practice of
2958 providing interpreter services in this state;

2959 (f) an individual licensed in another state or country who is in this state temporarily to
2960 attend to the needs of an athletic team or group, except that the individual may only attend to
2961 the needs of the team or group and individuals who travel with the team or group, not including
2962 spectators; or

2963 (g) an individual who is providing interpreter services for a religious entity, to the
2964 extent that the religious entity is specifically exempted from liability under federal law.

2965 (2) (a) An individual temporarily in this state who is exempted from certification under
2966 Subsection (1) shall comply with each requirement of the jurisdiction from which the
2967 individual derives authority to provide interpreter services.

2968 (b) Violation of any limitation imposed by this section is grounds for removal of
2969 exempt status, denial of certification, or another disciplinary proceeding.

2970 (3) (a) Upon the declaration of a national, state, or local emergency, the director[~~in~~
2971 ~~collaboration with the advisory board,~~] may suspend the requirements for permanent or
2972 temporary certification of individuals who are certified or licensed in another state.

2973 (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for
 2974 the duration of the emergency while engaged in providing interpreter services for which they
 2975 are certified or licensed in the other state.

2976 (4) The director~~[, after consulting with the advisory board,]~~ may adopt rules for the
 2977 issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

2978 (a) a lack of necessary available interpretive services in any area or community of the
 2979 state, if the lack of services might be reasonably considered to materially jeopardize
 2980 compliance with state or federal law; or

2981 (b) a need to first observe an applicant for certification in a monitored or supervised
 2982 practice of providing interpretive services before ~~[a decision is made by the board]~~ the director
 2983 makes a decision either to grant or deny the applicant a regular certification.

2984 Section 49. Section **41-3-102** is amended to read:

2985 **41-3-102. Definitions.**

2986 As used in this chapter:

2987 (1) "Administrator" means the motor vehicle enforcement administrator.

2988 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
 2989 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
 2990 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
 2991 other person in any 12-month period.

2992 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,
 2993 either owned or consigned, to the general public.

2994 (4) "Authorized service center" means an entity that:

2995 (a) is in the business of repairing exclusively the motor vehicles of the same line-make
 2996 as the motor vehicles a single direct-sale manufacturer manufactures;

2997 (b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete
 2998 warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for
 2999 sale, or offers for sale or exchange; and

3000 (c) conducts business primarily from an enclosed commercial repair facility that is
 3001 permanently located in the state.

3002 ~~[(5) "Board" means the advisory board created in Section 41-3-106.]~~

3003 ~~[(6)]~~ (5) "Body shop" means a person engaged in rebuilding, restoring, repairing, or

3004 painting the body of motor vehicles for compensation.

3005 [~~(7)~~] (6) "Commission" means the State Tax Commission.

3006 [~~(8)~~] (7) "Crusher" means a person who crushes or shreds motor vehicles subject to
3007 registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to
3008 a more compact size for recycling.

3009 [~~(9)~~] (8) (a) "Dealer" means a person:

3010 (i) whose business in whole or in part involves selling new, used, or new and used
3011 motor vehicles or off-highway vehicles; and

3012 (ii) who sells, displays for sale, or offers for sale or exchange three or more new or
3013 used motor vehicles or off-highway vehicles in any 12-month period.

3014 (b) "Dealer" includes a representative or consignee of any dealer.

3015 [~~(10)~~] (9) "Direct-sale manufacturer" means a person:

3016 (a) that is both a manufacturer and a dealer;

3017 (b) that is:

3018 (i) an electric vehicle manufacturer; or

3019 (ii) a low-volume manufacturer;

3020 (c) that is not a franchise holder;

3021 (d) that is domiciled in the United States; and

3022 (e) whose chief officers direct, control, and coordinate the person's activities as a
3023 direct-sale manufacturer from a physical location in the United States.

3024 [~~(11)~~] (10) "Direct-sale manufacturer salesperson" means an individual who for a
3025 salary, commission, or compensation of any kind, is employed either directly, indirectly,
3026 regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to
3027 negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale
3028 manufacturer who employs the individual.

3029 [~~(12)~~] (11) (a) "Dismantler" means a person engaged in the business of dismantling
3030 motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of
3031 parts or for salvage.

3032 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
3033 12-month period.

3034 [~~(13)~~] (12) "Distributor" means a person who has a franchise from a manufacturer of

3035 motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or
3036 distributes new motor vehicles to dealers or who maintains distributor representatives.

3037 ~~[(14)]~~ (13) "Distributor branch" means a branch office similarly maintained by a
3038 distributor for the same purposes a factory branch is maintained.

3039 ~~[(15)]~~ (14) "Distributor representative" means a person and each officer and employee
3040 of the person engaged as a representative of a distributor or distributor branch of motor
3041 vehicles to make or promote the sale of the distributor or the distributor branch's motor
3042 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the
3043 distributor branch.

3044 ~~[(16)]~~ (15) "Division" means the Motor Vehicle Enforcement Division created in
3045 Section 41-3-104.

3046 ~~[(17)]~~ (16) "Electric vehicle manufacturer" means a person that, in this state, sells,
3047 displays for sale, or offers for sale or exchange only new motor vehicles of the person's own
3048 line-make that are:

3049 (a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another
3050 non-fossil fuel source;

3051 (b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;
3052 or

3053 (ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

3054 (c) manufactured by the person.

3055 ~~[(18)]~~ (17) "Factory branch" means a branch office maintained by a person who
3056 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or
3057 who directs or supervises the factory branch's representatives.

3058 ~~[(19)]~~ (18) "Factory representative" means a person and each officer and employee of
3059 the person engaged as a representative of a manufacturer of motor vehicles or by a factory
3060 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or
3061 for supervising or contacting the dealers or prospective dealers of the manufacturer or the
3062 factory branch.

3063 ~~[(20)]~~ (19) "Fleet transaction" means a licensee's sale of one or more motor vehicles to
3064 a manufacturer-approved current fleet customer under the manufacturer's fleet program.

3065 ~~[(21)]~~ (20) (a) "Franchise" means a contract or agreement between a dealer and a

3066 manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which
3067 the dealer is authorized to sell any specified make or makes of new motor vehicles.

3068 (b) "Franchise" includes a contract or agreement described in Subsection [~~(21)~~(a)]
3069 (20)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New
3070 Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

3071 [~~(22)~~] (21) (a) "Franchise holder" means a manufacturer who:

3072 (i) previously had a franchised dealer in the United States;

3073 (ii) currently has a franchised dealer in the United States;

3074 (iii) is a successor to another manufacturer who previously had or currently has a
3075 franchised dealer in the United States;

3076 (iv) is a material owner of another manufacturer who previously had or currently has a
3077 franchised dealer in the United States;

3078 (v) is under legal or common ownership, or practical control, with another
3079 manufacturer who previously had or currently has a franchised dealer in the United States; or

3080 (vi) is in a partnership, joint venture, or similar arrangement for production of a
3081 commonly owned line-make with another manufacturer who previously had or currently has a
3082 franchised dealer in the United States.

3083 (b) "Franchise holder" does not include a manufacturer described in Subsection
3084 [~~(22)~~(a)] (21)(a), if at all times during the franchised dealer's existence, the manufacturer had
3085 legal or practical common ownership or common control with the franchised dealer.

3086 [~~(23)~~] (22) "Low-volume manufacturer" means a manufacturer who:

3087 (a) in this state, sells, displays for sale, or offers for sale or exchange only new motor
3088 vehicles of the person's own line make that are:

3089 (i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;

3090 or

3091 (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

3092 (ii) manufactured by the person; and

3093 (b) constructs no more than 325 new motor vehicles in any 12-month period.

3094 [~~(24)~~] (23) "Line-make" means motor vehicles that are offered for sale, lease, or
3095 distribution under a common name, trademark, service mark, or brand name of the
3096 manufacturer.

3097 ~~[(25)]~~ (24) "Manufacturer" means a person engaged in the business of constructing or
3098 assembling new motor vehicles, ownership of which is customarily transferred by a
3099 manufacturer's statement or certificate of origin, or a person who constructs three or more new
3100 motor vehicles in any 12-month period.

3101 ~~[(26)]~~ (25) "Material owner" means a person who possesses, directly or indirectly, the
3102 power to direct, or cause the direction of, the management, policies, or activities of another
3103 person:

3104 (a) through ownership of voting securities;

3105 (b) by contract or credit arrangement; or

3106 (c) in another way not described in Subsections ~~[(26)(a)]~~ (25)(a) and (b).

3107 ~~[(27)]~~ (26) (a) "Motor vehicle" means a vehicle that is:

3108 (i) self-propelled;

3109 (ii) a trailer;

3110 (iii) a travel trailer;

3111 (iv) a semitrailer;

3112 (v) an off-highway vehicle; or

3113 (vi) a small trailer.

3114 (b) "Motor vehicle" does not include:

3115 (i) mobile homes as defined in Section [41-1a-102](#);

3116 (ii) trailers of 750 pounds or less unladen weight;

3117 (iii) a farm tractor or other machine or tool used in the production, harvesting, or care
3118 of a farm product; and

3119 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).

3120 ~~[(28)]~~ (27) "Motorcycle" means the same as that term is defined in Section [41-1a-102](#).

3121 ~~[(29)]~~ (28) "New motor vehicle" means a motor vehicle that:

3122 (a) has never been titled or registered; and

3123 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
3124 less than 7,500 miles.

3125 ~~[(30)]~~ (29) "Off-highway vehicle" means the same as that term is defined in Section
3126 [41-22-2](#).

3127 ~~[(31)]~~ (30) "Pawnbroker" means a person whose business is to lend money on security

3128 of personal property deposited with him.

3129 ~~[(32)]~~ (31) (a) "Principal place of business" means a site or location in this state:

3130 (i) devoted exclusively to the business for which the dealer, manufacturer,
3131 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
3132 incidental to them;

3133 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
3134 indicate the boundary and to admit a definite description with space adequate to permit the
3135 display of three or more new, or new and used, or used motor vehicles and sufficient parking
3136 for the public; and

3137 (iii) that includes a permanent enclosed building or structure large enough to
3138 accommodate the office of the establishment and to provide a safe place to keep the books and
3139 other records of the business, at which the principal portion of the business is conducted and
3140 the books and records kept and maintained.

3141 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
3142 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection
3143 ~~[(32)(a)]~~ (31)(a).

3144 ~~[(33)]~~ (32) "Remanufacturer" means a person who reconstructs used motor vehicles
3145 subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and
3146 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or
3147 new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more
3148 motor vehicles in any 12-month period.

3149 ~~[(34)]~~ (33) "Salesperson" means an individual who for a salary, commission, or
3150 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
3151 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
3152 negotiate for the sale, purchase, or exchange of motor vehicles.

3153 ~~[(35)]~~ (34) "Semitrailer" means the same as that term is defined in Section [41-1a-102](#).

3154 ~~[(36)]~~ (35) "Showroom" means a site or location in the state that a direct-sale
3155 manufacturer uses for the direct-sale manufacturer's business, including the display and
3156 demonstration of new motor vehicles that are exclusively of the same line-make that the
3157 direct-sale manufacturer manufactures.

3158 ~~[(37)]~~ (36) "Small trailer" means a trailer that has an unladen weight of:

3159 (a) more than 750 pounds; and

3160 (b) less than 2,000 pounds.

3161 [~~38~~] (37) "Special equipment" includes a truck mounted crane, cherry picker, material
3162 lift, post hole digger, and a utility or service body.

3163 [~~39~~] (38) "Special equipment dealer" means a new or new and used motor vehicle
3164 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
3165 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
3166 vehicle.

3167 [~~40~~] (39) "Trailer" means the same as that term is defined in Section 41-1a-102.

3168 [~~41~~] (40) "Transporter" means a person engaged in the business of transporting motor
3169 vehicles as described in Section 41-3-202.

3170 [~~42~~] (41) "Travel trailer" means the same as that term is defined in Section
3171 41-1a-102.

3172 [~~43~~] (42) "Used motor vehicle" means a vehicle that:

3173 (a) has been titled and registered to a purchaser other than a dealer; or

3174 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
3175 7,500 or more miles.

3176 [~~44~~] (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
3177 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
3178 this or any other jurisdiction.

3179 Section 50. Section 41-3-105 is amended to read:

3180 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
3181 **to be law enforcement officers.**

3182 (1) The administrator may make rules to carry out the purposes of this chapter and
3183 Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title
3184 63G, Chapter 3, Utah Administrative Rulemaking Act.

3185 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
3186 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
3187 and assistants.

3188 (b) The administrator, assistant administrator, and all investigators shall be law
3189 enforcement officers certified by peace officer standards and training as required by Section

3190 53-13-103.

3191 (3) (a) The administrator may investigate any suspected or alleged violation of:

3192 (i) this chapter;

3193 (ii) [~~Title 41, Chapter 1a, Motor Vehicle Act~~] Chapter 1a, Motor Vehicle Act;

3194 (iii) any law concerning motor vehicle fraud; or

3195 (iv) any rule made by the administrator.

3196 (b) The administrator may bring an action in the name of the state against any person to
3197 enjoin a violation found under Subsection (3)(a).

3198 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

3199 (b) The administrator may require information from the applicant concerning the
3200 applicant's fitness to be licensed.

3201 (c) Each application for a license shall contain:

3202 (i) if the applicant is an individual, the name and residence address of the applicant and
3203 the trade name, if any, under which the applicant intends to conduct business;

3204 (ii) if the applicant is a partnership, the name and residence address of each partner,
3205 whether limited or general, and the name under which the partnership business will be
3206 conducted;

3207 (iii) if the applicant is a corporation, the name of the corporation, and the name and
3208 residence address of each of its principal officers and directors;

3209 (iv) a complete description of the principal place of business, including:

3210 (A) the municipality, with the street and number, if any;

3211 (B) if located outside of any municipality, a general description so that the location can
3212 be determined; and

3213 (C) any other places of business operated and maintained by the applicant in
3214 conjunction with the principal place of business;

3215 (v) if the application is for a new motor vehicle dealer's license, the name of each
3216 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
3217 the manufacturer or distributor who has enfranchised the applicant, and the name and address
3218 of each individual who will act as a salesperson under authority of the license;

3219 (vi) at least five years of business history;

3220 (vii) the federal tax identification number issued to the dealer;

- 3221 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
3222 12, Sales and Use Tax Act; and
- 3223 (ix) if the application is for a direct-sale manufacturer's license:
- 3224 (A) the name of each line-make the applicant will sell, display for sale, or offer for sale
3225 or exchange;
- 3226 (B) the name and address of each individual who will act as a direct-sale manufacturer
3227 salesperson under authority of the license;
- 3228 (C) a complete description of the direct-sale manufacturer's authorized service center,
3229 including the address and any other place of business the applicant operates and maintains in
3230 conjunction with the authorized service center;
- 3231 (D) a sworn statement that the applicant complies with each qualification for a
3232 direct-sale manufacturer under this chapter;
- 3233 (E) a sworn statement that if at any time the applicant fails to comply with a
3234 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the
3235 division in writing within 10 business days after the day on which the noncompliance occurs;
3236 and
- 3237 (F) an acknowledgment that if the applicant fails to comply with a qualification for a
3238 direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the
3239 applicant's direct-sale manufacturer license in accordance with Section [41-3-209](#).
- 3240 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
3241 Administrator, State of Utah," to authenticate the acts of the administrator's office.
- 3242 (6) (a) The administrator may require that a licensee erect or post signs or devices on
3243 the licensee's principal place of business and any other sites, equipment, or locations operated
3244 and maintained by the licensee in conjunction with the licensee's business.
- 3245 (b) The signs or devices shall state the licensee's name, principal place of business,
3246 type and number of licenses, and any other information that the administrator considers
3247 necessary to identify the licensee.
- 3248 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
3249 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
3250 lettering and other details of signs or devices, and location of signs or devices.
- 3251 ~~[(7) (a) The administrator shall provide for quarterly meetings of the advisory board~~

3252 and may call special meetings.]

3253 [~~(b)~~ Notices of all meetings shall be sent to each member not fewer than five days
3254 before the meeting.]

3255 [~~(8)~~] (7) The administrator, the officers and inspectors of the division designated by the
3256 commission, and peace officers shall:

3257 (a) make arrests upon view and without warrant for any violation committed in their
3258 presence of any of the provisions of this chapter, or [~~Title 41, Chapter 1a, Motor Vehicle Act~~]
3259 Chapter 1a, Motor Vehicle Act;

3260 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
3261 being operated in violation of any provision of [~~Title 41, Chapter 1a, Motor Vehicle Act~~]
3262 Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's
3263 driver license and the registration card issued for the vehicle, and submit to an inspection of the
3264 vehicle, the license plates, and registration card;

3265 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
3266 motor vehicles, trailers, and semitrailers;

3267 (d) investigate traffic accidents and secure testimony of any witnesses or persons
3268 involved; and

3269 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

3270 [~~(9)~~] (8) The administrator shall provide security for an area within the commission
3271 designated as a secure area under Section [76-8-311.1](#).

3272 [~~(10)~~] (9) The Office of the Attorney General shall provide prosecution of this chapter.
3273 Section 51. Section **41-3-107** is amended to read:

3274 **41-3-107. Attorney general -- Duty to render opinions and to represent or appear**
3275 **for administrator .**

3276 The attorney general shall:

3277 (1) represent the administrator[~~, the division, and the board~~] and the division;

3278 (2) give opinions on all questions of law relating to the interpretation of this chapter or
3279 arising out of the administration of this chapter; and

3280 (3) appear on behalf of the administrator[~~, the division, or the board~~] or the division in
3281 all actions brought by or against the administrator[~~, the division, or board~~] or the division,
3282 whether under the provisions of this chapter or otherwise.

3283 Section 52. Section **41-3-109** is amended to read:

3284 **41-3-109. Adjudicative proceedings -- Hearings.**

3285 ~~[(1)]~~ The commission, the division, ~~[the board,]~~ and the administrator shall comply
3286 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act,
3287 in all adjudicative proceedings conducted under the authority of this chapter and Sections
3288 **41-1a-1001** through **41-1a-1008**.

3289 ~~[(2) The administrator may request the attendance of the board at any hearing, or the~~
3290 ~~administrator may direct that any hearing be held before the board.]~~

3291 Section 53. Section **41-22-12** is amended to read:

3292 **41-22-12. Restrictions on use of public lands.**

3293 (1) Except as provided in ~~[Sections]~~ Section **79-4-203** ~~[and 79-4-304]~~, federal agencies
3294 are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open
3295 public land to responsible off-highway vehicle use and cross-country motor vehicle travel.

3296 (2) A person may not tear down, mutilate, deface, or destroy:

3297 (a) a sign, signboard, or other notice that prohibits or regulates the use of an
3298 off-highway vehicle on public land; or

3299 (b) a fence or other enclosure or a gate or bars belonging to the fence or other
3300 enclosure.

3301 (3) A violation of Subsection (2) is an infraction.

3302 Section 54. Section **53B-6-105.7** is amended to read:

3303 **53B-6-105.7. Initiative student scholarship program.**

3304 (1) Notwithstanding the provisions of this section, beginning on July 1, 2019, the board
3305 may not accept new applications for a scholarship described in this section.

3306 (2) (a) There is established an engineering, computer science, and related technology
3307 scholarship program as a component of the initiative created in Section **53B-6-105**.

3308 (b) The program is established to recruit, retain, and train engineering, computer
3309 science, and related technology students to assist in providing for and advancing the intellectual
3310 and economic welfare of the state.

3311 (3) (a) The board:

3312 (i) may make rules for the overall administration of the scholarship program in
3313 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

3314 (ii) shall administer the program [~~in consultation with the Technology Initiative~~
3315 ~~Advisory Board created in Section 53B-6-105.5~~].

3316 (b) The board shall also use the following policies and procedures in administering the
3317 student scholarship program:

3318 (i) students may use scholarship money at any institution within the state system of
3319 higher education that offers an engineering, computer science, or related technology degree;

3320 (ii) scholarships shall be given to students who declare an intent to complete a
3321 prescribed course of instruction in one of the areas referred to in Subsection (3)(b)(i) and to
3322 work in the state after graduation in one of those areas; and

3323 (iii) a scholarship may be cancelled at any time by the institution of attendance, if the
3324 student fails to make reasonable progress towards obtaining the degree or there appears to be a
3325 reasonable certainty that the student does not intend to work in the state upon graduation.

3326 (4) The Legislature shall make an annual appropriation to the board to fund the student
3327 scholarship program created in this section.

3328 Section 55. Section **53B-6-105.9** is amended to read:

3329 **53B-6-105.9. Incentive program for engineering, computer science, and related**
3330 **technology faculty.**

3331 (1) The Legislature shall provide an annual appropriation to help fund the faculty
3332 incentive component of the Engineering and Computer Science Initiative established under
3333 Section **53B-6-105**.

3334 (2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in
3335 engineering, computer science, and related technology fields under guidelines established by
3336 the board.

3337 (3) (a) State institutions of higher education shall match the appropriation on a
3338 one-to-one basis in order to qualify for state money appropriated under Subsection (1).

3339 (b) (i) Qualifying institutions shall annually report their matching dollars to the board.

3340 (ii) The board shall make a summary report of the institutional matches.

3341 [~~(iii) The annual report of the Technology Initiative Advisory Board required by~~
3342 ~~Section 53B-6-105.5 shall include the summary report of the institutional matches.]~~

3343 (4) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
3344 Administrative Rulemaking Act, establishing policies and procedures to apply for and

3345 distribute the state appropriation to qualifying institutions.

3346 Section 56. Section **53B-26-301** is amended to read:

3347 **53B-26-301. Definitions.**

3348 As used in this part:

3349 [~~(1) "Advisory council" means the Deep Technology Talent Advisory Council created~~
3350 ~~in Section **53B-26-303**.]~~

3351 [~~(2)~~] (1) (a) "Deep technology" means technology that leads to new products and
3352 innovations based on scientific discovery or meaningful engineering innovation.

3353 (b) "Deep technology" may include technology that leads to new products and
3354 innovations related to one or more of the following:

3355 (i) advanced materials;

3356 (ii) artificial intelligence;

3357 (iii) augmented and virtual reality;

3358 (iv) biotechnology;

3359 (v) photonics;

3360 (vi) quantum computing;

3361 (vii) robotics;

3362 (viii) secure computing; and

3363 (ix) other emerging technologies as determined by the [~~advisory council~~] board.

3364 [~~(3)~~] (2) "Institution of higher education" means the University of Utah, Utah State
3365 University, Southern Utah University, Weber State University, Snow College, Utah Tech
3366 University, Utah Valley University, or Salt Lake Community College.

3367 Section 57. Section **53B-26-302** is amended to read:

3368 **53B-26-302. Deep technology initiative.**

3369 (1) Subject to appropriations from the Legislature and in accordance with the proposal
3370 process and other provisions of this section, the board shall develop and oversee a deep
3371 technology talent initiative that includes providing funding for expanded programs in deep
3372 technology.

3373 (2) The board shall facilitate collaborations that create expanded, multidisciplinary
3374 programs or stackable credential programs in both undergraduate and graduate studies that
3375 prepare students to be workforce participants in jobs requiring deep technology skills.

3376 (3) An institution of higher education seeking to partner with one or more participating
3377 employers shall submit a proposal to the board, in a form approved by the board and in
3378 accordance with deadlines determined by the board, which contains the following elements:

3379 (a) a description of the proposed program in deep technology that demonstrates the
3380 program will:

3381 (i) be responsive to the deep technology talent needs of the state through industry
3382 involvement in the project's design;

3383 (ii) be a partnership that includes at least one participating employer and at least one
3384 institution of higher education; and

3385 (iii) address a previously unmet state need related to deep technology;

3386 (b) an estimate of:

3387 (i) student enrollment in the program;

3388 (ii) what academic credit or credentials will be provided by the program; and

3389 (iii) occupations for which graduates will be qualified;

3390 (c) evidence that each participating employer is committed to participating and
3391 contributing to the program by providing any combination of instruction, extensive workplace
3392 experience, or mentoring;

3393 (d) a description of any resources that will be provided by each participating employer
3394 in the program; and

3395 (e) the amount of funding requested for the program, including justification for the
3396 funding.

3397 (4) The board shall [~~provide all proposals to the advisory council and the advisory~~
3398 ~~council shall~~] review and prioritize each proposal received and [~~recommend to the board~~]
3399 determine whether the proposal should be funded, including the recommended amount of
3400 funding, using the following criteria:

3401 (a) the quality and completeness of the elements of the proposal described in
3402 Subsection (3);

3403 (b) to what extent the proposed program:

3404 (i) would expand the capacity to meet state or regional workforce needs related to deep
3405 technology;

3406 (ii) would integrate deep technology competency with disciplinary expertise;

- 3407 (iii) identifies a faculty member or other individual who has expertise and a
3408 demonstrated willingness to lead the proposed program;
- 3409 (iv) would incorporate internships or significant project experiences, including
3410 team-based experiences;
- 3411 (v) identifies how industry professionals would participate in curriculum development
3412 and teaching;
- 3413 (vi) would create partnerships with other higher education institutions and industry;
3414 and
- 3415 (vii) would be cost effective; and
- 3416 (c) other relevant criteria as determined by ~~[the advisory council and]~~ the board.
- 3417 (5) Subject to Subsection (6) and the other provisions of this section, on or before
3418 September 1 of each fiscal year, the board ~~[shall review the recommendations of the advisory~~
3419 ~~council and]~~ may provide funding for deep technology programs using the criteria described in
3420 Subsection (4).
- 3421 (6) Before the board may provide funding for one or more deep technology programs
3422 for fiscal year 2021, on or before October 1, 2020, the board shall provide written information
3423 regarding the proposed funding to, and shall consider the recommendations of, the Higher
3424 Education Appropriations Subcommittee.
- 3425 (7) (a) Each institution of higher education that receives funding under this section
3426 shall, in a form approved by the board, annually provide written information to the board
3427 regarding the activities, successes, and challenges related to administering the deep technology
3428 program, including:
- 3429 (i) specific entities that received funding under this section;
- 3430 (ii) the amount of funding provided to each entity;
- 3431 (iii) the number of participating students in each program;
- 3432 (iv) the number of graduates of the program; and
- 3433 (v) the number of graduates of the program employed in jobs requiring deep
3434 technology skills.
- 3435 (b) On or before November 1 of each year, the board shall provide a written report
3436 containing the information described in this Subsection (7) to the:
- 3437 (i) Education Interim Committee; and

3438 (ii) Higher Education Appropriations Subcommittee.

3439 Section 58. Section **53E-4-403** is amended to read:

3440 **Part 401 State Instructional Materials**

3441 **53E-4-403. Evaluation of instructional materials -- Recommendation by the state**
3442 **board.**

3443 (1) Semi-annually [~~after reviewing the evaluations of the commission~~], the state board
3444 shall recommend instructional materials for use in the public schools.

3445 (2) The standard period of time instructional materials shall remain on the list of
3446 recommended instructional materials shall be five years.

3447 (3) Unsatisfactory instructional materials may be removed from the list of
3448 recommended instructional materials at any time within the period applicable to the
3449 instructional materials.

3450 (4) Except as provided in Sections **53G-10-103** and **53G-10-402**, each school shall
3451 have discretion to select instructional materials for use by the school. A school may select:

3452 (a) instructional materials recommended by the state board as provided in this section;
3453 or

3454 (b) other instructional materials the school considers appropriate to teach the core
3455 standards for Utah public schools.

3456 Section 59. Section **53E-4-405** is amended to read:

3457 **53E-4-405. Sealed proposals for instructional materials contracts -- Sample**
3458 **copies -- Price of instructional materials.**

3459 (1) As used in this section, the word "sealed" does not preclude acceptance of
3460 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
3461 sealed and submitted.

3462 (2) A person seeking a contract to furnish instructional materials for use in the public
3463 schools shall submit a sealed proposal to the [~~commission~~] state board.

3464 (3) Each proposal must:

3465 (a) be accompanied by sample copies of the instructional materials to be reviewed; and

3466 (b) include the wholesale price at which the publisher agrees to furnish the
3467 instructional materials to districts and schools during the approval period.

3468 Section 60. Section **53E-4-407** is amended to read:

3469 **53E-4-407. Illegal acts -- Misdemeanor.**

3470 It is a class B misdemeanor for a member of [~~the commission or~~] the state board to
3471 receive money or other remuneration as an inducement for the recommendation or introduction
3472 of instructional materials into the schools.

3473 Section 61. Section **53E-4-408** is amended to read:

3474 **53E-4-408. Instructional materials alignment with core standards for Utah public**
3475 **schools.**

3476 (1) For a school year beginning with or after the 2012-13 school year, a school district
3477 may not purchase primary instructional materials unless the primary instructional materials
3478 provider:

3479 (a) contracts with an independent party to evaluate and map the alignment of the
3480 primary instructional materials with the core standards for Utah public schools adopted under
3481 Section [53E-3-501](#);

3482 (b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public
3483 website at no charge, for use by teachers and the general public; and

3484 (c) pays the costs related to the requirements of this Subsection (1).

3485 (2) The requirements under Subsection (1) may not be performed by:

3486 (a) the state board;

3487 (b) the state superintendent or employees of the state board;

3488 [~~(c) the State Instructional Materials Commission appointed pursuant to Section~~
3489 [53E-4-402](#)];

3490 [~~(d)~~] (c) a local school board or a school district; or

3491 [~~(e)~~] (d) the instructional materials creator or publisher.

3492 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3493 state board shall make rules that establish:

3494 (a) the qualifications of the independent parties who may evaluate and map the
3495 alignment of the primary instructional materials in accordance with the provisions of
3496 Subsection (1)(a); and

3497 (b) requirements for the detailed summary of the evaluation and its placement on a
3498 public website in accordance with the provisions of Subsection (1)(b).

3499 Section 62. Section **53F-2-403** is amended to read:

3500 **53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.**

3501 (1) A student eligible for state-supported transportation means:

3502 (a) a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles
3503 from school;

3504 (b) a student enrolled in grades 7 through 12 who lives at least two miles from school;
3505 and

3506 (c) a student enrolled in a special program offered by a school district and approved by
3507 the state board for trainable, motor, multiple-disability, or other students with severe
3508 disabilities who are incapable of walking to school or where it is unsafe for students to walk
3509 because of their disabling condition, without reference to distance from school.

3510 (2) If a school district implements double sessions as an alternative to new building
3511 construction, with the approval of the state board, those affected elementary school students
3512 residing less than 1-1/2 miles from school may be transported one way to or from school
3513 because of safety factors relating to darkness or other hazardous conditions as determined by
3514 the local school board.

3515 (3) (a) The state board shall distribute transportation money to school districts based
3516 on:

3517 (i) an allowance per mile for approved bus routes;

3518 (ii) an allowance per hour for approved bus routes; and

3519 (iii) a minimum allocation for each school district eligible for transportation funding.

3520 (b) (i) Except as provided in Subsection (3)(b)(ii), the state board shall distribute
3521 appropriated transportation funds based on the prior year's eligible transportation costs as
3522 legally reported under Subsection 53F-2-402(3).

3523 (ii) The state board shall distribute state appropriations for transportation for fiscal
3524 years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in
3525 Subsection 53F-2-402(3).

3526 (c) The state board shall annually review the allowance per mile and the allowance per
3527 hour and adjust the allowances to reflect current economic conditions.

3528 (4) (a) Approved bus routes for funding purposes shall be determined on fall data
3529 collected by October 1.

3530 (b) Approved route funding shall be determined on the basis of the most efficient and

3531 economic routes.

3532 ~~[(5) A Transportation Advisory Committee with representation from school district~~
3533 ~~superintendents, business officials, school district transportation supervisors, and state board~~
3534 ~~employees shall serve as a review committee for addressing school transportation needs,~~
3535 ~~including recommended approved bus routes.]~~

3536 [(6)] (5) A local school board may provide for the transportation of students regardless
3537 of the distance from school, from general funds of the school district.

3538 Section 63. Section **53F-9-203** is amended to read:

3539 **53F-9-203. Charter School Revolving Account.**

3540 (1) (a) The terms defined in Section **53G-5-102** apply to this section.

3541 (b) As used in this section, "account" means the Charter School Revolving Account.

3542 (2) (a) There is created within the Uniform School Fund a restricted account known as
3543 the "Charter School Revolving Account" to provide assistance to charter schools to:

3544 (i) meet school building construction and renovation needs; and

3545 (ii) pay for expenses related to the start up of a new charter school or the expansion of
3546 an existing charter school.

3547 (b) The state board, in consultation with the State Charter School Board, shall
3548 administer the Charter School Revolving Account in accordance with rules adopted by the state
3549 board.

3550 (3) The Charter School Revolving Account shall consist of:

3551 (a) money appropriated to the account by the Legislature;

3552 (b) money received from the repayment of loans made from the account; and

3553 (c) interest earned on money in the account.

3554 (4) The state superintendent shall make loans to charter schools from the account to
3555 pay for the costs of:

3556 (a) planning expenses;

3557 (b) constructing or renovating charter school buildings;

3558 (c) equipment and supplies; or

3559 (d) other start-up or expansion expenses.

3560 (5) Loans to new charter schools or charter schools with urgent facility needs may be
3561 given priority.

3562 (6) The state board shall:

3563 (a) ~~[except as provided in Subsection (7)(a);]~~ review requests by charter schools for
3564 loans under this section; and

3565 (b) in consultation with the State Charter School Board, approve or reject each request.

3566 ~~[(7)(a) The state board may establish a committee to:]~~

3567 ~~[(i) review requests under Subsection (6)(a); and]~~

3568 ~~[(ii) make recommendations to the state board and the State Charter School Board
3569 regarding the approval or rejection of a request.]~~

3570 ~~[(b)(i) A committee established under Subsection (7)(a) shall include individuals who
3571 have expertise or experience in finance, real estate, or charter school administration.]~~

3572 ~~[(ii) Of the members appointed to a committee established under Subsection (7)(a):]~~

3573 ~~[(A) one member shall be nominated by the governor; and]~~

3574 ~~[(B) the remaining members shall be selected from a list of nominees submitted by the
3575 State Charter School Board.]~~

3576 ~~[(c) If the committee recommends approval of a loan application under Subsection
3577 (7)(a)(ii), the committee's recommendation shall include:]~~

3578 ~~[(i) the recommended amount of the loan;]~~

3579 ~~[(ii) the payback schedule; and]~~

3580 ~~[(iii) the interest rate to be charged.]~~

3581 ~~[(d) A committee member may not:]~~

3582 ~~[(i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or]~~

3583 ~~[(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person
3584 or entity that contracts with a loan applicant.]~~

3585 ~~[(8)] (7)~~ A loan under this section may not be made unless the state board, in
3586 consultation with the State Charter School Board, approves the loan.

3587 ~~[(9)] (8)~~ The term of a loan to a charter school under this section may not exceed five
3588 years.

3589 ~~[(10)] (9)~~ The state board may not approve loans to charter schools under this section
3590 that exceed a total of \$2,000,000 in any fiscal year.

3591 ~~[(11)] (10)~~ (a) On March 16, 2011, the assets of the Charter School Building
3592 Subaccount administered by the state board shall be deposited into the Charter School

3593 Revolving Account.

3594 (b) Beginning on March 16, 2011, loan payments for loans made from the Charter
3595 School Building Subaccount shall be deposited into the Charter School Revolving Account.

3596 Section 64. Section **53G-10-206** is amended to read:

3597 **53G-10-206. Educational freedom.**

3598 (1) As used in this section:

3599 (a) (i) "Administrative personnel" means any LEA or state board staff personnel who
3600 have system-wide, LEA-wide, or school-wide functions and who perform management
3601 activities, including:

3602 (A) developing broad policies for LEA or state-level boards; and

3603 (B) executing developed policies through the direction of personnel at any level within
3604 the state or LEA.

3605 (ii) "Administrative personnel" includes state, LEA, or school superintendents,
3606 assistant superintendents, deputy superintendents, school principals, assistant principals,
3607 directors, executive directors, network directors, cabinet members, subject area directors, grant
3608 coordinators, specialty directors, career center directors, educational specialists, technology
3609 personnel, technology administrators, and others who perform management activities.

3610 (b) (i) "Instructional personnel" means an individual whose function includes the
3611 provision of:

3612 (A) direct or indirect instructional services to students;

3613 (B) direct or indirect support in the learning process of students; or

3614 (C) direct or indirect delivery of instruction, training, coaching, evaluation, or
3615 professional development to instructional or administrative personnel.

3616 (ii) "Instructional personnel" includes:

3617 (A) the state board, LEAs, schools, superintendents, boards, administrators,
3618 administrative staff, teachers, classroom teachers, facilitators, coaches, proctors, therapists,
3619 counselors, student personnel services, librarians, media specialists, associations, affiliations,
3620 committees, contractors, vendors, consultants, advisors, outside entities, community
3621 volunteers, para-professionals, public-private partners, trainers, mentors, specialists, and staff;
3622 or

3623 (B) any other employees, officials, government agencies, educational entities, persons,

3624 or groups for whom access to students is facilitated through, or not feasible without, the public
3625 education system.

3626 (2) (a) Each LEA shall provide an annual assurance to the state board that the LEA's
3627 professional learning, administrative functions, displays, and instructional and curricular
3628 materials, are consistent with the following principles of individual freedom:

3629 (i) the principle that all individuals are equal before the law and have unalienable
3630 rights; and

3631 (ii) the following principles of individual freedom:

3632 (A) that no individual is inherently racist, sexist, or oppressive, whether consciously or
3633 unconsciously, solely by virtue of the individual's race, sex, or sexual orientation;

3634 (B) that no race is inherently superior or inferior to another race;

3635 (C) that no person should be subject to discrimination or adverse treatment solely or
3636 partly on the basis of the individual's race, color, national origin, religion, disability, sex, or
3637 sexual orientation;

3638 (D) that meritocracy or character traits, including hard work ethic, are not racist nor
3639 associated with or inconsistent with any racial or ethnic group; and

3640 (E) that an individual, by virtue of the individual's race or sex, does not bear
3641 responsibility for actions that other members of the same race or sex committed in the past or
3642 present.

3643 (b) Nothing in this section prohibits instruction regarding race, color, national origin,
3644 religion, disability, or sex in a manner that is consistent with the principles described in
3645 Subsection (2)(a).

3646 (3) The state board or an LEA may not:

3647 (a) attempt to persuade a student or instructional or administrative personnel to a point
3648 of view that is inconsistent with the principles described in Subsection (2)(a); or

3649 (b) implement policies or programs, or allow instructional personnel or administrative
3650 personnel to implement policies or programs, with content that is inconsistent with the
3651 principles described in Subsection (2)(a).

3652 ~~[(4) The State Instructional Materials Commission may not recommend to the state
3653 board instructional materials under Section 53E-4-403 that violate this section or are
3654 inconsistent with the principles described in Subsection (2)(a).]~~

3655 [~~5~~] (4) The state board and state superintendent may not develop or continue to use
3656 core standards under Section 53E-3-301 or professional learning that are inconsistent with the
3657 principles described in Subsection (2)(a).

3658 Section 65. Section 53G-10-402 is amended to read:

3659 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**
3660 **and speech of school employees and volunteers -- Political and religious doctrine**
3661 **prohibited.**

3662 (1) As used in this section:

3663 (a) "LEA governing board" means a local school board or charter school governing
3664 board.

3665 (b) "Refusal skills" means instruction:

3666 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or
3667 adult;

3668 (ii) in a student's obligation to stop the student's sexual advances if refused by another
3669 individual;

3670 (iii) informing a student of the student's right to report and seek counseling for
3671 unwanted sexual advances;

3672 (iv) in sexual harassment; and

3673 (v) informing a student that a student may not consent to criminally prohibited
3674 activities or activities for which the student is legally prohibited from giving consent, including
3675 the electronic transmission of sexually explicit images by an individual of the individual or
3676 another.

3677 (2) (a) The state board shall establish curriculum requirements under Section
3678 53E-3-501 that include instruction in:

3679 (i) community and personal health;

3680 (ii) physiology;

3681 (iii) personal hygiene;

3682 (iv) prevention of communicable disease;

3683 (v) refusal skills; and

3684 (vi) the harmful effects of pornography.

3685 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3686 state board shall make rules that, and instruction shall:

3687 (i) stress the importance of abstinence from all sexual activity before marriage and
3688 fidelity after marriage as methods for preventing certain communicable diseases;

3689 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;

3690 (iii) prohibit instruction in:

3691 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

3692 (B) the advocacy of premarital or extramarital sexual activity; or

3693 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and

3694 (iv) except as provided in Subsection (2)(d), allow instruction to include information
3695 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
3696 information on state law applicable to minors obtaining contraceptive methods or devices.

3697 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3698 state board shall make rules for an LEA governing board that adopts instructional materials
3699 under Subsection (2)(g)(ii) that:

3700 (i) require the LEA governing board to report on the materials selected and the LEA
3701 governing board's compliance with Subsection (2)(h); and

3702 (ii) provide for an appeal and review process of the LEA governing board's adoption of
3703 instructional materials.

3704 (d) The state board may not require an LEA to teach or adopt instructional materials
3705 that include information on contraceptive methods or devices.

3706 (e) (i) At no time may instruction be provided, including responses to spontaneous
3707 questions raised by students, regarding any means or methods that facilitate or encourage the
3708 violation of any state or federal criminal law by a minor or an adult.

3709 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
3710 spontaneous question as long as the response is consistent with the provisions of this section.

3711 (f) The state board shall recommend instructional materials for use in the curricula
3712 required under Subsection (2)(a) [~~after considering evaluations of instructional materials by the~~
3713 ~~State Instructional Materials Commission~~].

3714 (g) An LEA governing board may choose to adopt:

3715 (i) the instructional materials recommended under Subsection (2)(f); or

3716 (ii) other instructional materials in accordance with Subsection (2)(h).

3717 (h) An LEA governing board that adopts instructional materials under Subsection
3718 (2)(g)(ii) shall:

3719 (i) ensure that the materials comply with state law and board rules;

3720 (ii) base the adoption of the materials on the recommendations of the LEA governing
3721 board's Curriculum Materials Review Committee; and

3722 (iii) adopt the instructional materials in an open and regular meeting of the LEA
3723 governing board for which prior notice is given to parents of students attending the respective
3724 schools and an opportunity for parents to express their views and opinions on the materials at
3725 the meeting.

3726 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on
3727 at least two occasions during the period that begins with the beginning of grade 8 and the end
3728 of grade 12.

3729 (b) At the request of the state board, the Department of Health shall cooperate with the
3730 state board in developing programs to provide instruction in those areas.

3731 (4) (a) The state board shall adopt rules that:

3732 (i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323
3733 are complied with; and

3734 (ii) require a student's parent to be notified in advance and have an opportunity to
3735 review the information for which parental consent is required under Sections 76-7-322 and
3736 76-7-323.

3737 (b) The state board shall also provide procedures for disciplinary action for violation of
3738 Section 76-7-322 or 76-7-323.

3739 (5) (a) In keeping with the requirements of Section 53G-10-204, and because school
3740 employees and volunteers serve as examples to their students, school employees or volunteers
3741 acting in their official capacities may not support or encourage criminal conduct by students,
3742 teachers, or volunteers.

3743 (b) To ensure the effective performance of school personnel, the limitations described
3744 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school
3745 employee's or volunteer's official capacities if:

3746 (i) the employee or volunteer knew or should have known that the employee's or
3747 volunteer's action could result in a material and substantial interference or disruption in the

3748 normal activities of the school; and

3749 (ii) that action does result in a material and substantial interference or disruption in the
3750 normal activities of the school.

3751 (c) The state board or an LEA governing board may not allow training of school
3752 employees or volunteers that supports or encourages criminal conduct.

3753 (d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah
3754 Administrative Rulemaking Act, rules implementing this section.

3755 (e) Nothing in this section limits the ability or authority of the state board or an LEA
3756 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding
3757 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

3758 (6) Except as provided in Section [53G-10-202](#), political, atheistic, sectarian, religious,
3759 or denominational doctrine may not be taught in the public schools.

3760 (7) (a) An LEA governing board and an LEA governing board's employees shall
3761 cooperate and share responsibility in carrying out the purposes of this chapter.

3762 (b) An LEA governing board shall provide appropriate professional development for
3763 the LEA governing board's teachers, counselors, and school administrators to enable them to
3764 understand, protect, and properly instruct students in the values and character traits referred to
3765 in this section and Sections [53E-9-202](#), [53E-9-203](#), [53G-10-202](#), [53G-10-203](#), [53G-10-204](#),
3766 and [53G-10-205](#), and distribute appropriate written materials on the values, character traits, and
3767 conduct to each individual receiving the professional development.

3768 (c) An LEA governing board shall make the written materials described in Subsection
3769 (7)(b) available to classified employees, students, and parents of students.

3770 (d) In order to assist an LEA governing board in providing the professional
3771 development required under Subsection (7)(b), the state board shall, as appropriate, contract
3772 with a qualified individual or entity possessing expertise in the areas referred to in Subsection
3773 (7)(b) to develop and disseminate model teacher professional development programs that an
3774 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to
3775 effectively teach the values and qualities of character referenced in Subsection ~~(7)~~ (7)(b).

3776 (e) In accordance with the provisions of Subsection (5)(c), professional development
3777 may not support or encourage criminal conduct.

3778 (8) An LEA governing board shall review every two years:

3779 (a) LEA governing board policies on instruction described in this section;
3780 (b) for a local school board, data for each county that the school district is located in,
3781 or, for a charter school governing board, data for the county in which the charter school is
3782 located, on the following:

- 3783 (i) teen pregnancy;
 - 3784 (ii) child sexual abuse; and
 - 3785 (iii) sexually transmitted diseases and sexually transmitted infections; and
- 3786 (c) the number of pornography complaints or other instances reported within the
3787 jurisdiction of the LEA governing board.

3788 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this
3789 section, or the application thereof to any person or circumstance, is found to be
3790 unconstitutional, the balance of this section shall be given effect without the invalid provision,
3791 subsection, sentence, clause, phrase, or word.

3792 Section 66. Section **58-3a-102** is amended to read:

3793 **58-3a-102. Definitions.**

3794 In addition to the definitions in Section **58-1-102**, as used in this chapter:

- 3795 (1) "Architect" means a person licensed under this chapter as an architect.
- 3796 (2) "Board" means the Architects and Landscape Architects Licensing Board created in
3797 Section **58-3a-201**.

3798 (3) "Building" means a structure which has human occupancy or habitation as its
3799 principal purpose, and includes the structural, mechanical, and electrical systems, utility
3800 services, and other facilities required for the building, and is otherwise governed by the State
3801 Construction Code or an approved code under Title 15A, State Construction and Fire Codes
3802 Act.

3803 (4) "Complete construction plans" means a final set of plans and specifications for a
3804 building that normally includes:

- 3805 (a) floor plans;
- 3806 (b) elevations;
- 3807 (c) site plans;
- 3808 (d) foundation, structural, and framing detail;
- 3809 (e) electrical, mechanical, and plumbing design;

- 3810 (f) information required by the energy code;
- 3811 (g) specifications and related calculations as appropriate; and
- 3812 (h) all other documents required to obtain a building permit.
- 3813 (5) "Fund" means the Architects Education and Enforcement Fund created in Section
- 3814 [58-3a-103](#).
- 3815 (6) (a) "Practice of architecture" means rendering or offering to render the following
- 3816 services in connection with the design, construction, enlargement, or alteration of a building or
- 3817 group of buildings, and the space within and surrounding such buildings:
 - 3818 (i) planning;
 - 3819 (ii) facility programming;
 - 3820 (iii) preliminary studies;
 - 3821 (iv) preparation of designs, drawings, and specifications;
 - 3822 (v) preparation of technical submissions and coordination of any element of technical
 - 3823 submissions prepared by others including, as appropriate and without limitation, professional
 - 3824 engineers, and landscape architects; and
 - 3825 (vi) administration of construction contracts.
- 3826 (b) "Practice of architecture" does not include the practice of professional engineering
- 3827 as defined in Section [58-22-102](#), but a licensed architect may perform such professional
- 3828 engineering work as is incidental to the practice of architecture.
- 3829 (7) "Principal" means a licensed architect having responsible charge of an
- 3830 organization's architectural practice.
- 3831 (8) "Supervision of an employee, subordinate, associate, or drafter of an architect"
- 3832 means that a licensed architect is responsible for and personally reviews, corrects when
- 3833 necessary, and approves work performed by any employee, subordinate, associate, or drafter
- 3834 under the direction of the architect, and may be further defined by rule by the division in
- 3835 collaboration with the board.
- 3836 (9) "Unlawful conduct" as defined in Section [58-1-501](#) is further defined in Section
- 3837 [58-3a-501](#).
- 3838 (10) "Unprofessional conduct" as defined in Section [58-1-501](#) may be further defined
- 3839 by rule by the division in collaboration with the board.
- 3840 Section 67. Section **58-3a-201** is amended to read:

3841 **58-3a-201. Board.**

3842 (1) There is created the Architects and Landscape Architects Licensing Board
 3843 consisting of;

3844 (a) four architects [~~and~~];

3845 (b) two landscape architects; and

3846 (c) one member of the general public.

3847 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

3848 (3) The duties and responsibilities of the board shall be in accordance with Sections

3849 58-1-202 and 58-1-203 with respect to this chapter and Chapter 53, Landscape Architects

3850 Licensing Act. [~~In addition, the~~]

3851 (4) The board shall designate one of its members on a permanent or rotating basis to:

3852 (a) assist the division in reviewing complaints concerning the [~~unlawful or~~
 3853 ~~unprofessional~~] conduct of [~~a licensee~~] an individual licensed under this chapter or Chapter 53,
 3854 Landscape Architects Licensing Act; and

3855 (b) advise the division in its investigation of these complaints.

3856 [~~(4)~~] (5) A board member who has, under Subsection [~~(3)~~] (4), reviewed a complaint or
 3857 advised in its investigation may be disqualified from participating with the board when the
 3858 board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

3859 Section 68. Section **58-17b-102** is amended to read:

3860 **58-17b-102. Definitions.**

3861 In addition to the definitions in Section 58-1-102, as used in this chapter:

3862 (1) "Administering" means:

3863 (a) the direct application of a prescription drug or device, whether by injection,
 3864 inhalation, ingestion, or by any other means, to the body of a human patient or research subject
 3865 by another person; or

3866 (b) the placement by a veterinarian with the owner or caretaker of an animal or group
 3867 of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other
 3868 means directed to the body of the animal by the owner or caretaker in accordance with written
 3869 or verbal directions of the veterinarian.

3870 (2) "Adulterated drug or device" means a drug or device considered adulterated under
 3871 21 U.S.C. Sec. 351 (2003).

3872 (3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for
3873 the purpose of analysis.

3874 (b) "Analytical laboratory" does not include a laboratory possessing prescription drugs
3875 used as standards and controls in performing drug monitoring or drug screening analysis if the
3876 prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid
3877 components, organic solvents, or inorganic buffers at a concentration not exceeding one
3878 milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic
3879 use.

3880 (4) "Animal euthanasia agency" means an agency performing euthanasia on animals by
3881 the use of prescription drugs.

3882 (5) "Automated pharmacy systems" includes mechanical systems which perform
3883 operations or activities, other than compounding or administration, relative to the storage,
3884 packaging, dispensing, or distribution of medications, and which collect, control, and maintain
3885 all transaction information.

3886 (6) "Beyond use date" means the date determined by a pharmacist and placed on a
3887 prescription label at the time of dispensing that indicates to the patient or caregiver a time
3888 beyond which the contents of the prescription are not recommended to be used.

3889 (7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created
3890 in Section [58-17b-201](#).

3891 (8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically
3892 underserved area, used for the storage and dispensing of prescription drugs, which is dependent
3893 upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and
3894 approved by the division as the parent pharmacy.

3895 (9) "Centralized prescription processing" means the processing by a pharmacy of a
3896 request from another pharmacy to fill or refill a prescription drug order or to perform
3897 processing functions such as dispensing, drug utilization review, claims adjudication, refill
3898 authorizations, and therapeutic interventions.

3899 (10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a
3900 retail pharmacy to compound or dispense a drug or dispense a device to the public under a
3901 prescription order.

3902 (11) "Class B pharmacy":

- 3903 (a) means a pharmacy located in Utah:
- 3904 (i) that is authorized to provide pharmaceutical care for patients in an institutional
- 3905 setting; and
- 3906 (ii) whose primary purpose is to provide a physical environment for patients to obtain
- 3907 health care services; and
- 3908 (b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and
- 3909 (ii) pharmaceutical administration and sterile product preparation facilities.
- 3910 (12) "Class C pharmacy" means a pharmacy that engages in the manufacture,
- 3911 production, wholesale, or distribution of drugs or devices in Utah.
- 3912 (13) "Class D pharmacy" means a nonresident pharmacy.
- 3913 (14) "Class E pharmacy" means all other pharmacies.
- 3914 (15) (a) "Closed-door pharmacy" means a pharmacy that:
- 3915 (i) provides pharmaceutical care to a defined and exclusive group of patients who have
- 3916 access to the services of the pharmacy because they are treated by or have an affiliation with a
- 3917 specific entity, including a health maintenance organization or an infusion company; or
- 3918 (ii) engages exclusively in the practice of telepharmacy and does not serve walk-in
- 3919 retail customers.
- 3920 (b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods
- 3921 to the general public, or the office of a practitioner.
- 3922 (16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or
- 3923 more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or
- 3924 more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical
- 3925 care functions authorized by the practitioner or practitioners under certain specified conditions
- 3926 or limitations.
- 3927 (17) "Collaborative pharmacy practice agreement" means a written and signed
- 3928 agreement between one or more pharmacists and one or more practitioners that provides for
- 3929 collaborative pharmacy practice for the purpose of drug therapy management of patients and
- 3930 prevention of disease of human subjects.
- 3931 (18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or
- 3932 labeling of a limited quantity drug, sterile product, or device:
- 3933 (i) as the result of a practitioner's prescription order or initiative based on the

3934 practitioner, patient, or pharmacist relationship in the course of professional practice;
3935 (ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and
3936 not for sale or dispensing; or
3937 (iii) in anticipation of prescription drug orders based on routine, regularly observed
3938 prescribing patterns.
3939 (b) "Compounding" does not include:
3940 (i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to
3941 another pharmacist or pharmaceutical facility;
3942 (ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a
3943 dosage form which is regularly and commonly available from a manufacturer in quantities and
3944 strengths prescribed by a practitioner; or
3945 (iii) the preparation of a prescription drug, sterile product, or device which has been
3946 withdrawn from the market for safety reasons.
3947 (19) "Confidential information" has the same meaning as "protected health
3948 information" under the Standards for Privacy of Individually Identifiable Health Information,
3949 45 C.F.R. Parts 160 and 164.
3950 (20) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).
3951 (21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter
3952 417, Sec. 3a(ff) which is incorporated by reference.
3953 (22) "Dispense" means the interpretation, evaluation, and implementation of a
3954 prescription drug order or device or nonprescription drug or device under a lawful order of a
3955 practitioner in a suitable container appropriately labeled for subsequent administration to or use
3956 by a patient, research subject, or an animal.
3957 (23) "Dispensing medical practitioner" means an individual who is:
3958 (a) currently licensed as:
3959 (i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;
3960 (ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical
3961 Practice Act;
3962 (iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;
3963 (iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or
3964 (v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist

3965 is acting within the scope of practice for an optometrist; and

3966 (b) licensed by the division under the Pharmacy Practice Act to engage in the practice
3967 of a dispensing medical practitioner.

3968 (24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy
3969 located within a licensed dispensing medical practitioner's place of practice.

3970 (25) "Distribute" means to deliver a drug or device other than by administering or
3971 dispensing.

3972 (26) (a) "Drug" means:

3973 (i) a substance recognized in the official United States Pharmacopoeia, official
3974 Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any
3975 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
3976 prevention of disease in humans or animals;

3977 (ii) a substance that is required by any applicable federal or state law or rule to be
3978 dispensed by prescription only or is restricted to administration by practitioners only;

3979 (iii) a substance other than food intended to affect the structure or any function of the
3980 body of humans or other animals; and

3981 (iv) substances intended for use as a component of any substance specified in
3982 Subsections (26)(a)(i), (ii), (iii), and (iv).

3983 (b) "Drug" does not include dietary supplements.

3984 (27) "Drug regimen review" includes the following activities:

3985 (a) evaluation of the prescription drug order and patient record for:

3986 (i) known allergies;

3987 (ii) rational therapy-contraindications;

3988 (iii) reasonable dose and route of administration; and

3989 (iv) reasonable directions for use;

3990 (b) evaluation of the prescription drug order and patient record for duplication of
3991 therapy;

3992 (c) evaluation of the prescription drug order and patient record for the following
3993 interactions:

3994 (i) drug-drug;

3995 (ii) drug-food;

- 3996 (iii) drug-disease; and
- 3997 (iv) adverse drug reactions; and
- 3998 (d) evaluation of the prescription drug order and patient record for proper utilization,
- 3999 including over- or under-utilization, and optimum therapeutic outcomes.
- 4000 (28) "Drug sample" means a prescription drug packaged in small quantities consistent
- 4001 with limited dosage therapy of the particular drug, which is marked "sample", is not intended to
- 4002 be sold, and is intended to be provided to practitioners for the immediate needs of patients for
- 4003 trial purposes or to provide the drug to the patient until a prescription can be filled by the
- 4004 patient.
- 4005 (29) "Electronic signature" means a trusted, verifiable, and secure electronic sound,
- 4006 symbol, or process attached to or logically associated with a record and executed or adopted by
- 4007 a person with the intent to sign the record.
- 4008 (30) "Electronic transmission" means transmission of information in electronic form or
- 4009 the transmission of the exact visual image of a document by way of electronic equipment.
- 4010 (31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to
- 4011 inpatients of a general acute hospital or specialty hospital licensed by the Department of Health
- 4012 and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and
- 4013 Inspection.
- 4014 (32) "Legend drug" has the same meaning as prescription drug.
- 4015 (33) "Licensed pharmacy technician" means an individual licensed with the division,
- 4016 that may, under the supervision of a pharmacist, perform the activities involved in the
- 4017 technician practice of pharmacy.
- 4018 (34) "Manufacturer" means a person or business physically located in Utah licensed to
- 4019 be engaged in the manufacturing of drugs or devices.
- 4020 (35) (a) "Manufacturing" means:
- 4021 (i) the production, preparation, propagation, conversion, or processing of a drug or
- 4022 device, either directly or indirectly, by extraction from substances of natural origin or
- 4023 independently by means of chemical or biological synthesis, or by a combination of extraction
- 4024 and chemical synthesis, and includes any packaging or repackaging of the substance or labeling
- 4025 or relabeling of its container; and
- 4026 (ii) the promotion and marketing of such drugs or devices.

4027 (b) "Manufacturing" includes the preparation and promotion of commercially available
4028 products from bulk compounds for resale by pharmacies, practitioners, or other persons.

4029 (c) "Manufacturing" does not include the preparation or compounding of a drug by a
4030 pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation,
4031 compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical
4032 analysis.

4033 (36) "Medical order" means a lawful order of a practitioner which may include a
4034 prescription drug order.

4035 (37) "Medication profile" or "profile" means a record system maintained as to drugs or
4036 devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze
4037 the profile to provide pharmaceutical care.

4038 (38) "Misbranded drug or device" means a drug or device considered misbranded under
4039 21 U.S.C. Sec. 352 (2003).

4040 (39) (a) "Nonprescription drug" means a drug which:

4041 (i) may be sold without a prescription; and

4042 (ii) is labeled for use by the consumer in accordance with federal law.

4043 (b) "Nonprescription drug" includes homeopathic remedies.

4044 (40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a
4045 person in Utah.

4046 (41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

4047 (42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located
4048 outside the state that is licensed and in good standing in another state, that:

4049 (a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in
4050 this state pursuant to a lawfully issued prescription;

4051 (b) provides information to a patient in this state on drugs or devices which may
4052 include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses;
4053 or

4054 (c) counsels pharmacy patients residing in this state concerning adverse and therapeutic
4055 effects of drugs.

4056 (43) "Patient counseling" means the written and oral communication by the pharmacist
4057 or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of

4058 drugs, devices, and dietary supplements.

4059 (44) "Pharmaceutical administration facility" means a facility, agency, or institution in
4060 which:

4061 (a) prescription drugs or devices are held, stored, or are otherwise under the control of
4062 the facility or agency for administration to patients of that facility or agency;

4063 (b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist
4064 or pharmacy intern with whom the facility has established a prescription drug supervising
4065 relationship under which the pharmacist or pharmacy intern provides counseling to the facility
4066 or agency staff as required, and oversees drug control, accounting, and destruction; and

4067 (c) prescription drugs are professionally administered in accordance with the order of a
4068 practitioner by an employee or agent of the facility or agency.

4069 (45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a
4070 prescribing practitioner, and in accordance with division rule:

4071 (i) designing, implementing, and monitoring a therapeutic drug plan intended to
4072 achieve favorable outcomes related to a specific patient for the purpose of curing or preventing
4073 the patient's disease;

4074 (ii) eliminating or reducing a patient's symptoms; or

4075 (iii) arresting or slowing a disease process.

4076 (b) "Pharmaceutical care" does not include prescribing of drugs without consent of a
4077 prescribing practitioner.

4078 (46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering,
4079 distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this
4080 state.

4081 (47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility
4082 engaged in the business of wholesale vending or selling of a prescription drug or device to
4083 other than a consumer or user of the prescription drug or device that the pharmaceutical facility
4084 has not produced, manufactured, compounded, or dispensed.

4085 (b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical
4086 facility carrying out the following business activities:

4087 (i) intracompany sales;

4088 (ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,

4089 purchase, or trade a prescription drug or device, if the activity is carried out between one or
4090 more of the following entities under common ownership or common administrative control, as
4091 defined by division rule:

4092 (A) hospitals;

4093 (B) pharmacies;

4094 (C) chain pharmacy warehouses, as defined by division rule; or

4095 (D) other health care entities, as defined by division rule;

4096 (iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell,
4097 purchase, or trade a prescription drug or device, for emergency medical reasons, including
4098 supplying another pharmaceutical facility with a limited quantity of a drug, if:

4099 (A) the facility is unable to obtain the drug through a normal distribution channel in
4100 sufficient time to eliminate the risk of harm to a patient that would result from a delay in
4101 obtaining the drug; and

4102 (B) the quantity of the drug does not exceed an amount reasonably required for
4103 immediate dispensing to eliminate the risk of harm;

4104 (iv) the distribution of a prescription drug or device as a sample by representatives of a
4105 manufacturer; and

4106 (v) the distribution of prescription drugs, if:

4107 (A) the facility's total distribution-related sales of prescription drugs does not exceed
4108 5% of the facility's total prescription drug sales; and

4109 (B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

4110 (48) "Pharmacist" means an individual licensed by this state to engage in the practice
4111 of pharmacy.

4112 (49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing
4113 who accepts responsibility for the operation of a pharmacy in conformance with all laws and
4114 rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally
4115 in full and actual charge of the pharmacy and all personnel.

4116 (50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or
4117 more years of licensed experience. The preceptor serves as a teacher, example of professional
4118 conduct, and supervisor of interns in the professional practice of pharmacy.

4119 (51) "Pharmacy" means any place where:

- 4120 (a) drugs are dispensed;
- 4121 (b) pharmaceutical care is provided;
- 4122 (c) drugs are processed or handled for eventual use by a patient; or
- 4123 (d) drugs are used for the purpose of analysis or research.
- 4124 (52) "Pharmacy benefits manager or coordinator" means a person or entity that
- 4125 provides a pharmacy benefits management service as defined in Section [31A-46-102](#) on behalf
- 4126 of a self-insured employer, insurance company, health maintenance organization, or other plan
- 4127 sponsor, as defined by rule.
- 4128 (53) "Pharmacy intern" means an individual licensed by this state to engage in practice
- 4129 as a pharmacy intern.
- 4130 (54) "Pharmacy manager" means:
- 4131 (a) a pharmacist-in-charge;
- 4132 (b) a licensed pharmacist designated by a licensed pharmacy to consult on the
- 4133 pharmacy's administration;
- 4134 (c) an individual who manages the facility in which a licensed pharmacy is located;
- 4135 (d) an individual who oversees the operations of a licensed pharmacy;
- 4136 (e) an immediate supervisor of an individual described in Subsections (54)(a) through
- 4137 (d); or
- 4138 (f) another operations or site manager of a licensed pharmacy.
- 4139 (55) "Pharmacy technician training program" means an approved technician training
- 4140 program providing education for pharmacy technicians.
- 4141 (56) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy,
- 4142 specifically relating to the dispensing of a prescription drug in accordance with Part 8,
- 4143 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and
- 4144 division rule adopted after consultation with the Board of pharmacy and the governing boards
- 4145 of the practitioners described in Subsection (23)(a).
- 4146 (b) "Practice as a dispensing medical practitioner" does not include:
- 4147 (i) using a vending type of dispenser as defined by the division by administrative rule;
- 4148 or
- 4149 (ii) except as permitted by Section [58-17b-805](#), dispensing of a controlled substance as
- 4150 defined in Section [58-37-2](#).

4151 (57) "Practice as a licensed pharmacy technician" means engaging in practice as a
4152 pharmacy technician under the general supervision of a licensed pharmacist and in accordance
4153 with a scope of practice defined by division rule made in collaboration with the board.

4154 (58) "Practice of pharmacy" includes the following:

4155 (a) providing pharmaceutical care;

4156 (b) collaborative pharmacy practice in accordance with a collaborative pharmacy
4157 practice agreement;

4158 (c) compounding, packaging, labeling, dispensing, administering, and the coincident
4159 distribution of prescription drugs or devices, provided that the administration of a prescription
4160 drug or device is:

4161 (i) pursuant to a lawful order of a practitioner when one is required by law; and

4162 (ii) in accordance with written guidelines or protocols:

4163 (A) established by the licensed facility in which the prescription drug or device is to be
4164 administered on an inpatient basis; or

4165 (B) approved by the division, in collaboration with the board and, when appropriate,
4166 the ~~[Physicians]~~ Medical Licensing Board, created in Section [58-67-201](#), if the prescription
4167 drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

4168 (d) participating in drug utilization review;

4169 (e) ensuring proper and safe storage of drugs and devices;

4170 (f) maintaining records of drugs and devices in accordance with state and federal law
4171 and the standards and ethics of the profession;

4172 (g) providing information on drugs or devices, which may include advice relating to
4173 therapeutic values, potential hazards, and uses;

4174 (h) providing drug product equivalents;

4175 (i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy
4176 technicians;

4177 (j) providing patient counseling, including adverse and therapeutic effects of drugs;

4178 (k) providing emergency refills as defined by rule;

4179 (l) telepharmacy;

4180 (m) formulary management intervention;

4181 (n) prescribing and dispensing a self-administered hormonal contraceptive in

4182 accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

4183 (o) issuing a prescription in accordance with Section [58-17b-627](#).

4184 (59) "Practice of telepharmacy" means the practice of pharmacy through the use of
4185 telecommunications and information technologies.

4186 (60) "Practice of telepharmacy across state lines" means the practice of pharmacy
4187 through the use of telecommunications and information technologies that occurs when the
4188 patient is physically located within one jurisdiction and the pharmacist is located in another
4189 jurisdiction.

4190 (61) "Practitioner" means an individual currently licensed, registered, or otherwise
4191 authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of
4192 professional practice.

4193 (62) "Prescribe" means to issue a prescription:

4194 (a) orally or in writing; or

4195 (b) by telephone, facsimile transmission, computer, or other electronic means of
4196 communication as defined by division rule.

4197 (63) "Prescription" means an order issued:

4198 (a) by a licensed practitioner in the course of that practitioner's professional practice or
4199 by collaborative pharmacy practice agreement; and

4200 (b) for a controlled substance or other prescription drug or device for use by a patient
4201 or an animal.

4202 (64) "Prescription device" means an instrument, apparatus, implement, machine,
4203 contrivance, implant, in vitro reagent, or other similar or related article, and any component
4204 part or accessory, which is required under federal or state law to be prescribed by a practitioner
4205 and dispensed by or through a person or entity licensed under this chapter or exempt from
4206 licensure under this chapter.

4207 (65) "Prescription drug" means a drug that is required by federal or state law or rule to
4208 be dispensed only by prescription or is restricted to administration only by practitioners.

4209 (66) "Repackage":

4210 (a) means changing the container, wrapper, or labeling to further the distribution of a
4211 prescription drug; and

4212 (b) does not include:

4213 (i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the
4214 product to a patient; or

4215 (ii) changing or altering a label as necessary for a dispensing practitioner under Part 8,
4216 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for
4217 dispensing a product to a patient.

4218 (67) "Research using pharmaceuticals" means research:

4219 (a) conducted in a research facility, as defined by division rule, that is associated with a
4220 university or college in the state accredited by the Northwest Commission on Colleges and
4221 Universities;

4222 (b) requiring the use of a controlled substance, prescription drug, or prescription
4223 device;

4224 (c) that uses the controlled substance, prescription drug, or prescription device in
4225 accordance with standard research protocols and techniques, including, if required, those
4226 approved by an institutional review committee; and

4227 (d) that includes any documentation required for the conduct of the research and the
4228 handling of the controlled substance, prescription drug, or prescription device.

4229 (68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs
4230 and devices to the general public.

4231 (69) (a) "Self-administered hormonal contraceptive" means a self-administered
4232 hormonal contraceptive that is approved by the United States Food and Drug Administration to
4233 prevent pregnancy.

4234 (b) "Self-administered hormonal contraceptive" includes an oral hormonal
4235 contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

4236 (c) "Self-administered hormonal contraceptive" does not include any drug intended to
4237 induce an abortion, as that term is defined in Section [76-7-301](#).

4238 (70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance
4239 with this chapter.

4240 (71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of
4241 the pharmacy during a given day or shift.

4242 (72) "Supportive personnel" means unlicensed individuals who:

4243 (a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed

4244 pharmacy technician in nonjudgmental duties not included in the definition of the practice of
4245 pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as
4246 those duties may be further defined by division rule adopted in collaboration with the board;
4247 and

4248 (b) are supervised by a pharmacist in accordance with rules adopted by the division in
4249 collaboration with the board.

4250 (73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
4251 and 58-17b-501.

4252 (74) "Unprofessional conduct" means the same as that term is defined in Sections
4253 58-1-501 and 58-17b-502 and may be further defined by rule.

4254 (75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that
4255 dispenses drugs intended for use by animals or for sale to veterinarians for the administration
4256 for animals.

4257 Section 69. Section 58-17b-605 is amended to read:

4258 **58-17b-605. Drug product equivalents.**

4259 (1) For the purposes of this section:

4260 (a) (i) "Drug" is as defined in Section 58-17b-102.

4261 (ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

4262 (b) "Drug product equivalent" means:

4263 (i) a drug product that is designated as the therapeutic equivalent of another drug
4264 product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by
4265 the Center for Drug Evaluation and Research of the United States Food and Drug
4266 Administration; and

4267 (ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol
4268 designated by division rule made under Subsection (9).

4269 (2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug
4270 by brand or proprietary name may substitute a drug product equivalent for the prescribed drug
4271 only if:

4272 (a) the purchaser specifically requests or consents to the substitution of a drug product
4273 equivalent;

4274 (b) the drug product equivalent is of the same generic type and is designated the

4275 therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations
4276 prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug
4277 Administration;

4278 (c) the drug product equivalent is permitted to move in interstate commerce;

4279 (d) the pharmacist or pharmacy intern counsels the patient on the use and the expected
4280 response to the prescribed drug, whether a substitute or not, and the substitution is not
4281 otherwise prohibited by this chapter;

4282 (e) the prescribing practitioner has not indicated that a drug product equivalent may not
4283 be substituted for the drug, as provided in Subsection (6); and

4284 (f) the substitution is not otherwise prohibited by law.

4285 (3) (a) Each out-of-state mail service pharmacy dispensing a drug product equivalent as
4286 a substitute for another drug into this state shall notify the patient of the substitution either by
4287 telephone or in writing.

4288 (b) Each out-of-state mail service pharmacy shall comply with the requirements of this
4289 chapter with respect to a drug product equivalent substituted for another drug, including
4290 labeling and record keeping.

4291 (4) Pharmacists or pharmacy interns may not substitute without the prescriber's
4292 authorization on trade name drug product prescriptions unless the product is currently
4293 categorized in the approved drug products with therapeutic equivalence evaluations prepared
4294 by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration
4295 as a drug product considered to be therapeutically equivalent to another drug product.

4296 (5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product
4297 equivalent under this section assumes no greater liability than would be incurred had the
4298 pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

4299 (6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the
4300 patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner
4301 may indicate a prohibition on substitution either by writing "dispense as written" or signing in
4302 the appropriate space where two lines have been preprinted on a prescription order and
4303 captioned "dispense as written" or "substitution permitted".

4304 (b) If the prescription is communicated orally by the prescribing practitioner to the
4305 pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution

4306 and that indication shall be noted in writing by the pharmacist or pharmacy intern with the
4307 name of the practitioner and the words "orally by" and the initials of the pharmacist or
4308 pharmacy intern written after it.

4309 (7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a
4310 prescribed drug shall communicate the substitution to the purchaser. The drug product
4311 equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist,
4312 pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both
4313 the name of the prescribed drug and the name of the drug product equivalent dispensed in its
4314 place.

4315 (8) (a) For purposes of this Subsection (8), "substitutes" means to substitute:

- 4316 (i) a generic drug for another generic drug;
4317 (ii) a generic drug for a nongeneric drug;
4318 (iii) a nongeneric drug for another nongeneric drug; or
4319 (iv) a nongeneric drug for a generic drug.

4320 (b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a
4321 patient with a seizure disorder shall indicate a prohibition on substitution of a drug product
4322 equivalent in the manner provided in Subsection (6)(a) or (b).

4323 (c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who
4324 cannot dispense the prescribed drug as written, and who needs to substitute a drug product
4325 equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the
4326 prescribing practitioner prior to the substitution.

4327 (d) Notification under Subsection (8)(c) is not required if the drug product equivalent is
4328 paid for in whole or in part by Medicaid.

4329 (9) (a) The division shall designate by rule made in accordance with Title 63G, Chapter
4330 3, Utah Administrative Rulemaking Act, and in consultation with the board[;] and the
4331 [Physicians] Medical Licensing Board created in Section 58-67-201, [~~and the Osteopathic~~
4332 ~~Physician and Surgeon's Licensing Board created in Section 58-68-201;~~] appropriate substitutes
4333 for albuterol.

4334 (b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product
4335 equivalent for albuterol.

4336 (10) Failure of a licensed medical practitioner to specify that no substitution is

4337 authorized does not constitute evidence of negligence.

4338 Section 70. Section **58-17b-610.8** is amended to read:

4339 **58-17b-610.8. Prescription devices.**

4340 (1) The following documents from a prescribing practitioner shall be considered a
4341 prescription for purposes of dispensing of and payment for a device described in Subsection
4342 (3), if the device is prescribed or indicated by the document and the document is on file with a
4343 pharmacy:

4344 (a) a written prescription; or

4345 (b) a written record of a patient's:

4346 (i) current diagnosis; or

4347 (ii) treatment protocol.

4348 (2) A pharmacist or pharmacy intern at a pharmacy at which a document that is
4349 considered a prescription under Subsection (1) is on file may dispense under prescription a
4350 device described in Subsection (3) to the patient in accordance with:

4351 (a) the document that is considered a prescription under Subsection (1); and

4352 (b) rules made by the division under Subsection (4).

4353 (3) This section applies to:

4354 (a) nebulizers;

4355 (b) spacers for use with nebulizers or inhalers; and

4356 (c) diabetic supplies.

4357 (4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
4358 Administrative Rulemaking Act, and in consultation with the board~~[, the Physicians]~~ and the
4359 Medical Licensing Board created in Section 58-67-201~~[, and the Osteopathic Physician and~~
4360 ~~Surgeon's Licensing Board created in Section 58-68-201,]~~ to implement this section.

4361 Section 71. Section **58-17b-625** is amended to read:

4362 **58-17b-625. Administration of a long-acting injectable and naloxone.**

4363 (1) A pharmacist may, in accordance with this section, administer a drug described in
4364 Subsection (2).

4365 (2) Notwithstanding the provisions of Subsection 58-17b-102(58)(c)(ii)(B), the
4366 division shall make rules in collaboration with the board and, when appropriate, the
4367 ~~[Physicians]~~ Medical Licensing Board created in Section 58-67-201, and in accordance with

4368 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish training for a
4369 pharmacist to administer naloxone and long-acting injectables intramuscularly.

4370 (3) A pharmacist may not administer naloxone or a long-acting injectable
4371 intramuscularly unless the pharmacist:

4372 (a) completes the training described in Subsection (2);

4373 (b) administers the drug at a clinic or community pharmacy, as those terms are defined
4374 by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah
4375 Administrative Rulemaking Act; and

4376 (c) is directed by the physician, as that term is defined in Section 58-67-102 or Section
4377 58-68-102, who issues the prescription to administer the drug.

4378 Section 72. Section 58-17b-1005 is amended to read:

4379 **58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors**
4380 **and stock albuterol.**

4381 (1) A physician acting in the physician's capacity as an employee of the Department of
4382 Health or as a medical director of a local health department may issue a standing prescription
4383 drug order authorizing the dispensing of an epinephrine auto-injector under Section
4384 58-17b-1004 in accordance with a protocol that:

4385 (a) requires the physician to specify the persons, by professional license number,
4386 authorized to dispense the epinephrine auto-injector;

4387 (b) requires the physician to review at least annually the dispensing practices of those
4388 authorized by the physician to dispense the epinephrine auto-injector;

4389 (c) requires those authorized by the physician to dispense the epinephrine auto-injector
4390 to make and retain a record of each dispensing, including:

4391 (i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom
4392 the epinephrine auto-injector is dispensed;

4393 (ii) a description of the epinephrine auto-injector dispensed; and

4394 (iii) other relevant information; and

4395 (d) is approved by the division by administrative rule made in accordance with Title
4396 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [Physicians]
4397 Medical Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

4398 (2) A physician acting in the physician's capacity as an employee of the Department of

4399 Health or as a medical director of a local health department may issue a standing prescription
4400 drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in
4401 accordance with a protocol that:

4402 (a) requires the physician to specify the persons, by professional license number,
4403 authorized to dispense the stock albuterol;

4404 (b) requires the physician to review at least annually the dispensing practices of those
4405 authorized by the physician to dispense the stock albuterol;

4406 (c) requires those authorized by the physician to dispense the stock albuterol to make
4407 and retain a record of each dispensing, including:

4408 (i) the name of the qualified adult or qualified stock albuterol entity to whom the stock
4409 albuterol is dispensed;

4410 (ii) a description of the stock albuterol dispensed; and

4411 (iii) other relevant information; and

4412 (d) is approved by the division by administrative rule made in accordance with Title
4413 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [Physicians]
4414 Medical Licensing Board created in Section 58-67-201 and the board.

4415 Section 73. Section 58-24b-102 is amended to read:

4416 **58-24b-102. Definitions.**

4417 As used in this chapter:

4418 (1) "Animal physical therapy" means practicing physical therapy or physiotherapy on
4419 an animal.

4420 (2) "Board" means the [~~Utah Physical Therapy~~] Physical Therapies Licensing Board,
4421 created in Section 58-24b-201.

4422 (3) "Consultation by telecommunication" means the provision of expert or professional
4423 advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or
4424 a health care provider by telecommunication or electronic communication.

4425 (4) "General supervision" means supervision and oversight of a person by a licensed
4426 physical therapist when the licensed physical therapist is immediately available in person, by
4427 telephone, or by electronic communication to assist the person.

4428 (5) "Licensed physical therapist" means a person licensed under this chapter to engage
4429 in the practice of physical therapy.

4430 (6) "Licensed physical therapist assistant" means a person licensed under this chapter
4431 to engage in the practice of physical therapy, subject to the provisions of Subsection
4432 [58-24b-401\(2\)\(a\)](#).

4433 (7) "Licensing examination" means a nationally recognized physical therapy
4434 examination that is approved by the division, in consultation with the board.

4435 (8) "On-site supervision" means supervision and oversight of a person by a licensed
4436 physical therapist or a licensed physical therapist assistant when the licensed physical therapist
4437 or licensed physical therapist assistant is:

- 4438 (a) continuously present at the facility where the person is providing services;
- 4439 (b) immediately available to assist the person; and
- 4440 (c) regularly involved in the services being provided by the person.

4441 (9) "Physical impairment" means:

- 4442 (a) a mechanical impairment;
- 4443 (b) a physiological impairment;
- 4444 (c) a developmental impairment;
- 4445 (d) a functional limitation;
- 4446 (e) a disability;
- 4447 (f) a mobility impairment; or
- 4448 (g) a bodily malfunction.

4449 (10) (a) "Physical therapy" or "physiotherapy" means:

- 4450 (i) examining, evaluating, and testing an individual who has a physical impairment or
4451 injury;
- 4452 (ii) identifying or labeling a physical impairment or injury;
- 4453 (iii) formulating a therapeutic intervention plan for the treatment of a physical
4454 impairment, injury, or pain;
- 4455 (iv) assessing the ongoing effects of therapeutic intervention for the treatment of a
4456 physical impairment or injury;
- 4457 (v) treating or alleviating a physical impairment by designing, modifying, or
4458 implementing a therapeutic intervention;
- 4459 (vi) reducing the risk of an injury or physical impairment;
- 4460 (vii) providing instruction on the use of physical measures, activities, or devices for

- 4461 preventative and therapeutic purposes;
- 4462 (viii) promoting and maintaining health and fitness;
- 4463 (ix) the administration of a prescription drug pursuant to Section 58-24b-403;
- 4464 (x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in
- 4465 Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the
- 4466 requirements of Section 58-24b-405; and
- 4467 (xi) engaging in administration, consultation, education, and research relating to the
- 4468 practices described in this Subsection (10)(a).
- 4469 (b) "Physical therapy" or "physiotherapy" does not include:
- 4470 (i) diagnosing disease;
- 4471 (ii) performing surgery;
- 4472 (iii) performing acupuncture;
- 4473 (iv) taking x-rays; or
- 4474 (v) prescribing or dispensing a drug, as defined in Section 58-37-2.
- 4475 (11) "Physical therapy aide" means a person who:
- 4476 (a) is trained, on-the-job, by a licensed physical therapist; and
- 4477 (b) provides routine assistance to a licensed physical therapist or licensed physical
- 4478 therapist assistant, while the licensed physical therapist or licensed physical therapist assistant
- 4479 practices physical therapy, within the scope of the licensed physical therapist's or licensed
- 4480 physical therapist assistant's license.
- 4481 (12) "Recognized accreditation agency" means an accreditation agency that:
- 4482 (a) grants accreditation, nationally, in the United States of America; and
- 4483 (b) is approved by the division, in consultation with the board.
- 4484 (13) (a) "Testing" means a standard method or technique used to gather data regarding
- 4485 a patient that is generally and nationally accepted by physical therapists for the practice of
- 4486 physical therapy.
- 4487 (b) "Testing" includes measurement or evaluation of:
- 4488 (i) muscle strength, force, endurance, or tone;
- 4489 (ii) cardiovascular fitness;
- 4490 (iii) physical work capacity;
- 4491 (iv) joint motion, mobility, or stability;

- 4492 (v) reflexes or autonomic reactions;
- 4493 (vi) movement skill or accuracy;
- 4494 (vii) sensation;
- 4495 (viii) perception;
- 4496 (ix) peripheral nerve integrity;
- 4497 (x) locomotor skills, stability, and endurance;
- 4498 (xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;
- 4499 (xii) posture;
- 4500 (xiii) body mechanics;
- 4501 (xiv) limb length, circumference, and volume;
- 4502 (xv) thoracic excursion and breathing patterns;
- 4503 (xvi) activities of daily living related to physical movement and mobility;
- 4504 (xvii) functioning in the physical environment at home or work, as it relates to physical
- 4505 movement and mobility; and
- 4506 (xviii) neural muscular responses.
- 4507 (14) (a) "Trigger point dry needling" means the stimulation of a trigger point using a
- 4508 dry needle to treat neuromuscular pain and functional movement deficits.
- 4509 (b) "Trigger point dry needling" does not include the stimulation of auricular or distal
- 4510 points.
- 4511 (15) "Therapeutic intervention" includes:
- 4512 (a) therapeutic exercise, with or without the use of a device;
- 4513 (b) functional training in self-care, as it relates to physical movement and mobility;
- 4514 (c) community or work integration, as it relates to physical movement and mobility;
- 4515 (d) manual therapy, including:
- 4516 (i) soft tissue mobilization;
- 4517 (ii) therapeutic massage; or
- 4518 (iii) joint mobilization, as defined by the division, by rule;
- 4519 (e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic,
- 4520 protective, or supportive device;
- 4521 (f) airway clearance techniques, including postural drainage;
- 4522 (g) integumentary protection and repair techniques;

- 4523 (h) wound debridement, cleansing, and dressing;
- 4524 (i) the application of a physical agent, including:
- 4525 (i) light;
- 4526 (ii) heat;
- 4527 (iii) cold;
- 4528 (iv) water;
- 4529 (v) air;
- 4530 (vi) sound;
- 4531 (vii) compression;
- 4532 (viii) electricity; and
- 4533 (ix) electromagnetic radiation;
- 4534 (j) mechanical or electrotherapeutic modalities;
- 4535 (k) positioning;
- 4536 (l) instructing or training a patient in locomotion or other functional activities, with or
- 4537 without an assistive device;
- 4538 (m) manual or mechanical traction;
- 4539 (n) correction of posture, body mechanics, or gait; and
- 4540 (o) trigger point dry needling, under the conditions described in Section [58-24b-505](#).
- 4541 Section 74. Section **58-24b-201** is amended to read:

Part 2. Physical Therapies Licensing Board

58-24b-201. Physical Therapies Licensing Board -- Creation -- Membership --

Duties.

- 4545 (1) There is created the Physical [~~Therapy~~] Therapies Licensing Board, consisting of:
- 4546 (a) three licensed physical therapists[~~;~~];
- 4547 (b) one physical therapist assistant[~~;~~~~and~~];
- 4548 (c) two licensed occupational therapists;
- 4549 (d) one occupational therapy assistant;
- 4550 (e) two licensed athletic trainers;
- 4551 (f) one representative of the directing physicians described in Subsection
- 4552 [58-40a-102\(6\)](#); and
- 4553 (g) one member of the general public.

4554 (2) Members of the board shall be appointed and serve in accordance with Section
4555 [58-1-201](#).

4556 (3) The duties and responsibilities of the board are described in Subsection (4) and
4557 Sections [58-1-201](#) through [58-1-203](#) with respect to this chapter, Chapter 40a, Athletic Trainer
4558 Licensing Act, or Chapter 42a, Occupational Therapy Practice Act.

4559 (4) The board shall designate a member of the board, on a permanent or rotating basis,
4560 to:

4561 (a) assist the division in reviewing complaints [~~of unlawful or unprofessional conduct~~
4562 ~~of a licensee~~] concerning the conduct of an individual licensed under this chapter, Chapter 40a,
4563 Athletic Trainer Licensing Act, or Chapter 42a, Occupational Therapy Practice Act; and

4564 (b) advise the division during the division's investigation of the complaints described in
4565 Subsection (4)(a).

4566 (5) A board member who has reviewed a complaint or been involved in an
4567 investigation under Subsection (4) is disqualified from participating in an adjudicative
4568 proceeding relating to the complaint or investigation.

4569 Section 75. Section **58-24c-104** is amended to read:

4570 **58-24c-104. Physical therapy licensing board.**

4571 As used in the compact, with reference to this state, "physical therapy licensing board"
4572 or "licensing board" means the [~~physical therapy licensing board~~] Physical Therapies Licensing
4573 Board created in Section [58-24b-201](#).

4574 Section 76. Section **58-31b-102** is amended to read:

4575 **58-31b-102. Definitions.**

4576 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

4577 (1) "Administrative penalty" means a monetary fine or citation imposed by the division
4578 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a
4579 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah
4580 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in
4581 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

4582 (2) "Applicant" means an individual who applies for licensure or certification under
4583 this chapter by submitting a completed application for licensure or certification and the
4584 required fees to the department.

4585 (3) "Approved education program" means a nursing education program that is
4586 accredited by an accrediting body for nursing education that is approved by the United States
4587 Department of Education.

4588 (4) "Board" means the Board of Nursing and Certified Nurse Midwives created in
4589 Section [58-31b-201](#).

4590 (5) "Diagnosis" means the identification of and discrimination between physical and
4591 psychosocial signs and symptoms essential to the effective execution and management of
4592 health care.

4593 (6) "Examinee" means an individual who applies to take or does take any examination
4594 required under this chapter for licensure.

4595 (7) "Licensee" means an individual who is licensed or certified under this chapter.

4596 (8) "Long-term care facility" means any of the following facilities licensed by the
4597 Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health
4598 Care Facility Licensing and Inspection:

4599 (a) a nursing care facility;

4600 (b) a small health care facility;

4601 (c) an intermediate care facility for people with an intellectual disability;

4602 (d) an assisted living facility Type I or II; or

4603 (e) a designated swing bed unit in a general hospital.

4604 (9) "Medication aide certified" means a certified nurse aide who:

4605 (a) has a minimum of 2,000 hours experience working as a certified nurse aide;

4606 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
4607 that is approved by the division in collaboration with the board, in administering routine
4608 medications to patients or residents of long-term care facilities; and

4609 (c) is certified by the division as a medication aide certified.

4610 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
4611 under the supervision, as defined by the division by rule made in accordance with Title 63G,
4612 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
4613 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
4614 an individual who:

4615 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual

4616 disability; and

4617 (ii) is in a regulated long-term care facility.

4618 (b) "Practice as a medication aide certified":

4619 (i) includes:

4620 (A) providing direct personal assistance or care; and

4621 (B) administering routine medications to patients in accordance with a formulary and
4622 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
4623 Utah Administrative Rulemaking Act; and

4624 (ii) does not include assisting a resident of an assisted living facility, a long term care
4625 facility, or an intermediate care facility for people with an intellectual disability to self
4626 administer a medication, as regulated by the Department of Health and Human Services by rule
4627 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4628 (11) "Practice of advanced practice registered nursing" means the practice of nursing
4629 within the generally recognized scope and standards of advanced practice registered nursing as
4630 defined by rule and consistent with professionally recognized preparation and education
4631 standards of an advanced practice registered nurse by a person licensed under this chapter as an
4632 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

4633 (a) maintenance and promotion of health and prevention of disease;

4634 (b) diagnosis, treatment, correction, consultation, and referral;

4635 (c) prescription or administration of prescription drugs or devices including:

4636 (i) local anesthesia;

4637 (ii) Schedule III-V controlled substances; and

4638 (iii) Schedule II controlled substances; or

4639 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
4640 related services upon the request of a licensed health care professional by an advanced practice
4641 registered nurse specializing as a certified registered nurse anesthetist, including:

4642 (i) preanesthesia preparation and evaluation including:

4643 (A) performing a preanesthetic assessment of the patient;

4644 (B) ordering and evaluating appropriate lab and other studies to determine the health of
4645 the patient; and

4646 (C) selecting, ordering, or administering appropriate medications;

- 4647 (ii) anesthesia induction, maintenance, and emergence, including:
4648 (A) selecting and initiating the planned anesthetic technique;
4649 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
4650 (C) administering general, regional, and local anesthesia;
- 4651 (iii) postanesthesia follow-up care, including:
4652 (A) evaluating the patient's response to anesthesia and implementing corrective
4653 actions; and
4654 (B) selecting, ordering, or administering the medications and studies listed in this
4655 Subsection (11)(d);
- 4656 (iv) other related services within the scope of practice of a certified registered nurse
4657 anesthetist, including:
4658 (A) emergency airway management;
4659 (B) advanced cardiac life support; and
4660 (C) the establishment of peripheral, central, and arterial invasive lines; and
4661 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
4662 professional":
4663 (A) means a health care professional practicing within the scope of the health care
4664 professional's license, requests anesthesia services for a specific patient; and
4665 (B) does not require an advanced practice registered nurse specializing as a certified
4666 registered nurse anesthetist to obtain additional authority to select, administer, or provide
4667 preoperative, intraoperative, or postoperative anesthesia care and services.
- 4668 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
4669 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
4670 responses to care and treatment, and requires substantial specialized or general knowledge,
4671 judgment, and skill based upon principles of the biological, physical, behavioral, and social
4672 sciences. "Practice of nursing" includes:
4673 (a) initiating and maintaining comfort measures;
4674 (b) promoting and supporting human functions and responses;
4675 (c) establishing an environment conducive to well-being;
4676 (d) providing health counseling and teaching;
4677 (e) collaborating with health care professionals on aspects of the health care regimen;

4678 (f) performing delegated procedures only within the education, knowledge, judgment,
4679 and skill of the licensee;

4680 (g) delegating nursing tasks that may be performed by others, including an unlicensed
4681 assistive personnel; and

4682 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
4683 the individual performs the task.

4684 (13) "Practice of practical nursing" means the performance of nursing acts in the
4685 generally recognized scope of practice of licensed practical nurses as defined by division rule
4686 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
4687 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
4688 practical nurse and under the direction of a registered nurse, licensed physician, or other
4689 specified health care professional as defined by division rule made in accordance with Title
4690 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

4691 (a) contributing to the assessment of the health status of individuals and groups;

4692 (b) participating in the development and modification of the strategy of care;

4693 (c) implementing appropriate aspects of the strategy of care;

4694 (d) maintaining safe and effective nursing care rendered to a patient directly or
4695 indirectly; and

4696 (e) participating in the evaluation of responses to interventions.

4697 (14) "Practice of registered nursing" means performing acts of nursing as provided in
4698 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
4699 the generally recognized scope of practice of registered nurses as defined by division rule made
4700 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
4701 nursing acts include:

4702 (a) assessing the health status of individuals and groups;

4703 (b) identifying health care needs;

4704 (c) establishing goals to meet identified health care needs;

4705 (d) planning a strategy of care;

4706 (e) prescribing nursing interventions to implement the strategy of care;

4707 (f) implementing the strategy of care;

4708 (g) maintaining safe and effective nursing care that is rendered to a patient directly or

- 4709 indirectly;
- 4710 (h) evaluating responses to interventions;
- 4711 (i) teaching the theory and practice of nursing; and
- 4712 (j) managing and supervising the practice of nursing.
- 4713 (15) "Registered nurse apprentice" means an individual licensed under Subsection
- 4714 [58-31b-301](#)(2)(b) who is learning and engaging in the practice of registered nursing under the
- 4715 indirect supervision of an individual licensed under:
- 4716 (a) Subsection [58-31b-301](#)(2)(c), (e), or (f);
- 4717 (b) Chapter 67, Utah Medical Practice Act; or
- 4718 (c) Chapter 68, Utah Osteopathic Medical Practice Act.
- 4719 (16) "Routine medications":
- 4720 (a) means established medications administered to a medically stable individual as
- 4721 determined by a licensed health care practitioner or in consultation with a licensed medical
- 4722 practitioner; and
- 4723 (b) is limited to medications that are administered by the following routes:
- 4724 (i) oral;
- 4725 (ii) sublingual;
- 4726 (iii) buccal;
- 4727 (iv) eye;
- 4728 (v) ear;
- 4729 (vi) nasal;
- 4730 (vii) rectal;
- 4731 (viii) vaginal;
- 4732 (ix) skin ointments, topical including patches and transdermal;
- 4733 (x) premeasured medication delivered by aerosol/nebulizer; and
- 4734 (xi) medications delivered by metered hand-held inhalers.
- 4735 (17) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
- 4736 and [58-31b-501](#).
- 4737 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
- 4738 title, who is delegated a task by a licensed nurse as permitted by division rule made in
- 4739 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards

4740 of the profession.

4741 (19) "Unprofessional conduct" means the same as that term is defined in Sections
 4742 [58-1-501](#) and [58-31b-502](#) and as may be further defined by division rule made in accordance
 4743 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4744 Section 77. Section **58-31b-201** is amended to read:

4745 **58-31b-201. Board.**

4746 (1) There is created the Board of Nursing and Certified Nurse Midwives that consists
 4747 of the following [~~11~~] members:

4748 (a) [~~nine~~] five nurses in a manner as may be further defined in division rule; [~~and~~]

4749 (b) two nurse midwives as defined in Section [58-44a-102](#); and

4750 [~~(b)~~] (c) two members of the public.

4751 (2) The board shall be appointed and serve in accordance with Section [58-1-201](#).

4752 (3) The board shall [~~carry out the duties and responsibilities in Sections [58-1-202](#) and~~
 4753 [58-1-203](#) and shall]:

4754 (a) carry out the duties and responsibilities described in Sections [58-1-202](#) and
 4755 [58-1-203](#) with respect to this chapter and Chapter 44a, Nurse Midwife Practice Act; and

4756 [~~(a)~~] (b) [(i)] recommend to the division minimum standards for educational programs
 4757 qualifying a person for licensure or certification under this chapter and Chapter 44a, Nurse
 4758 Midwife Practice Act;

4759 [~~(i)~~] (c) recommend to the division denial, approval, or withdrawal of approval
 4760 regarding educational programs that meet or fail to meet the established minimum standards;
 4761 and

4762 [~~(iii)~~] (d) designate one of its members on a permanent or rotating basis to:

4763 [~~(A)~~] (i) assist the division in reviewing complaints concerning the [~~unlawful or~~
 4764 ~~unprofessional~~] conduct of [~~a licensee~~] an individual licensed under this chapter or Chapter
 4765 44a, Nurse Midwife Practice Act; and

4766 [~~(B)~~] (ii) advise the division in its investigation of these complaints.

4767 [~~(b)~~] (4) A board member who has, under Subsection [~~(3)(a)(iii)~~] (3)(d), reviewed a
 4768 complaint or advised in its investigation may be disqualified from participating with the board
 4769 when the board serves as a presiding officer in an adjudicative proceeding concerning the
 4770 complaint.

4771 Section 78. Section **58-31e-103** is amended to read:

4772 **58-31e-103. Implementation and rulemaking authority.**

4773 (1) The term "head of the state licensing board," as used in Article VII b(1) of the
4774 Nurse Licensure Compact in Section **58-31e-102**, means an individual who is an ex-officio
4775 member of the Board of Nursing and Certified Nurse Midwives created in Section **58-31b-201**
4776 and is appointed by the director to serve as the head of the state licensing board for purposes of
4777 Article VII b(1) of the Nurse Licensure Compact.

4778 (2) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative
4779 Rulemaking Act, make rules necessary to implement the provisions of this chapter.

4780 Section 79. Section **58-37f-304** is amended to read:

4781 **58-37f-304. Database utilization.**

4782 (1) As used in this section:

4783 (a) "Dispenser" means a licensed pharmacist, as described in Section **58-17b-303**, the
4784 pharmacist's licensed intern, as described in Section **58-17b-304**, or licensed pharmacy
4785 technician, as described in Section **58-17b-305**, working under the supervision of a licensed
4786 pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37,
4787 Utah Controlled Substances Act.

4788 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare
4789 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
4790 licensed healthcare facility for an overnight stay.

4791 (c) "Prescriber" means an individual authorized to prescribe a controlled substance
4792 under Title 58, Chapter 37, Utah Controlled Substances Act.

4793 (d) "Schedule II opioid" means those substances listed in Subsection **58-37-4(2)(b)(i)**
4794 or **(2)(b)(ii)**.

4795 (e) "Schedule III opioid" means those substances listed in Subsection **58-37-4(2)(c)**
4796 that are opioids.

4797 (2) (a) A prescriber shall check the database for information about a patient before the
4798 first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule
4799 III opioid.

4800 (b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid
4801 to a patient, the prescriber shall periodically review information about the patient in:

4802 (i) the database; or
4803 (ii) other similar records of controlled substances the patient has filled.
4804 (c) A prescriber may assign the access and review required under Subsection (2)(a) to
4805 one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).
4806 (d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by
4807 checking an electronic health record system if the electronic health record system:
4808 (A) is connected to the database through a connection that has been approved by the
4809 division; and
4810 (B) displays the information from the database in a prominent manner for the
4811 prescriber.
4812 (ii) The division may not approve a connection to the database if the connection does
4813 not satisfy the requirements established by the division under Section 58-37f-301.
4814 (e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the
4815 failure to comply with Subsection (2)(a) or (b):
4816 (i) is necessary due to an emergency situation;
4817 (ii) is caused by a suspension or disruption in the operation of the database; or
4818 (iii) is caused by a failure in the operation or availability of the Internet.
4819 (f) The division may not take action against the license of a prescriber for failure to
4820 comply with this Subsection (2) unless the failure occurs after the earlier of:
4821 (i) December 31, 2018; or
4822 (ii) the date that the division has the capability to establish a connection that meets the
4823 requirements established by the division under Section 58-37f-301 between the database and an
4824 electronic health record system.
4825 (3) The division shall, in collaboration with the licensing boards for prescribers and
4826 dispensers:
4827 (a) develop a system that gathers and reports to prescribers and dispensers the progress
4828 and results of the prescriber's and dispenser's individual access and review of the database, as
4829 provided in this section; and
4830 (b) reduce or waive the division's continuing education requirements regarding opioid
4831 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to
4832 the database, for prescribers and dispensers whose individual utilization of the database, as

4833 determined by the division, demonstrates substantial compliance with this section.

4834 (4) If the dispenser's access and review of the database suggest that the individual
4835 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
4836 generally recognized standards as provided in this section and Section 58-37f-201, the
4837 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
4838 current, and professional decision regarding whether the prescribed opioid is medically
4839 justified, notwithstanding the results of the database search.

4840 (5) (a) The division shall review the database to identify any prescriber who has a
4841 pattern of prescribing opioids not in accordance with the recommendations of:

4842 (i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the
4843 Centers for Disease Control and Prevention;

4844 (ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain,
4845 published by the Department of Health and Human Services; or

4846 (iii) other publications describing best practices related to prescribing opioids as
4847 identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative
4848 Rulemaking Act, and in consultation with the [~~Physicians~~] Medical Licensing Board.

4849 (b) The division shall offer education to a prescriber identified under this Subsection
4850 (5) regarding best practices in the prescribing of opioids.

4851 (c) A decision by a prescriber to accept or not accept the education offered by the
4852 division under this Subsection (5) is voluntary.

4853 (d) The division may not use an identification the division has made under this
4854 Subsection (5) or the decision by a prescriber to accept or not accept education offered by the
4855 division under this Subsection (5) in a licensing investigation or action by the division.

4856 (e) Any record created by the division as a result of this Subsection (5) is a protected
4857 record under Section 63G-2-305.

4858 (6) The division may consult with a prescriber or health care system to assist the
4859 prescriber or health care system in following evidence-based guidelines regarding the
4860 prescribing of controlled substances, including the recommendations listed in Subsection
4861 (5)(a).

4862 Section 80. Section 58-38a-201 is amended to read:

4863 **58-38a-201. Controlled Substances Advisory Committee.**

4864 There is created within the Division of Professional Licensing the Controlled
4865 Substances Advisory Committee. The committee consists of:
4866 (1) the director of the Department of Health and Human Services or the director's
4867 designee;
4868 (2) the State Medical Examiner or the examiner's designee;
4869 (3) the commissioner of the Department of Public Safety or the commissioner's
4870 designee;
4871 (4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the
4872 director's designee;
4873 (5) the director of the Utah Poison Control Center or the director's designee;
4874 (6) one physician who is a member of the [~~Physicians~~] Medical Licensing Board and is
4875 designated by that board;
4876 (7) one pharmacist who is a member of the Utah State Board of Pharmacy and is
4877 designated by that board;
4878 (8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board
4879 and is designated by that board;
4880 (9) one physician who is currently licensed and practicing in the state, to be appointed
4881 by the governor;
4882 (10) one psychiatrist who is currently licensed and practicing in the state, to be
4883 appointed by the governor;
4884 (11) one individual with expertise in substance abuse addiction, to be appointed by the
4885 governor;
4886 (12) one representative from the Statewide Association of Prosecutors, to be
4887 designated by that association;
4888 (13) one naturopathic physician who is currently licensed and practicing in the state, to
4889 be appointed by the governor;
4890 (14) one advanced practice registered nurse who is currently licensed and practicing in
4891 this state, to be appointed by the governor; and
4892 (15) one member of the public, to be appointed by the governor.
4893 Section 81. Section **58-40a-102** is amended to read:
4894 **58-40a-102. Definitions.**

- 4895 In addition to the definitions in Section [58-1-102](#), as used in this chapter:
- 4896 (1) "Adequate records" means legible records that contain, at a minimum:
- 4897 (a) the athletic training service plan or protocol;
- 4898 (b) an evaluation of objective findings;
- 4899 (c) the plan of care and the treatment records; or
- 4900 (d) written orders.
- 4901 (2) "Athlete" means an individual, referee, coach, or athletic staff member who
- 4902 participates in exercises, sports, or games requiring physical strength, agility, flexibility, range
- 4903 of motion, speed, or stamina, and the exercises, sports, or games are of a type generally
- 4904 conducted in association with an educational institution or professional, amateur, or
- 4905 recreational sports club or organization.
- 4906 (3) "Athletic injury" means:
- 4907 (a) an injury sustained by an athlete that affects the individual's participation or
- 4908 performance in sports, games, recreation, or exercise; or
- 4909 (b) a condition that is within the scope of practice of an athletic trainer identified by a
- 4910 directing physician or physical therapist as benefitting from athletic training services.
- 4911 (4) "Athletic trainer" means an individual who is licensed under this chapter and
- 4912 carries out the practice of athletic training.
- 4913 (5) "Board" means the [~~Athletic Trainers Licensing Board created in Section~~
- 4914 [58-40a-201](#)] Physical Therapies Licensing Board created in Section [58-24b-201](#).
- 4915 (6) "Directing physician" means a physician and surgeon licensed under Section
- 4916 [58-67-301](#), an osteopathic physician and surgeon licensed under Section [58-68-301](#), a
- 4917 chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, a
- 4918 naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act, or
- 4919 dentist licensed under Section [58-69-301](#) who, within the licensee's scope of practice and
- 4920 individual competency, is responsible for the athletic training services provided by the athletic
- 4921 trainer and oversees the practice of athletic training by the athletic trainer, as established by
- 4922 board rule.
- 4923 (7) The "practice of athletic training" means the application by a licensed and certified
- 4924 athletic trainer of principles and methods of:
- 4925 (a) prevention of athletic injuries;

- 4926 (b) recognition, evaluation, and assessment of athletic injuries and conditions;
- 4927 (c) immediate care of athletic injuries, including common emergency medical
- 4928 situations;
- 4929 (d) rehabilitation and reconditioning of athletic injuries;
- 4930 (e) athletic training services administration and organization; and
- 4931 (f) education of athletes.

4932 Section 82. Section **58-42a-102** is amended to read:

4933 **58-42a-102. Definitions.**

4934 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

4935 (1) "Board" means the [~~Board of Occupational Therapy created in Section [58-42a-201](#)~~]

4936 Physical Therapies Licensing Board created in Section [58-24b-201](#).

4937 (2) (a) "Individual treatment plan" means a written record composed for each client by

4938 a person licensed under this chapter to engage in the practice of occupational therapy.

4939 (b) "Individual treatment plan" includes:

4940 (i) planning and directing specific exercises and programs to improve sensory

4941 integration and motor functioning at the level of performance neurologically appropriate for the

4942 individual's stage of development;

4943 (ii) establishing a program of instruction to teach a client skills, behaviors, and

4944 attitudes necessary for the client's independent productive, emotional, and social functioning;

4945 (iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the

4946 client's optimal functioning in activities of daily living and to prevent further disability; and

4947 (iv) planning and directing specific programs to evaluate and enhance perceptual,

4948 motor, and cognitive skills.

4949 (3) "Occupational therapist" means a person licensed under this chapter to practice

4950 occupational therapy.

4951 (4) "Occupational therapy aide" means a person who is not licensed under this chapter

4952 but who provides supportive services under the supervision of an occupational therapist or

4953 occupational therapy assistant.

4954 (5) "Occupational therapy assistant" means a person licensed under this chapter to

4955 practice occupational therapy under the supervision of an occupational therapist as described in

4956 Sections [58-42a-305](#) and [58-42a-306](#).

4957 (6) (a) "Practice of occupational therapy" means the therapeutic use of everyday life
4958 activities with an individual:

4959 (i) that has or is at risk of developing an illness, injury, disease, disorder, condition,
4960 impairment, disability, activity limitation, or participation restriction; and

4961 (ii) to develop or restore the individual's ability to engage in everyday life activities by
4962 addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual's
4963 performance.

4964 (b) "Practice of occupational therapy" includes:

4965 (i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of
4966 an individual;

4967 (ii) modifying or adapting an activity or environment to enhance an individual's
4968 performance;

4969 (iii) maintaining and improving an individual's capabilities to avoid declining
4970 performance in everyday life activities;

4971 (iv) promoting health and wellness to develop or improve an individual's performance
4972 in everyday life activities;

4973 (v) performance-barrier prevention for an individual, including disability prevention;

4974 (vi) evaluating factors that affect an individual's activities of daily living in

4975 educational, work, play, leisure, and social situations, including:

4976 (A) body functions and structures;

4977 (B) habits, routines, roles, and behavioral patterns;

4978 (C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity
4979 demands that affect performance; and

4980 (D) motor, process, communication, interaction, and other performance skills;

4981 (vii) providing interventions and procedures to promote or enhance an individual's
4982 safety and performance in activities of daily living in educational, work, and social situations,
4983 including:

4984 (A) the therapeutic use of occupations and exercises;

4985 (B) training in self-care, self-management, home-management, and community and
4986 work reintegration;

4987 (C) the development, remediation, or compensation of behavioral skills and physical,

4988 cognitive, neuromuscular, and sensory functions;
4989 (D) the education and training of an individual's family members and caregivers;
4990 (E) care coordination, case management, and transition services;
4991 (F) providing consulting services to groups, programs, organizations, or communities,
4992 (G) modifying the environment and adapting processes, including the application of
4993 ergonomic principles;
4994 (H) assessing, designing, fabricating, applying, fitting, and providing training in
4995 assistive technology, adaptive devices, orthotic devices, and prosthetic devices;
4996 (I) assessing, recommending, and training an individual in techniques to enhance
4997 functional mobility, including wheelchair management;
4998 (J) driver rehabilitation and community mobility;
4999 (K) enhancing eating and feeding performance; and
5000 (L) applying physical agent modalities, managing wound care, and using manual
5001 therapy techniques to enhance an individual's performance skills, if the occupational therapist
5002 has received the necessary training as determined by division rule in collaboration with the
5003 board.

5004 (7) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
5005 and [58-42a-501](#).

5006 (8) "Unprofessional conduct" means the same as that term is defined in Sections
5007 [58-1-501](#) and [58-42a-502](#).

5008 Section 83. Section **58-44a-102** is amended to read:

5009 **58-44a-102. Definitions.**

5010 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

5011 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
5012 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
5013 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
5014 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

5015 (2) "Board" means the [~~Certified Nurse Midwife Board created in Section [58-44a-201](#)]~~
5016 Board of Nursing and Certified Nurse Midwives created in Section [58-31b-201](#).

5017 (3) "Consultation and Referral Plan" means a written plan jointly developed by a
5018 certified nurse midwife, as defined in Subsection (7), and a consulting physician that permits

5019 the certified nurse midwife to prescribe schedule II-III controlled substances in consultation
5020 with the consulting physician.

5021 (4) "Consulting physician" means a physician and surgeon or osteopathic physician:

5022 (a) with an unrestricted license as a physician;

5023 (b) qualified by education, training, and current practice in obstetrics, gynecology, or
5024 both to act as a consulting physician to a nurse midwife practicing under this chapter and
5025 providing intrapartum care or prescribing Schedule II-III controlled substances; and

5026 (c) who is available to consult with a nurse midwife, which does not include the
5027 consulting physician being present at the time or place the nurse midwife is engaged in
5028 practice.

5029 (5) "Individual" means a natural person.

5030 (6) "Intrapartum referral plan":

5031 (a) means a written plan prepared by a nurse midwife describing the guidelines under
5032 which the nurse midwife will consult with a consulting physician, collaborate with a consulting
5033 physician, and refer patients to a consulting physician; and

5034 (b) does not require the nurse midwife to obtain the signature of a physician on the
5035 intrapartum referral plan.

5036 (7) "Nurse midwife" means a person licensed under this chapter to engage in practice
5037 as a certified nurse midwife.

5038 (8) "Physician" means a physician and surgeon or osteopathic surgeon licensed under
5039 Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

5040 (9) "Practice as a certified nurse midwife" means:

5041 (a) practice [~~as a registered nurse~~] of registered nursing as defined in Section
5042 [58-31b-102](#), and as consistent with the education, training, experience, and current competency
5043 of the licensee;

5044 (b) practice of nursing within the generally recognized scope and standards of nurse
5045 midwifery as defined by rule and consistent with professionally recognized preparations and
5046 educational standards of a certified nurse midwife by a person licensed under this chapter,
5047 which practice includes:

5048 (i) having a safe mechanism for obtaining medical consultation, collaboration, and
5049 referral with one or more consulting physicians who have agreed to consult, collaborate, and

5050 receive referrals, but who are not required to sign a written document regarding the agreement;

5051 (ii) providing a patient with information regarding other health care providers and
5052 health care services and referral to other health care providers and health care services when
5053 requested or when care is not within the scope of practice of a certified nurse midwife; and

5054 (iii) maintaining written documentation of the parameters of service for independent
5055 and collaborative midwifery management and transfer of care when needed; and

5056 (c) the authority to:

5057 (i) elicit and record a patient's complete health information, including physical
5058 examination, history, and laboratory findings commonly used in providing obstetrical,
5059 gynecological, and well infant services to a patient;

5060 (ii) assess findings and upon abnormal findings from the history, physical examination,
5061 or laboratory findings, manage the treatment of the patient, collaborate with the consulting
5062 physician or another qualified physician, or refer the patient to the consulting physician or to
5063 another qualified physician as appropriate;

5064 (iii) diagnose, plan, and implement appropriate patient care, including the
5065 administration and prescribing of:

5066 (A) prescription drugs;

5067 (B) schedule IV-V controlled substances; and

5068 (C) schedule II-III controlled substances in accordance with a consultation and referral
5069 plan;

5070 (iv) evaluate the results of patient care;

5071 (v) consult as is appropriate regarding patient care and the results of patient care;

5072 (vi) manage the intrapartum period according to accepted standards of nurse midwifery
5073 practice and a written intrapartum referral plan, including performance of routine episiotomy
5074 and repairs, and administration of anesthesia, including local, pudendal, or paracervical block
5075 anesthesia, but not including general anesthesia and major conduction anesthesia;

5076 (vii) manage the postpartum period;

5077 (viii) provide gynecological services;

5078 (ix) provide noncomplicated newborn and infant care to the age of one year; and

5079 (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use
5080 the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

5081 (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.

5082 (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
5083 to whom tasks are delegated by a licensed certified nurse midwife in accordance with the
5084 standards of the profession as defined by rule.

5085 (12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as
5086 may be further defined by rule.

5087 Section 84. Section 58-47b-102 is amended to read:

5088 **58-47b-102. Definitions.**

5089 In addition to the definitions in Section 58-1-102, as used in this chapter:

5090 (1) "Board" means the Board of Massage Therapy and Acupuncture created in Section
5091 58-47b-201.

5092 (2) "Breast" means the female mammary gland and does not include the muscles,
5093 connective tissue, or other soft tissue of the upper chest.

5094 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
5095 muscular system.

5096 (4) "Massage apprentice" means an individual licensed under this chapter as a massage
5097 apprentice.

5098 (5) "Massage assistant" means an individual licensed under this chapter as a massage
5099 assistant.

5100 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
5101 massage assistant in-training.

5102 (7) "Massage therapist" means an individual licensed under this chapter as a massage
5103 therapist.

5104 (8) "Massage therapy supervisor" means:

5105 (a) a massage therapist who has at least three years of experience as a massage
5106 therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

5107 (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

5108 (c) a physician licensed under Chapter 67, Utah Medical Practice Act;

5109 (d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
5110 Practice Act;

5111 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

5112 (f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
5113 Act.

5114 (9) (a) "Practice of limited massage therapy" means:

5115 (i) the systematic manual manipulation of the soft tissue of the body for the purpose of
5116 promoting the therapeutic health and well-being of a client, enhancing the circulation of the
5117 blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic
5118 balance, relaxation, or achieving homeostasis;

5119 (ii) seated chair massage;

5120 (iii) the use of body wraps;

5121 (iv) aromatherapy;

5122 (v) reflexology; or

5123 (vi) in connection with an activity described in this Subsection (9), the use of:

5124 (A) the hands;

5125 (B) a towel;

5126 (C) a stone;

5127 (D) a shell;

5128 (E) a bamboo stick; or

5129 (F) an herbal ball compress.

5130 (b) "Practice of limited massage therapy" does not include work on an acute or
5131 subacute injury.

5132 (10) "Practice of massage therapy" means:

5133 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
5134 for the purpose of devising a treatment plan to promote homeostasis;

5135 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for
5136 the purpose of promoting the therapeutic health and well-being of a client, enhancing the
5137 circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring
5138 metabolic balance, or achieving homeostasis, or for any other purpose;

5139 (c) the use of the hands or a mechanical or electrical apparatus in connection with this
5140 Subsection (10);

5141 (d) the use of rehabilitative procedures involving the soft tissue of the body;

5142 (e) range of motion or movements without spinal adjustment as set forth in Section

5143 [58-73-102](#);

5144 (f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower,
5145 steam, and cabinet baths;

5146 (g) manual traction and stretching exercise;

5147 (h) correction of muscular distortion by treatment of the soft tissues of the body;

5148 (i) counseling, education, and other advisory services to reduce the incidence and
5149 severity of physical disability, movement dysfunction, and pain;

5150 (j) activities and modality techniques similar or related to the activities and techniques
5151 described in this Subsection (10);

5152 (k) a practice described in this Subsection (10) on an animal to the extent permitted by:

5153 (i) Subsection [58-28-307](#)(12);

5154 (ii) the provisions of this chapter; and

5155 (iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative
5156 Rulemaking Act; or

5157 (l) providing, offering, or advertising a paid service using the term massage or a
5158 derivative of the word massage, regardless of whether the service includes physical contact.

5159 (11) "Soft tissue" means the muscles and related connective tissue.

5160 (12) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
5161 and [58-47b-501](#).

5162 (13) "Unprofessional conduct" means the same as that term is defined in Sections
5163 [58-1-501](#) and [58-47b-502](#) and as may be further defined by division rule made in accordance
5164 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5165 Section 85. Section **58-47b-201** is amended to read:

5166 **58-47b-201. Board.**

5167 (1) There is created the Board of Massage Therapy and Acupuncture consisting of:

5168 (a) four massage therapists; [~~and~~]

5169 (b) two licensed acupuncturists as defined in Section [58-72-102](#); and

5170 [~~(b)~~] (c) one member of the general public.

5171 (2) The board shall be appointed and serve in accordance with Section [58-1-201](#).

5172 (3) (a) [~~The duties and responsibilities of the board are in accordance with Sections~~
5173 ~~58-1-202 and 58-1-203~~]. The board shall perform the duties and responsibilities described in

5174 Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 72, Acupuncture
5175 Licensing Act.

5176 (b) In addition, the board shall designate one of its members on a permanent or rotating
5177 basis to:

5178 ~~[(a)]~~ (i) assist the division in reviewing complaints concerning the ~~[unlawful or~~
5179 ~~unprofessional]~~ conduct of a ~~[licensee]~~ an individual licensed under this chapter or Chapter 72,
5180 Acupuncture Licensing Act; and

5181 ~~[(b)]~~ (ii) advise the division in its investigation of these complaints.

5182 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
5183 in its investigation may be disqualified from participating with the board when the board serves
5184 as a presiding officer in an adjudicative proceeding concerning the complaint.

5185 Section 86. Section **58-53-102** is amended to read:

5186 **58-53-102. Definitions.**

5187 In addition to the definitions in Section 58-1-102, as used in this chapter:

5188 (1) "Board" means the ~~[Landscape Architects]~~ Architects and Landscape Architects
5189 Licensing Board created in Section ~~[58-53-201]~~ 58-3a-201.

5190 (2) "Fund" means the Landscape Architects Education and Enforcement Fund created
5191 in Section 58-53-103.

5192 (3) "Practice of landscape architecture" means rendering or offering to render any of
5193 the following services:

5194 (a) production of a site plan which may include the design of any of the following:

- 5195 (i) sprinkler irrigation systems;
- 5196 (ii) landscape grading and drainage plans; or
- 5197 (iii) parking lots;

5198 (b) design of any of the following structures incidental to the production of a site plan:

- 5199 (i) retaining walls; or
- 5200 (ii) raised platforms, decks, and walkways;

5201 (c) design of any of the following structures incidental to the production of a site plan
5202 when the structure does not exceed 1,000 square feet:

- 5203 (i) covered pavilions;
- 5204 (ii) gazebos;

5205 (iii) restrooms;
5206 (iv) storage and maintenance facilities; or
5207 (v) other accessory structures; or
5208 (d) collaboration with architects and professional engineers in the design of roads,
5209 bridges, buildings, and structures with respect to the functional and aesthetic requirements of
5210 the area in which they are to be placed.

5211 (4) "Principal" means a licensed landscape architect having responsible charge of a
5212 landscape architectural practice.

5213 (5) "Supervision" with respect to the supervision of an employee of a landscape
5214 architect, means that a licensed landscape architect is responsible for and personally reviews,
5215 corrects when necessary, and approves work performed by any employee under the direction of
5216 the landscape architect, and may be further defined by rule of the division in collaboration with
5217 the board.

5218 (6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-53-501.

5219 (7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further
5220 defined by rule of the division in collaboration with the board.

5221 Section 87. Section 58-54-201 is amended to read:

5222 **58-54-201. Board created -- Membership -- Duties.**

5223 (1) There is created a Radiologic Technologist Licensing Board consisting of nine
5224 members as follows:

5225 (a) three licensed radiologic technologists;

5226 (b) one licensed radiology practical technician;

5227 (c) one licensed radiologist assistant;

5228 (d) two radiologists;

5229 (e) one physician licensed under this title who is not a radiologist, and who uses
5230 radiologic services in the physician's practice; and

5231 (f) one member from the general public.

5232 (2) The board shall be appointed in accordance with Section 58-1-201.

5233 (3) The duties and responsibilities of the board shall be in accordance with Sections
5234 58-1-202 and 58-1-203.

5235 (4) In accordance with Subsection 58-1-203(1)(f), there is established an advisory peer

5236 committee to the board consisting of eight members broadly representative of the state and
5237 including:

5238 (a) one licensed physician and surgeon who is not a radiologist and who uses radiology
5239 equipment in a rural office-based practice, appointed from among recommendations of the
5240 [~~Physicians~~] Medical Licensing Board;

5241 (b) one licensed physician and surgeon who is not a radiologist and who uses radiology
5242 equipment in an urban office-based practice, appointed from among recommendations of the
5243 [~~Physicians~~] Medical Licensing Board;

5244 (c) one licensed physician and surgeon who is a radiologist practicing in radiology,
5245 appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

5246 (d) one licensed osteopathic physician, appointed from among recommendations of the
5247 [~~Osteopathic Physicians~~] Medical Licensing Board;

5248 (e) one licensed chiropractic physician, appointed from among recommendations of the
5249 Chiropractors Licensing Board;

5250 (f) one licensed podiatric physician, appointed from among recommendations of the
5251 Podiatric Physician Board;

5252 (g) one representative of the state agency with primary responsibility for regulation of
5253 sources of radiation, recommended by that agency; and

5254 (h) one representative of a general acute hospital, as defined in Section [26B-2-201](#), that
5255 is located in a rural area of the state.

5256 (5) (a) Except as required by Subsection (5)(b), members of the advisory peer
5257 committee shall be appointed to four-year terms by the director in collaboration with the board
5258 from among the recommendations.

5259 (b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the
5260 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5261 committee members are staggered so that approximately half of the committee is appointed
5262 every two years.

5263 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
5264 appointed for the unexpired term.

5265 (6) A member may not receive compensation or benefits for the member's service, but
5266 may receive per diem and travel expenses in accordance with:

5267 (a) Section 63A-3-106;
5268 (b) Section 63A-3-107; and
5269 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5270 63A-3-107.

5271 (7) The duties, responsibilities, and scope of authority of the advisory peer committee
5272 are:

5273 (a) to advise the board with respect to the board's fulfillment of its duties, functions,
5274 and responsibilities under Sections 58-1-202 and 58-1-203; and

5275 (b) to advise the division with respect to the examination the division is to adopt by
5276 rule, by which a radiology practical technician may qualify for licensure under Section
5277 58-54-302.

5278 Section 88. Section 58-55-102 is amended to read:

5279 **58-55-102. Definitions.**

5280 In addition to the definitions in Section 58-1-102, as used in this chapter:

5281 (1) (a) "Alarm business" or "alarm company" means a person engaged in the sale,
5282 installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm
5283 system, except as provided in Subsection (1)(b).

5284 (b) "Alarm business" or "alarm company" does not include:

5285 (i) a person engaged in the manufacture or sale of alarm systems unless:

5286 (A) that person is also engaged in the installation, maintenance, alteration, repair,
5287 replacement, servicing, or monitoring of alarm systems;

5288 (B) the manufacture or sale occurs at a location other than a place of business
5289 established by the person engaged in the manufacture or sale; or

5290 (C) the manufacture or sale involves site visits at the place or intended place of
5291 installation of an alarm system; or

5292 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
5293 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
5294 of the alarm system owned by that owner.

5295 (2) "Alarm company agent":

5296 (a) except as provided in Subsection (2)(b), means any individual employed within this
5297 state by an alarm business; and

- 5298 (b) does not include an individual who:
- 5299 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
- 5300 servicing, or monitoring of an alarm system; and
- 5301 (ii) does not, during the normal course of the individual's employment with an alarm
- 5302 business, use or have access to sensitive alarm system information.
- 5303 (3) "Alarm company officer" means:
- 5304 (a) a governing person, as defined in Section 48-3a-102, of an alarm company;
- 5305 (b) an individual appointed as an officer of an alarm company that is a corporation in
- 5306 accordance with Section 16-10a-830;
- 5307 (c) a general partner, as defined in Section 48-2e-102, of an alarm company; or
- 5308 (d) a partner, as defined in Section 48-1d-102, of an alarm company.
- 5309 (4) "Alarm company owner" means:
- 5310 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly
- 5311 through an entity controlled by the individual, 5% or more of the outstanding shares of an
- 5312 alarm company that:
- 5313 (i) is a corporation; and
- 5314 (ii) is not publicly listed or traded; or
- 5315 (b) an individual who owns directly, or indirectly through an entity controlled by the
- 5316 individual, 5% or more of the equity of an alarm company that is not a corporation.
- 5317 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is
- 5318 registered as a sole proprietorship with the Division of Corporations and Commercial Code.
- 5319 (6) "Alarm company trustee" means an individual with control of or power of
- 5320 administration over property held in trust.
- 5321 (7) (a) "Alarm system" means equipment and devices assembled for the purpose of:
- 5322 (i) detecting and signaling unauthorized intrusion or entry into or onto certain
- 5323 premises; or
- 5324 (ii) signaling a robbery or attempted robbery on protected premises.
- 5325 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is
- 5326 part of and interfaces with an alarm system for the purposes of detecting and deterring
- 5327 unauthorized intrusion or entry into or onto certain premises.
- 5328 (8) "Apprentice electrician" means a person licensed under this chapter as an

5329 apprentice electrician who is learning the electrical trade under the immediate supervision of a
5330 master electrician, residential master electrician, a journeyman electrician, or a residential
5331 journeyman electrician.

5332 (9) "Apprentice plumber" means a person licensed under this chapter as an apprentice
5333 plumber who is learning the plumbing trade under the immediate supervision of a master
5334 plumber, residential master plumber, journeyman plumber, or a residential journeyman
5335 plumber.

5336 (10) "Approved continuing education" means instruction provided through courses
5337 under a program established under Subsection 58-55-302.5(2).

5338 (11) (a) "Approved prelicensure course provider" means a provider that is the
5339 Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and
5340 Contractors, or the Utah Home Builders Association, and that meets the requirements
5341 established by rule by the commission with the concurrence of the director, to teach the
5342 25-hour course described in Subsection 58-55-302(1)(e)(iii).

5343 (b) "Approved prelicensure course provider" may only include a provider that, in
5344 addition to any other locations, offers the 25-hour course described in Subsection
5345 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake
5346 County, Utah County, Davis County, or Weber County.

5347 (12) "Board" means the [~~Electrician Licensing Board;~~] Alarm System Security and
5348 Licensing Board, or Electricians and Plumbers Licensing Board created in Section 58-55-201.

5349 (13) "Combustion system" means an assembly consisting of:

5350 (a) piping and components with a means for conveying, either continuously or
5351 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
5352 appliance;

5353 (b) the electric control and combustion air supply and venting systems, including air
5354 ducts; and

5355 (c) components intended to achieve control of quantity, flow, and pressure.

5356 (14) "Commission" means the Construction Services Commission created under
5357 Section 58-55-103.

5358 (15) "Construction trade" means any trade or occupation involving:

5359 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition

5360 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
5361 or other project, development, or improvement to other than personal property; and

5362 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
5363 defined in Section [15A-1-302](#); or

5364 (b) installation or repair of a residential or commercial natural gas appliance or
5365 combustion system.

5366 (16) "Construction trades instructor" means a person licensed under this chapter to
5367 teach one or more construction trades in both a classroom and project environment, where a
5368 project is intended for sale to or use by the public and is completed under the direction of the
5369 instructor, who has no economic interest in the project.

5370 (17) (a) "Contractor" means any person who for compensation other than wages as an
5371 employee undertakes any work in the construction, plumbing, or electrical trade for which
5372 licensure is required under this chapter and includes:

5373 (i) a person who builds any structure on the person's own property for the purpose of
5374 sale or who builds any structure intended for public use on the person's own property;

5375 (ii) any person who represents that the person is a contractor, or will perform a service
5376 described in this Subsection (17) by advertising on a website or social media, or any other
5377 means;

5378 (iii) any person engaged as a maintenance person, other than an employee, who
5379 regularly engages in activities set forth under the definition of "construction trade";

5380 (iv) any person engaged in, or offering to engage in, any construction trade for which
5381 licensure is required under this chapter; or

5382 (v) a construction manager, construction consultant, construction assistant, or any other
5383 person who, for a fee:

5384 (A) performs or offers to perform construction consulting;

5385 (B) performs or offers to perform management of construction subcontractors;

5386 (C) provides or offers to provide a list of subcontractors or suppliers; or

5387 (D) provides or offers to provide management or counseling services on a construction
5388 project.

5389 (b) "Contractor" does not include:

5390 (i) an alarm company or alarm company agent; or

5391 (ii) a material supplier who provides consulting to customers regarding the design and
5392 installation of the material supplier's products.

5393 (18) (a) "Electrical trade" means the performance of any electrical work involved in the
5394 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
5395 buildings, or appendages or appurtenances.

5396 (b) "Electrical trade" does not include:

5397 (i) transporting or handling electrical materials;

5398 (ii) preparing clearance for raceways for wiring;

5399 (iii) work commonly done by unskilled labor on any installations under the exclusive
5400 control of electrical utilities;

5401 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation
5402 hazard; or

5403 (v) work involving class two or class three power-limited circuits as defined in the
5404 National Electrical Code.

5405 (19) "Elevator" means the same as that term is defined in Section [34A-7-202](#), except
5406 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
5407 incline platform lift.

5408 (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
5409 this chapter that is engaged in the business of erecting, constructing, installing, altering,
5410 servicing, repairing, or maintaining an elevator.

5411 (21) "Elevator mechanic" means an individual who is licensed under this chapter as an
5412 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
5413 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

5414 (22) "Employee" means an individual as defined by the division by rule giving
5415 consideration to the definition adopted by the Internal Revenue Service and the Department of
5416 Workforce Services.

5417 (23) "Engage in a construction trade" means to:

5418 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
5419 in a construction trade; or

5420 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
5421 to believe one is or will act as a contractor.

5422 (24) (a) "Financial responsibility" means a demonstration of a current and expected
5423 future condition of financial solvency evidencing a reasonable expectation to the division and
5424 the board that an applicant or licensee can successfully engage in business as a contractor
5425 without jeopardy to the public health, safety, and welfare.

5426 (b) Financial responsibility may be determined by an evaluation of the total history
5427 concerning the licensee or applicant including past, present, and expected condition and record
5428 of financial solvency and business conduct.

5429 (25) "Gas appliance" means any device that uses natural gas to produce light, heat,
5430 power, steam, hot water, refrigeration, or air conditioning.

5431 (26) (a) "General building contractor" means a person licensed under this chapter as a
5432 general building contractor qualified by education, training, experience, and knowledge to
5433 perform or superintend construction of structures for the support, shelter, and enclosure of
5434 persons, animals, chattels, or movable property of any kind or any of the components of that
5435 construction except plumbing, electrical work, mechanical work, work related to the operating
5436 integrity of an elevator, and manufactured housing installation, for which the general building
5437 contractor shall employ the services of a contractor licensed in the particular specialty, except
5438 that a general building contractor engaged in the construction of single-family and multifamily
5439 residences up to four units may perform the mechanical work and hire a licensed plumber or
5440 electrician as an employee.

5441 (b) The division may by rule exclude general building contractors from engaging in the
5442 performance of other construction specialties in which there is represented a substantial risk to
5443 the public health, safety, and welfare, and for which a license is required unless that general
5444 building contractor holds a valid license in that specialty classification.

5445 (27) (a) "General electrical contractor" means a person licensed under this chapter as a
5446 general electrical contractor qualified by education, training, experience, and knowledge to
5447 perform the fabrication, construction, and installation of generators, transformers, conduits,
5448 raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses
5449 electrical energy.

5450 (b) The scope of work of a general electrical contractor may be further defined by rules
5451 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5452 Chapter 3, Utah Administrative Rulemaking Act.

5453 (28) (a) "General engineering contractor" means a person licensed under this chapter as
5454 a general engineering contractor qualified by education, training, experience, and knowledge to
5455 perform or superintend construction of fixed works or components of fixed works requiring
5456 specialized engineering knowledge and skill in any of the following:

- 5457 (i) irrigation;
- 5458 (ii) drainage;
- 5459 (iii) water power;
- 5460 (iv) water supply;
- 5461 (v) flood control;
- 5462 (vi) an inland waterway;
- 5463 (vii) a harbor;
- 5464 (viii) a railroad;
- 5465 (ix) a highway;
- 5466 (x) a tunnel;
- 5467 (xi) an airport;
- 5468 (xii) an airport runway;
- 5469 (xiii) a sewer;
- 5470 (xiv) a bridge;
- 5471 (xv) a refinery;
- 5472 (xvi) a pipeline;
- 5473 (xvii) a chemical plant;
- 5474 (xviii) an industrial plant;
- 5475 (xix) a pier;
- 5476 (xx) a foundation;
- 5477 (xxi) a power plant; or
- 5478 (xxii) a utility plant or installation.

5479 (b) A general engineering contractor may not perform or superintend:

- 5480 (i) construction of a structure built primarily for the support, shelter, and enclosure of
5481 persons, animals, and chattels; or
- 5482 (ii) performance of:
 - 5483 (A) plumbing work;

5484 (B) electrical work; or

5485 (C) mechanical work.

5486 (29) (a) "General plumbing contractor" means a person licensed under this chapter as a
5487 general plumbing contractor qualified by education, training, experience, and knowledge to
5488 perform the fabrication or installation of material and fixtures to create and maintain sanitary
5489 conditions in a building by providing permanent means for a supply of safe and pure water, a
5490 means for the timely and complete removal from the premises of all used or contaminated
5491 water, fluid and semi-fluid organic wastes and other impurities incidental to life and the
5492 occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and
5493 industrial purposes.

5494 (b) The scope of work of a general plumbing contractor may be further defined by rules
5495 made by the commission, with the concurrence of the director, in accordance with Title 63G,
5496 Chapter 3, Utah Administrative Rulemaking Act.

5497 (30) "Immediate supervision" means reasonable direction, oversight, inspection, and
5498 evaluation of the work of a person:

5499 (a) as the division specifies in rule;

5500 (b) by, as applicable, a qualified electrician or plumber;

5501 (c) as part of a planned program of training; and

5502 (d) to ensure that the end result complies with applicable standards.

5503 (31) "Individual" means a natural person.

5504 (32) "Journeyman electrician" means a person licensed under this chapter as a
5505 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
5506 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

5507 (33) "Journeyman plumber" means a person licensed under this chapter as a
5508 journeyman plumber having the qualifications, training, experience, and technical knowledge
5509 to engage in the plumbing trade.

5510 (34) "Master electrician" means a person licensed under this chapter as a master
5511 electrician having the qualifications, training, experience, and knowledge to properly plan,
5512 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
5513 for light, heat, power, and other purposes.

5514 (35) "Master plumber" means a person licensed under this chapter as a master plumber

5515 having the qualifications, training, experience, and knowledge to properly plan and layout
5516 projects and supervise persons in the plumbing trade.

5517 (36) "Person" means a natural person, sole proprietorship, joint venture, corporation,
5518 limited liability company, association, or organization of any type.

5519 (37) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
5520 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
5521 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

5522 (i) delivery of the water supply;

5523 (ii) discharge of liquid and water carried waste;

5524 (iii) building drainage system within the walls of the building; and

5525 (iv) delivery of gases for lighting, heating, and industrial purposes.

5526 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
5527 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
5528 safe and adequate supply of gases, together with their devices, appurtenances, and connections
5529 where installed within the outside walls of the building.

5530 (38) "Ratio of apprentices" means the number of licensed plumber apprentices or
5531 licensed electrician apprentices that are allowed to be under the immediate supervision of a
5532 licensed supervisor as established by the provisions of this chapter and by rules made by the
5533 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5534 Utah Administrative Rulemaking Act.

5535 (39) "Residential and small commercial contractor" means a person licensed under this
5536 chapter as a residential and small commercial contractor qualified by education, training,
5537 experience, and knowledge to perform or superintend the construction of single-family
5538 residences, multifamily residences up to four units, and commercial construction of not more
5539 than three stories above ground and not more than 20,000 square feet, or any of the components
5540 of that construction except plumbing, electrical work, mechanical work, and manufactured
5541 housing installation, for which the residential and small commercial contractor shall employ
5542 the services of a contractor licensed in the particular specialty, except that a residential and
5543 small commercial contractor engaged in the construction of single-family and multifamily
5544 residences up to four units may perform the mechanical work and hire a licensed plumber or
5545 electrician as an employee.

5546 (40) "Residential building," as it relates to the license classification of residential
5547 journeyman plumber and residential master plumber, means a single or multiple family
5548 dwelling of up to four units.

5549 (41) (a) "Residential electrical contractor" means a person licensed under this chapter
5550 as a residential electrical contractor qualified by education, training, experience, and
5551 knowledge to perform the fabrication, construction, and installation of services, disconnecting
5552 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
5553 appliances, and fixtures in a residential unit.

5554 (b) The scope of work of a residential electrical contractor may be further defined by
5555 rules made by the commission, with the concurrence of the director, in accordance with Title
5556 63G, Chapter 3, Utah Administrative Rulemaking Act.

5557 (42) "Residential journeyman electrician" means a person licensed under this chapter
5558 as a residential journeyman electrician having the qualifications, training, experience, and
5559 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
5560 and other purposes on buildings using primarily nonmetallic sheath cable.

5561 (43) "Residential journeyman plumber" means a person licensed under this chapter as a
5562 residential journeyman plumber having the qualifications, training, experience, and knowledge
5563 to engage in the plumbing trade as limited to the plumbing of residential buildings.

5564 (44) "Residential master electrician" means a person licensed under this chapter as a
5565 residential master electrician having the qualifications, training, experience, and knowledge to
5566 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
5567 and equipment for light, heat, power, and other purposes on residential projects.

5568 (45) "Residential master plumber" means a person licensed under this chapter as a
5569 residential master plumber having the qualifications, training, experience, and knowledge to
5570 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
5571 plumbing of residential buildings.

5572 (46) (a) "Residential plumbing contractor" means a person licensed under this chapter
5573 as a residential plumbing contractor qualified by education, training, experience, and
5574 knowledge to perform the fabrication or installation of material and fixtures to create and
5575 maintain sanitary conditions in residential buildings by providing permanent means for a
5576 supply of safe and pure water, a means for the timely and complete removal from the premises

5577 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
5578 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
5579 for lighting, heating, and residential purposes.

5580 (b) The scope of work of a residential plumbing contractor may be further defined by
5581 rules made by the commission, with the concurrence of the director, in accordance with Title
5582 63G, Chapter 3, Utah Administrative Rulemaking Act.

5583 (47) "Residential project," as it relates to an electrician or electrical contractor, means
5584 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
5585 and regulations governing this work, including the National Electrical Code, and in which the
5586 voltage does not exceed 250 volts line to line and 125 volts to ground.

5587 (48) "Responsible management personnel" means:

5588 (a) a qualifying agent;

5589 (b) an operations manager; or

5590 (c) a site manager.

5591 (49) "Sensitive alarm system information" means:

5592 (a) a pass code or other code used in the operation of an alarm system;

5593 (b) information on the location of alarm system components at the premises of a
5594 customer of the alarm business providing the alarm system;

5595 (c) information that would allow the circumvention, bypass, deactivation, or other
5596 compromise of an alarm system of a customer of the alarm business providing the alarm
5597 system; and

5598 (d) any other similar information that the division by rule determines to be information
5599 that an individual employed by an alarm business should use or have access to only if the
5600 individual is licensed as provided in this chapter.

5601 (50) (a) "Specialty contractor" means a person licensed under this chapter under a
5602 specialty contractor classification established by rule, who is qualified by education, training,
5603 experience, and knowledge to perform those construction trades and crafts requiring
5604 specialized skill, the regulation of which are determined by the division to be in the best
5605 interest of the public health, safety, and welfare.

5606 (b) A specialty contractor may perform work in crafts or trades other than those in
5607 which the specialty contractor is licensed if they are incidental to the performance of the

5608 specialty contractor's licensed craft or trade.

5609 (51) "Unincorporated entity" means an entity that is not:

5610 (a) an individual;

5611 (b) a corporation; or

5612 (c) publicly traded.

5613 (52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501

5614 and 58-55-501.

5615 (53) "Unprofessional conduct" means the same as that term is defined in Sections

5616 58-1-501 and 58-55-502 and as may be further defined by rule.

5617 (54) "Wages" means amounts due to an employee for labor or services whether the

5618 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating

5619 the amount.

5620 Section 89. Section 58-55-103 is amended to read:

5621 **58-55-103. Construction Services Commission created -- Functions --**

5622 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings**

5623 **-- Concurrence.**

5624 (1) (a) There is created within the division the Construction Services Commission.

5625 (b) The commission shall:

5626 (i) with the concurrence of the director, make reasonable rules under Title 63G,

5627 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which

5628 are consistent with this chapter including:

5629 (A) licensing of various licensees;

5630 (B) examination requirements and administration of the examinations, to include

5631 approving and establishing a passing score for applicant examinations;

5632 (C) standards of supervision for students or persons in training to become qualified to

5633 obtain a license in the trade they represent; and

5634 (D) standards of conduct for various licensees;

5635 (ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

5636 (iii) except where the boards conduct them, conduct all administrative hearings not

5637 delegated to an administrative law judge relating to the licensing of any applicant;

5638 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the

5639 concurrence of the director, impose sanctions against licensees and certificate holders with the
5640 same authority as the division under Section 58-1-401;

5641 (v) advise the director on the administration and enforcement of any matters affecting
5642 the division and the construction industry;

5643 (vi) advise the director on matters affecting the division budget;

5644 (vii) advise and assist trade associations in conducting construction trade seminars and
5645 industry education and promotion; and

5646 (viii) perform other duties as provided by this chapter.

5647 ~~[(2)(a) Initially the commission shall be comprised of the five members of the~~
5648 ~~Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing~~
5649 ~~Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.]~~

5650 ~~[(b)]~~ (2) (a) The terms of office of the commission members who are serving on the
5651 Contractors Licensing Board shall continue as they serve on the commission.

5652 ~~[(c)]~~ (b) ~~[Beginning July 1, 2004, the]~~ The commission shall be comprised of ~~[nine]~~ the
5653 following members appointed by the executive director with the approval of the governor from
5654 the following groups:

5655 (i) one member shall be a licensed general engineering contractor;

5656 (ii) one member shall be a licensed general building contractor;

5657 (iii) two members shall be licensed residential and small commercial contractors;

5658 (iv) ~~[three]~~ two members shall be the ~~[three]~~ two chair persons from the Electricians
5659 and Plumbers Licensing Board[-;] and the Alarm System Security and Licensing Board[-; ~~and the~~
5660 ~~Electricians Licensing Board~~]; and

5661 (v) ~~[two members shall be]~~ one member from the general public.

5662 (3) (a) Except as required by Subsection (3)(b), as terms of current commission
5663 members expire, the executive director with the approval of the governor shall appoint each
5664 new member or reappointed member to a four-year term ending June 30.

5665 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with
5666 the approval of the governor shall, at the time of appointment or reappointment, adjust the
5667 length of terms to stagger the terms of commission members so that approximately 1/2 of the
5668 commission members are appointed every two years.

5669 (c) A commission member may not serve more than two consecutive terms.

5670 (4) The commission shall elect annually one of its members as chair, for a term of one
5671 year.

5672 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
5673 appointed for the unexpired term.

5674 (6) A member may not receive compensation or benefits for the member's service, but
5675 may receive per diem and travel expenses in accordance with:

5676 (a) Section 63A-3-106;

5677 (b) Section 63A-3-107; and

5678 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5679 63A-3-107.

5680 (7) (a) The commission shall meet at least monthly unless the director determines
5681 otherwise.

5682 (b) The director may call additional meetings at the director's discretion, upon the
5683 request of the chair, or upon the written request of four or more commission members.

5684 (8) (a) Five members constitute a quorum for the transaction of business.

5685 (b) If a quorum is present when a vote is taken, the affirmative vote of commission
5686 members present is the act of the commission.

5687 (9) The commission shall comply with the procedures and requirements of Title 13,
5688 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures
5689 Act, in all of its adjudicative proceedings.

5690 (10) (a) For purposes of this Subsection (10), "concurrence" means the entities given a
5691 concurring role must jointly agree for the action to be taken.

5692 (b) If a provision of this chapter requires concurrence between the director or division
5693 and the commission and no concurrence can be reached, the director or division has final
5694 authority.

5695 (c) When this chapter requires concurrence between the director or division and the
5696 commission:

5697 (i) the director or division shall report to and update the commission on a regular basis
5698 related to matters requiring concurrence; and

5699 (ii) the commission shall review the report submitted by the director or division under
5700 this Subsection (10)(c) and concur with the report, or:

5701 (A) provide a reason for not concurring with the report; and

5702 (B) provide recommendations to the director or division.

5703 Section 90. Section **58-55-201** is amended to read:

5704 **58-55-201. Boards created -- Duties.**

5705 (1) There is created the Electrician and Plumbers Licensing Board consisting of [~~seven~~
5706 ~~members as follows~~] the following members:

5707 (a) three members [~~shall be~~] licensed from among the license classifications of master
5708 or journeyman plumber, of whom at least one [~~shall represent~~] represents a union organization
5709 and at least one [~~shall be selected having~~] has no union affiliation;

5710 (b) [~~three members shall be~~] two members who are licensed plumbing contractors, of
5711 whom at least one [~~shall represent~~] represents a union organization and at least one [~~shall be~~
5712 ~~selected having~~] has no union affiliation; [~~and~~]

5713 (c) three members licensed from among the license classifications of master or
5714 journeyman electrician, of whom at least one shall represent a union organization and at least
5715 one shall be selected having no union affiliation; and

5716 (d) two members who are licensed electrical contractors, of whom at least one
5717 represents a union organization and at least one has no union affiliation;

5718 [~~(e)~~] (e) one member [~~shall be~~] who is from the public at large with no history of
5719 involvement in the construction trades.

5720 (2) (a) There is created the Alarm System Security and Licensing Board consisting of
5721 [~~five members as follows~~] the following members:

5722 (i) three individuals who are officers or owners of a licensed alarm business;

5723 (ii) one individual from among nominees of the Utah Peace Officers Association; and

5724 (iii) one individual representing the general public.

5725 (b) The Alarm System Security and Licensing Board shall designate one of its
5726 members on a permanent or rotating basis to:

5727 (i) assist the division in reviewing complaints concerning the unlawful or
5728 unprofessional conduct of a licensee; and

5729 (ii) advise the division in its investigation of these complaints.

5730 (c) A board member who has, under this Subsection (2)(c), reviewed a complaint or
5731 advised in its investigation is disqualified from participating with the board when the board

5732 serves as a presiding officer in an adjudicative proceeding concerning the complaint.

5733 ~~[(3) There is created the Electricians Licensing Board consisting of seven members as~~
5734 ~~follows:]~~

5735 ~~[(a) three members shall be licensed from among the license classifications of master~~
5736 ~~or journeyman electrician, of whom at least one shall represent a union organization and at~~
5737 ~~least one shall be selected having no union affiliation;]~~

5738 ~~[(b) three members shall be licensed electrical contractors, of whom at least one shall~~
5739 ~~represent a union organization and at least one shall be selected having no union affiliation;~~
5740 ~~and]~~

5741 ~~[(c) one member shall be from the public at large with no history of involvement in the~~
5742 ~~construction trades or union affiliation.]~~

5743 ~~[(4)]~~ (3) The duties, functions, and responsibilities of each board described in
5744 Subsections (1) ~~[through (3)]~~ and (2) include the following:

- 5745 (a) recommending to the commission appropriate rules;
- 5746 (b) recommending to the commission policy and budgetary matters;
- 5747 (c) approving and establishing a passing score for applicant examinations;
- 5748 (d) overseeing the screening of applicants for licensing, renewal, reinstatement, and
5749 relicensure;
- 5750 (e) assisting the commission in establishing standards of supervision for students or
5751 persons in training to become qualified to obtain a license in the occupation or profession the
5752 board represents; and
- 5753 (f) acting as presiding officer in conducting hearings associated with the adjudicative
5754 proceedings and in issuing recommended orders when so authorized by the commission.

5755 Section 91. Section **58-55-302** is amended to read:

5756 **58-55-302. Qualifications for licensure.**

- 5757 (1) Each applicant for a license under this chapter shall:
 - 5758 (a) submit an application prescribed by the division;
 - 5759 (b) pay a fee as determined by the department under Section [63J-1-504](#);
 - 5760 (c) meet the examination requirements established by this section and by rule by the
5761 commission with the concurrence of the director, which requirements include:
 - 5762 (i) for licensure as an apprentice electrician, apprentice plumber, or specialty

5763 contractor, no division-administered examination is required;

5764 (ii) for licensure as a general building contractor, general engineering contractor,
5765 residential and small commercial contractor, general plumbing contractor, residential plumbing
5766 contractor, general electrical contractor, or residential electrical contractor, the only required
5767 division-administered examination is a division-administered examination that covers
5768 information from the 25-hour course described in Subsection (1)(e)(iii), which course may
5769 have been previously completed as part of applying for any other license under this chapter,
5770 and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law
5771 course described in Subsection (1)(e)(iv); and

5772 (iii) if required in Section 58-55-304, an individual qualifier must pass the required
5773 division-administered examination if the applicant is a business entity;

5774 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

5775 (e) if an applicant for a contractor's license:

5776 (i) produce satisfactory evidence of financial responsibility, except for a construction
5777 trades instructor for whom evidence of financial responsibility is not required;

5778 (ii) produce satisfactory evidence of:

5779 (A) except as provided in Subsection (2)(a), and except that no employment experience
5780 is required for licensure as a specialty contractor, two years full-time paid employment
5781 experience in the construction industry, which employment experience, unless more
5782 specifically described in this section, may be related to any contracting classification and does
5783 not have to include supervisory experience; and

5784 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
5785 necessary for the protection of the public health, safety, and welfare;

5786 (iii) except as otherwise provided by rule by the commission with the concurrence of
5787 the director, complete a 25-hour course established by rule by the commission with the
5788 concurrence of the director, which is taught by an approved precensure course provider, and
5789 which course may include:

5790 (A) construction business practices;

5791 (B) bookkeeping fundamentals;

5792 (C) mechanics lien fundamentals;

5793 (D) other aspects of business and construction principles considered important by the

5794 commission with the concurrence of the director; and

5795 (E) for no additional fee, a provider-administered examination at the end of the
5796 25-hour course;

5797 (iv) complete a five-hour business and law course established by rule by the
5798 commission with the concurrence of the director, which is taught by an approved prelicensure
5799 course provider, if an applicant for licensure as a general building contractor, general
5800 engineering contractor, residential and small commercial contractor, general plumbing
5801 contractor, residential plumbing contractor, general electrical contractor, or residential
5802 electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was
5803 completed before July 1, 2019, the applicant does not need to take the business and law course;

5804 (v) (A) be a licensed master electrician if an applicant for an electrical contractor's
5805 license or a licensed master residential electrician if an applicant for a residential electrical
5806 contractor's license;

5807 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
5808 a licensed master residential plumber if an applicant for a residential plumbing contractor's
5809 license; or

5810 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
5811 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

5812 (vi) when the applicant is an unincorporated entity, provide a list of the one or more
5813 individuals who hold an ownership interest in the applicant as of the day on which the
5814 application is filed that includes for each individual:

5815 (A) the individual's name, address, birth date, and social security number or other
5816 satisfactory evidence of the applicant's identity permitted under rules made by the division in
5817 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

5818 (B) whether the individual will engage in a construction trade; and

5819 (f) if an applicant for a construction trades instructor license, satisfy any additional
5820 requirements established by rule.

5821 (2) (a) If the applicant for a contractor's license described in Subsection (1) is a
5822 building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory
5823 evidence of two years full-time paid employment experience as a building inspector, which
5824 shall include at least one year full-time experience as a licensed combination inspector.

5825 (b) The applicant shall file the following with the division before the division issues
5826 the license:

5827 (i) proof of workers' compensation insurance which covers employees of the applicant
5828 in accordance with applicable Utah law;

5829 (ii) proof of public liability insurance in coverage amounts and form established by rule
5830 except for a construction trades instructor for whom public liability insurance is not required;
5831 and

5832 (iii) proof of registration as required by applicable law with the:

5833 (A) Department of Commerce;

5834 (B) Division of Corporations and Commercial Code;

5835 (C) Unemployment Insurance Division in the Department of Workforce Services, for
5836 purposes of Title 35A, Chapter 4, Employment Security Act;

5837 (D) State Tax Commission; and

5838 (E) Internal Revenue Service.

5839 (3) In addition to the general requirements for each applicant in Subsection (1),
5840 applicants shall comply with the following requirements to be licensed in the following
5841 classifications:

5842 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

5843 (A) has been a licensed journeyman plumber for at least two years and had two years of
5844 supervisory experience as a licensed journeyman plumber in accordance with division rule;

5845 (B) has received at least an associate of applied science degree or similar degree
5846 following the completion of a course of study approved by the division and had one year of
5847 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

5848 (C) meets the qualifications for expedited licensure as established by rules made by the
5849 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5850 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5851 and skills to be a licensed master plumber.

5852 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
5853 least four years of practical experience as a licensed apprentice under the supervision of a
5854 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
5855 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current

5856 master plumber license under this chapter, and satisfies the requirements of this Subsection
5857 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

5858 (iii) An individual holding a valid plumbing contractor's license or residential
5859 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
5860 2008:

5861 (A) considered to hold a current master plumber license under this chapter if licensed
5862 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
5863 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
5864 58-55-303; and

5865 (B) considered to hold a current residential master plumber license under this chapter if
5866 licensed as a residential plumbing contractor and a residential journeyman plumber, and
5867 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
5868 that license under Section 58-55-303.

5869 (b) A master residential plumber applicant shall produce satisfactory evidence that the
5870 applicant:

5871 (i) has been a licensed residential journeyman plumber for at least two years and had
5872 two years of supervisory experience as a licensed residential journeyman plumber in
5873 accordance with division rule; or

5874 (ii) meets the qualifications for expedited licensure as established by rules made by the
5875 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5876 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5877 and skills to be a licensed master residential plumber.

5878 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

5879 (i) successful completion of the equivalent of at least four years of full-time training
5880 and instruction as a licensed apprentice plumber under supervision of a licensed master
5881 plumber or journeyman plumber and in accordance with a planned program of training
5882 approved by the division;

5883 (ii) at least eight years of full-time experience approved by the division in collaboration
5884 with the Electricians and Plumbers Licensing Board; or

5885 (iii) meeting the qualifications for expedited licensure as established by rules made by
5886 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,

5887 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5888 and skills to be a licensed journeyman plumber.

5889 (d) A residential journeyman plumber shall produce satisfactory evidence of:

5890 (i) completion of the equivalent of at least three years of full-time training and
5891 instruction as a licensed apprentice plumber under the supervision of a licensed residential
5892 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
5893 accordance with a planned program of training approved by the division;

5894 (ii) completion of at least six years of full-time experience in a maintenance or repair
5895 trade involving substantial plumbing work; or

5896 (iii) meeting the qualifications for expedited licensure as established by rules made by
5897 the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5898 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5899 and skills to be a licensed residential journeyman plumber.

5900 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
5901 in accordance with the following:

5902 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
5903 under the immediate supervision of a licensed master plumber, licensed residential master
5904 plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

5905 (ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed
5906 apprentice plumber may work without supervision for a period not to exceed eight hours in any
5907 24-hour period; and

5908 (iii) rules made by the commission, with the concurrence of the director, in accordance
5909 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5910 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5911 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5912 immediate supervision of a licensed supervisor.

5913 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

5914 (i) is a graduate electrical engineer of an accredited college or university approved by
5915 the division and has one year of practical electrical experience as a licensed apprentice
5916 electrician;

5917 (ii) is a graduate of an electrical trade school, having received an associate of applied

5918 sciences degree following successful completion of a course of study approved by the division,
5919 and has two years of practical experience as a licensed journeyman electrician;

5920 (iii) has four years of practical experience as a journeyman electrician; or

5921 (iv) meets the qualifications for expedited licensure as established by rules made by the
5922 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5923 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5924 and skills to be a licensed master electrician.

5925 (g) A master residential electrician applicant shall produce satisfactory evidence that
5926 the applicant:

5927 (i) has at least two years of practical experience as a residential journeyman electrician;

5928 or

5929 (ii) meets the qualifications for expedited licensure as established by rules made by the
5930 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5931 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5932 and skills to be a master residential electrician.

5933 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
5934 applicant:

5935 (i) has successfully completed at least four years of full-time training and instruction as
5936 a licensed apprentice electrician under the supervision of a master electrician or journeyman
5937 electrician and in accordance with a planned training program approved by the division;

5938 (ii) has at least eight years of full-time experience approved by the division in
5939 collaboration with the Electricians and Plumbers Licensing Board; or

5940 (iii) meets the qualifications for expedited licensure as established by rules made by the
5941 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5942 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5943 and skills to be a licensed journeyman electrician.

5944 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
5945 that the applicant:

5946 (i) has successfully completed two years of training in an electrical training program
5947 approved by the division;

5948 (ii) has four years of practical experience in wiring, installing, and repairing electrical

5949 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
5950 journeyman, residential master, or residential journeyman electrician; or

5951 (iii) meets the qualifications for expedited licensure as established by rules made by the
5952 commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3,
5953 Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge
5954 and skills to be a licensed residential journeyman electrician.

5955 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
5956 be in accordance with the following:

5957 (i) ~~[A]~~ a licensed apprentice electrician shall be under the immediate supervision of a
5958 licensed master, journeyman, residential master, or residential journeyman electrician;

5959 (ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed
5960 apprentice electrician may work without supervision for a period not to exceed eight hours in
5961 any 24-hour period;

5962 (iii) rules made by the commission, with the concurrence of the director, in accordance
5963 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of
5964 apprentices allowed under the immediate supervision of a licensed supervisor, including the
5965 ratio of apprentices in their fourth year of training or later that are allowed to be under the
5966 immediate supervision of a licensed supervisor; and

5967 (iv) a licensed supervisor may have up to three licensed apprentice electricians on a
5968 residential project, or more if established by rules made by the commission, in concurrence
5969 with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5970 Act.

5971 (k) An alarm company applicant shall:

5972 (i) have a qualifying agent who:

5973 (A) is an alarm company officer, alarm company owner, alarm company proprietor, an
5974 alarm company trustee, or other responsible management personnel;

5975 (B) demonstrates 6,000 hours of experience in the alarm company business;

5976 (C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
5977 company business or in a construction business; and

5978 (D) passes an examination component established by rule by the commission with the
5979 concurrence of the director;

5980 (ii) provide the name, address, date of birth, social security number, fingerprint card,
5981 and consent to a background check in accordance with Section 58-55-302.1 and requirements
5982 established by division rule made in accordance with Title 63G, Chapter 3, Utah
5983 Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm
5984 company proprietor, alarm company trustee, and responsible management personnel with direct
5985 responsibility for managing operations of the applicant within the state;

5986 (iii) document that none of the persons described in Subsection (3)(k)(ii):

5987 (A) have been declared by any court of competent jurisdiction incompetent by reason
5988 of mental defect or disease and not been restored; or

5989 (B) are currently suffering from habitual drunkenness or from drug addiction or
5990 dependence;

5991 (iv) file and maintain with the division evidence of:

5992 (A) comprehensive general liability insurance in form and in amounts to be established
5993 by rule by the commission with the concurrence of the director;

5994 (B) workers' compensation insurance that covers employees of the applicant in
5995 accordance with applicable Utah law; and

5996 (C) registration as is required by applicable law with the:

5997 (I) Division of Corporations and Commercial Code;

5998 (II) Unemployment Insurance Division in the Department of Workforce Services, for
5999 purposes of Title 35A, Chapter 4, Employment Security Act;

6000 (III) State Tax Commission; and

6001 (IV) Internal Revenue Service; and

6002 (v) meet with the division and board.

6003 (l) Each applicant for licensure as an alarm company agent shall:

6004 (i) submit an application in a form prescribed by the division accompanied by
6005 fingerprint cards;

6006 (ii) pay a fee determined by the department under Section 63J-1-504;

6007 (iii) submit to and pass a criminal background check in accordance with Section
6008 58-55-302.1 and requirements established by division rule made in accordance with Title 63G,
6009 Chapter 3, Utah Administrative Rulemaking Act;

6010 (iv) not have been declared by any court of competent jurisdiction incompetent by

6011 reason of mental defect or disease and not been restored;

6012 (v) not be currently suffering from habitual drunkenness or from drug addiction or
6013 dependence; and

6014 (vi) meet with the division and board if requested by the division or the board.

6015 (m) (i) Each applicant for licensure as an elevator mechanic shall:

6016 (A) provide documentation of experience and education credits of not less than three
6017 years work experience in the elevator industry, in construction, maintenance, or service and
6018 repair; and

6019 (B) satisfactorily complete a written examination administered by the division
6020 established by rule under Section 58-1-203; or

6021 (C) provide certificates of completion of an apprenticeship program for elevator
6022 mechanics, having standards substantially equal to those of this chapter and registered with the
6023 United States Department of Labor Bureau Apprenticeship and Training or a state
6024 apprenticeship council.

6025 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
6026 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
6027 repairing, or maintaining an elevator, the contractor may:

6028 (I) notify the division of the unavailability of licensed personnel; and

6029 (II) request the division issue a temporary elevator mechanic license to an individual
6030 certified by the contractor as having an acceptable combination of documented experience and
6031 education to perform the work described in this Subsection (3)(m)(ii)(A).

6032 (B) (I) The division may issue a temporary elevator mechanic license to an individual
6033 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
6034 the appropriate fee as determined by the department under Section 63J-1-504.

6035 (II) The division shall specify the time period for which the license is valid and may
6036 renew the license for an additional time period upon its determination that a shortage of
6037 licensed elevator mechanics continues to exist.

6038 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6039 division may make rules establishing when Federal Bureau of Investigation records shall be
6040 checked for applicants as an alarm company or alarm company agent under this section and
6041 Section 58-55-302.1.

6042 (5) (a) An application for licensure under this chapter shall be denied if:
6043 (i) the applicant has had a previous license, which was issued under this chapter,
6044 suspended or revoked within two years before the date of the applicant's application;
6045 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
6046 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
6047 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
6048 status, performing similar functions, or directly or indirectly controlling the applicant has
6049 served in any similar capacity with any person or entity which has had a previous license,
6050 which was issued under this chapter, suspended or revoked within two years before the date of
6051 the applicant's application;
6052 (iii) (A) the applicant is an individual or sole proprietorship; and
6053 (B) any owner or agent acting as a qualifier has served in any capacity listed in
6054 Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under
6055 this chapter, suspended or revoked within two years before the date of the applicant's
6056 application; or
6057 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
6058 an unincorporated entity at the time the entity's license under this chapter was revoked; and
6059 (B) the application for licensure is filed within 60 months after the revocation of the
6060 unincorporated entity's license.
6061 (b) An application for licensure under this chapter shall be reviewed by the appropriate
6062 licensing board prior to approval if:
6063 (i) the applicant has had a previous license, which was issued under this chapter,
6064 suspended or revoked more than two years before the date of the applicant's application;
6065 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and
6066 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
6067 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
6068 status, performing similar functions, or directly or indirectly controlling the applicant has
6069 served in any similar capacity with any person or entity which has had a previous license,
6070 which was issued under this chapter, suspended or revoked more than two years before the date
6071 of the applicant's application; or
6072 (iii) (A) the applicant is an individual or sole proprietorship; and

6073 (B) any owner or agent acting as a qualifier has served in any capacity listed in
6074 Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under
6075 this chapter, suspended or revoked more than two years before the date of the applicant's
6076 application.

6077 (6) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
6078 report with the division every 30 days after the day on which the license is issued if the licensee
6079 has more than five owners who are individuals who:

6080 (A) own an interest in the contractor that is an unincorporated entity;

6081 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
6082 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
6083 unincorporated entity; and

6084 (C) engage, or will engage, in a construction trade in the state as owners of the
6085 contractor described in Subsection (6)(a)(i)(A).

6086 (ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the
6087 licensee shall provide the ownership status report with an application for renewal of licensure.

6088 (b) An ownership status report required under this Subsection (6) shall:

6089 (i) specify each addition or deletion of an owner:

6090 (A) for the first ownership status report, after the day on which the unincorporated
6091 entity is licensed under this chapter; and

6092 (B) for a subsequent ownership status report, after the day on which the previous
6093 ownership status report is filed;

6094 (ii) be in a format prescribed by the division that includes for each owner, regardless of
6095 the owner's percentage ownership in the unincorporated entity, the information described in
6096 Subsection (1)(e)(vi);

6097 (iii) list the name of:

6098 (A) each officer or manager of the unincorporated entity; and

6099 (B) each other individual involved in the operation, supervision, or management of the
6100 unincorporated entity; and

6101 (iv) be accompanied by a fee set by the division in accordance with Section [63J-1-504](#)
6102 if the ownership status report indicates there is a change described in Subsection (6)(b)(i).

6103 (c) The division may, at any time, audit an ownership status report under this

6104 Subsection (6):

6105 (i) to determine if financial responsibility has been demonstrated or maintained as
6106 required under Section 58-55-306; and

6107 (ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or
6108 Subsection 58-55-502(8) or (9).

6109 (7) (a) An unincorporated entity that provides labor to an entity licensed under this
6110 chapter by providing an individual who owns an interest in the unincorporated entity to engage
6111 in a construction trade in Utah shall file with the division:

6112 (i) before the individual who owns an interest in the unincorporated entity engages in a
6113 construction trade in Utah, a current list of the one or more individuals who hold an ownership
6114 interest in the unincorporated entity that includes for each individual:

6115 (A) the individual's name, address, birth date, and social security number; and

6116 (B) whether the individual will engage in a construction trade; and

6117 (ii) every 30 days after the day on which the unincorporated entity provides the list
6118 described in Subsection (7)(a)(i), an ownership status report containing the information that
6119 would be required under Subsection (6) if the unincorporated entity were a licensed contractor.

6120 (b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership
6121 status report described in Subsection (7)(a)(i) an unincorporated entity shall pay a fee set by the
6122 division in accordance with Section 63J-1-504.

6123 (8) This chapter may not be interpreted to create or support an express or implied
6124 independent contractor relationship between an unincorporated entity described in Subsection
6125 (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax
6126 withholding.

6127 (9) (a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a
6128 private record under Subsection 63G-2-302(1)(i).

6129 (b) The division may designate an applicant's evidence of identity under Subsection
6130 (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

6131 Section 92. Section 58-67-102 is amended to read:

6132 **58-67-102. Definitions.**

6133 In addition to the definitions in Section 58-1-102, as used in this chapter:

6134 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,

- 6135 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
6136 YAG lasers.
- 6137 (b) "Ablative procedure" does not include hair removal.
- 6138 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
6139 American Medical Association.
- 6140 (3) "Administrative penalty" means a monetary fine or citation imposed by the division
6141 for acts or omissions determined to constitute unprofessional or unlawful conduct, in
6142 accordance with a fine schedule established by the division in collaboration with the board, as a
6143 result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4,
6144 Administrative Procedures Act.
- 6145 (4) "Associate physician" means an individual licensed under Section 58-67-302.8.
- 6146 (5) "Attempted sex change" means an attempt or effort to change an individual's body
6147 to present that individual as being of a sex or gender that is different from the individual's
6148 biological sex at birth.
- 6149 (6) "Biological sex at birth" means an individual's sex, as being male or female,
6150 according to distinct reproductive roles as manifested by:
- 6151 (a) sex and reproductive organ anatomy;
6152 (b) chromosomal makeup; and
6153 (c) endogenous hormone profiles.
- 6154 (7) "Board" means the ~~[Physicians]~~ Medical Licensing Board created in Section
6155 58-67-201.
- 6156 (8) "Collaborating physician" means an individual licensed under Section 58-67-302
6157 who enters into a collaborative practice arrangement with an associate physician.
- 6158 (9) "Collaborative practice arrangement" means the arrangement described in Section
6159 58-67-807.
- 6160 (10) (a) "Cosmetic medical device" means tissue altering energy based devices that
6161 have the potential for altering living tissue and that are used to perform ablative or nonablative
6162 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
6163 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and
6164 excludes ANSI designated Class IIIa and lower powered devices.
- 6165 (b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower

6166 powered device is being used to perform an ablative procedure, the device is included in the
6167 definition of cosmetic medical device under Subsection (10)(a).

6168 (11) "Cosmetic medical procedure":

6169 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
6170 procedures; and

6171 (b) does not include a treatment of the ocular globe such as refractive surgery.

6172 (12) "Diagnose" means:

6173 (a) to examine in any manner another person, parts of a person's body, substances,
6174 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
6175 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
6176 condition;

6177 (b) to attempt to conduct an examination or determination described under Subsection
6178 (12)(a);

6179 (c) to hold oneself out as making or to represent that one is making an examination or
6180 determination as described in Subsection (12)(a); or

6181 (d) to make an examination or determination as described in Subsection (12)(a) upon
6182 or from information supplied directly or indirectly by another person, whether or not in the
6183 presence of the person making or attempting the diagnosis or examination.

6184 (13) "LCME" means the Liaison Committee on Medical Education of the American
6185 Medical Association.

6186 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
6187 described in Subsection [58-67-305\(6\)](#).

6188 (15) "Medically underserved area" means a geographic area in which there is a
6189 shortage of primary care health services for residents, as determined by the Department of
6190 Health and Human Services.

6191 (16) "Medically underserved population" means a specified group of people living in a
6192 defined geographic area with a shortage of primary care health services, as determined by the
6193 Department of Health and Human Services.

6194 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
6195 alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove
6196 living tissue.

6197 (ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair
6198 removal.

6199 (b) "Nonablative procedure" does not include:

6200 (i) a superficial procedure as defined in Section 58-1-102;

6201 (ii) the application of permanent make-up; or

6202 (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
6203 performed by an individual licensed under this title who is acting within the individual's scope
6204 of practice.

6205 (18) "Physician" means both physicians and surgeons licensed under Section
6206 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
6207 Section 58-68-301, Utah Osteopathic Medical Practice Act.

6208 (19) (a) "Practice of medicine" means:

6209 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
6210 disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real
6211 or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any
6212 means or instrumentality, and by an individual in Utah or outside the state upon or for any
6213 human within the state;

6214 (ii) when a person not licensed as a physician directs a licensee under this chapter to
6215 withhold or alter the health care services that the licensee has ordered;

6216 (iii) to maintain an office or place of business for the purpose of doing any of the acts
6217 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

6218 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6219 treatment of human diseases or conditions in any printed material, stationery, letterhead,
6220 envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine,"
6221 "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these
6222 designations in any manner which might cause a reasonable person to believe the individual
6223 using the designation is a licensed physician and surgeon, and if the party using the designation
6224 is not a licensed physician and surgeon, the designation must additionally contain the
6225 description of the branch of the healing arts for which the person has a license, provided that an
6226 individual who has received an earned degree of doctor of medicine degree but is not a licensed
6227 physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not

6228 Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

6229 (b) The practice of medicine does not include:

6230 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the
6231 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
6232 under another chapter of this title;

6233 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
6234 performing the ablative cosmetic medical procedure includes the authority to operate or
6235 perform a surgical procedure; or

6236 (iii) conduct under Subsection [58-67-501\(2\)](#).

6237 (20) "Prescription device" means an instrument, apparatus, implement, machine,
6238 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6239 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6240 and dispensed by or through a person or entity licensed under this chapter or exempt from
6241 licensure under this chapter.

6242 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
6243 be dispensed only by prescription or is restricted to administration only by practitioners.

6244 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
6245 done for the purpose of effectuating or facilitating an individual's attempted sex change:

6246 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
6247 penectomy, vaginoplasty, or vulvoplasty;

6248 (ii) for an individual whose biological sex at birth is female, hysterectomy,
6249 oophorectomy, metoidioplasty, or phalloplasty; or

6250 (iii) any surgical procedure that is related to or necessary for a procedure described in
6251 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
6252 sterile.

6253 (b) "Primary sex characteristic surgical procedure" does not include:

6254 (i) surgery or other procedures or treatments performed on an individual who:

6255 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

6256 (B) is born with 46, XX chromosomes with virilization;

6257 (C) is born with 46, XY chromosomes with undervirilization;

6258 (D) has both ovarian and testicular tissue; or

6259 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
6260 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
6261 hormone production, or sex steroid hormone action for a male or female; or

6262 (ii) removing a body part:

6263 (A) because the body part is cancerous or diseased; or

6264 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
6265 individual's attempted sex change.

6266 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
6267 if done for the purpose of effectuating or facilitating an individual's attempted sex change:

6268 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
6269 chest feminization surgery, or facial feminization surgery; or

6270 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
6271 reduction surgery, chest masculinization surgery, or facial masculinization surgery.

6272 (b) "Secondary sex characteristic surgical procedure" does not include:

6273 (i) surgery or other procedures or treatments performed on an individual who:

6274 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

6275 (B) is born with 46, XX chromosomes with virilization;

6276 (C) is born with 46, XY chromosomes with undervirilization;

6277 (D) has both ovarian and testicular tissue; or

6278 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
6279 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
6280 hormone production, or sex steroid hormone action for a male or female; or

6281 (ii) removing a body part:

6282 (A) because the body part is cancerous or diseased; or

6283 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
6284 individual's attempted sex change.

6285 (24) "SPEX" means the Special Purpose Examination of the Federation of State
6286 Medical Boards.

6287 (25) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
6288 and [58-67-501](#).

6289 (26) "Unprofessional conduct" means the same as that term is defined in Sections

6290 58-1-501 and 58-67-502, and as may be further defined by division rule.

6291 Section 93. Section 58-67-201 is amended to read:

6292 **58-67-201. Board.**

6293 (1) There is created the [~~Physicians~~] Medical Licensing Board consisting of [~~nine~~
6294 ~~physicians and surgeons and two members of the general public.~~] the following members:

6295 (a) seven physicians and surgeons;

6296 (b) two osteopathic physicians and surgeons;

6297 (c) a physician who is a board certified psychiatrist who currently works or previously
6298 worked collaboratively with a physician assistant;

6299 (d) three physician assistants, one of whom is involved in the administration of an
6300 approved physician assistant education program in the state; and

6301 (e) two members of the public.

6302 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

6303 (3) (a) In addition to any duty or responsibility described in Section 58-1-202 or
6304 58-1-203, the board shall regulate:

6305 (i) anesthesiologist assistants licensed under [~~Chapter 70b, Anesthesiologist Assistant~~
6306 Licensing Act.] Chapter 70b, Anesthesiologist Assistant Licensing Act;

6307 (ii) osteopathic physicians and surgeons licensed under Chapter 68, Utah Osteopathic
6308 Medical Practice Act; and

6309 (iii) physician assistants licensed under Chapter 70a, Utah Physician Assistant Act.

6310 (b) The board may also designate one of the board's members on a permanent or
6311 rotating basis to:

6312 (i) assist the division in reviewing complaints concerning the [~~unlawful or~~
6313 ~~unprofessional~~] conduct of a licensee the board regulates; and

6314 (ii) advise the division in the division's investigation of these complaints.

6315 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
6316 in the complaint's investigation may be disqualified from participating with the board when the
6317 board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

6318 Section 94. Section 58-68-102 is amended to read:

6319 **58-68-102. Definitions.**

6320 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 6321 (1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize,
6322 disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium:
6323 YAG lasers.
- 6324 (b) "Ablative procedure" does not include hair removal.
- 6325 (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the
6326 American Medical Association.
- 6327 (3) "Administrative penalty" means a monetary fine imposed by the division for acts or
6328 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
6329 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
6330 Procedures Act.
- 6331 (4) "AOA" means the American Osteopathic Association.
- 6332 (5) "Associate physician" means an individual licensed under Section [58-68-302.5](#).
- 6333 (6) "Attempted sex change" means an attempt or effort to change an individual's body
6334 to present that individual as being of a sex or gender that is different from the individual's
6335 biological sex at birth.
- 6336 (7) "Biological sex at birth" means an individual's sex, as being male or female,
6337 according to distinct reproductive roles as manifested by:
- 6338 (a) sex and reproductive organ anatomy;
6339 (b) chromosomal makeup; and
6340 (c) endogenous hormone profiles.
- 6341 (8) "Board" means the [~~Osteopathic Physician and Surgeon's Licensing Board created~~
6342 ~~in Section [58-68-201](#)]~~ Medical Licensing Board created in Section [58-67-201](#).
- 6343 (9) "Collaborating physician" means an individual licensed under Section [58-68-302](#)
6344 who enters into a collaborative practice arrangement with an associate physician.
- 6345 (10) "Collaborative practice arrangement" means the arrangement described in Section
6346 [58-68-807](#).
- 6347 (11) (a) "Cosmetic medical device" means tissue altering energy based devices that
6348 have the potential for altering living tissue and that are used to perform ablative or nonablative
6349 procedures, such as American National Standards Institute (ANSI) designated Class IIIb and
6350 Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and
6351 excludes ANSI designated Class IIIa and lower powered devices.

6352 (b) Notwithstanding Subsection (11)(a), if an ANSI designated Class IIIa and lower
6353 powered device is being used to perform an ablative procedure, the device is included in the
6354 definition of cosmetic medical device under Subsection (11)(a).

6355 (12) "Cosmetic medical procedure":

6356 (a) includes the use of cosmetic medical devices to perform ablative or nonablative
6357 procedures; and

6358 (b) does not include a treatment of the ocular globe such as refractive surgery.

6359 (13) "Diagnose" means:

6360 (a) to examine in any manner another person, parts of a person's body, substances,
6361 fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's
6362 body, to determine the source, nature, kind, or extent of a disease or other physical or mental
6363 condition;

6364 (b) to attempt to conduct an examination or determination described under Subsection
6365 (13)(a);

6366 (c) to hold oneself out as making or to represent that one is making an examination or
6367 determination as described in Subsection (13)(a); or

6368 (d) to make an examination or determination as described in Subsection (13)(a) upon
6369 or from information supplied directly or indirectly by another person, whether or not in the
6370 presence of the person making or attempting the diagnosis or examination.

6371 (14) "Medical assistant" means an unlicensed individual who may perform tasks as
6372 described in Subsection [58-68-305\(6\)](#).

6373 (15) "Medically underserved area" means a geographic area in which there is a
6374 shortage of primary care health services for residents, as determined by the Department of
6375 Health and Human Services.

6376 (16) "Medically underserved population" means a specified group of people living in a
6377 defined geographic area with a shortage of primary care health services, as determined by the
6378 Department of Health and Human Services.

6379 (17) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to
6380 alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove
6381 living tissue.

6382 (ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair

6383 removal.

6384 (b) "Nonablative procedure" does not include:

6385 (i) a superficial procedure as defined in Section 58-1-102;

6386 (ii) the application of permanent make-up; or

6387 (iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are
6388 performed by an individual licensed under this title who is acting within the individual's scope
6389 of practice.

6390 (18) "Physician" means both physicians and surgeons licensed under Section
6391 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under
6392 Section 58-68-301, Utah Osteopathic Medical Practice Act.

6393 (19) (a) "Practice of osteopathic medicine" means:

6394 (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human
6395 disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real
6396 or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part
6397 is based upon emphasis of the importance of the musculoskeletal system and manipulative
6398 therapy in the maintenance and restoration of health, by an individual in Utah or outside of the
6399 state upon or for any human within the state;

6400 (ii) when a person not licensed as a physician directs a licensee under this chapter to
6401 withhold or alter the health care services that the licensee has ordered;

6402 (iii) to maintain an office or place of business for the purpose of doing any of the acts
6403 described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

6404 (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6405 treatment of human diseases or conditions, in any printed material, stationery, letterhead,
6406 envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine,"
6407 "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.,"
6408 "D.O.," or any combination of these designations in any manner which might cause a
6409 reasonable person to believe the individual using the designation is a licensed osteopathic
6410 physician, and if the party using the designation is not a licensed osteopathic physician, the
6411 designation must additionally contain the description of the branch of the healing arts for which
6412 the person has a license, provided that an individual who has received an earned degree of
6413 doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah

6414 may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah"
6415 in the same size and style of lettering.

6416 (b) The practice of osteopathic medicine does not include:

6417 (i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the
6418 conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued
6419 under another chapter of this title;

6420 (ii) an ablative cosmetic medical procedure if the scope of practice for the person
6421 performing the ablative cosmetic medical procedure includes the authority to operate or
6422 perform a surgical procedure; or

6423 (iii) conduct under Subsection 58-68-501(2).

6424 (20) "Prescription device" means an instrument, apparatus, implement, machine,
6425 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6426 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6427 and dispensed by or through a person or entity licensed under this chapter or exempt from
6428 licensure under this chapter.

6429 (21) "Prescription drug" means a drug that is required by federal or state law or rule to
6430 be dispensed only by prescription or is restricted to administration only by practitioners.

6431 (22) (a) "Primary sex characteristic surgical procedure" means any of the following if
6432 done for the purpose of effectuating or facilitating an individual's attempted sex change:

6433 (i) for an individual whose biological sex at birth is male, castration, orchiectomy,
6434 penectomy, vaginoplasty, or vulvoplasty;

6435 (ii) for an individual whose biological sex at birth is female, hysterectomy,
6436 oophorectomy, metoidioplasty, or phalloplasty; or

6437 (iii) any surgical procedure that is related to or necessary for a procedure described in
6438 Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not
6439 sterile.

6440 (b) "Primary sex characteristic surgical procedure" does not include:

6441 (i) surgery or other procedures or treatments performed on an individual who:

6442 (A) is born with external biological sex characteristics that are irresolvably ambiguous;

6443 (B) is born with 46, XX chromosomes with virilization;

6444 (C) is born with 46, XY chromosomes with undervirilization;

- 6445 (D) has both ovarian and testicular tissue; or
- 6446 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 6447 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 6448 hormone production, or sex steroid hormone action for a male or female; or
- 6449 (ii) removing a body part:
- 6450 (A) because the body part is cancerous or diseased; or
- 6451 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
- 6452 individual's attempted sex change.
- 6453 (23) (a) "Secondary sex characteristic surgical procedure" means any of the following
- 6454 if done for the purpose of effectuating or facilitating an individual's attempted sex change:
- 6455 (i) for an individual whose biological sex at birth is male, breast augmentation surgery,
- 6456 chest feminization surgery, or facial feminization surgery; or
- 6457 (ii) for an individual whose biological sex at birth is female, mastectomy, breast
- 6458 reduction surgery, chest masculinization surgery, or facial masculinization surgery.
- 6459 (b) "Secondary sex characteristic surgical procedure" does not include:
- 6460 (i) surgery or other procedures or treatments performed on an individual who:
- 6461 (A) is born with external biological sex characteristics that are irresolvably ambiguous;
- 6462 (B) is born with 46, XX chromosomes with virilization;
- 6463 (C) is born with 46, XY chromosomes with undervirilization;
- 6464 (D) has both ovarian and testicular tissue; or
- 6465 (E) has been diagnosed by a physician, based on genetic or biochemical testing, with a
- 6466 sex development disorder characterized by abnormal sex chromosome structure, sex steroid
- 6467 hormone production, or sex steroid hormone action for a male or female; or
- 6468 (ii) removing a body part:
- 6469 (A) because the body part is cancerous or diseased; or
- 6470 (B) for a reason that is medically necessary, other than to effectuate or facilitate an
- 6471 individual's attempted sex change.
- 6472 (24) "SPEX" means the Special Purpose Examination of the Federation of State
- 6473 Medical Boards.
- 6474 (25) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
- 6475 and [58-68-501](#).

6476 (26) "Unprofessional conduct" means the same as that term is defined in Sections
6477 58-1-501 and 58-68-502 and as may be further defined by division rule.

6478 Section 95. Section 58-70a-102 is amended to read:

6479 **58-70a-102. Definitions.**

6480 In addition to the definitions in Section 58-1-102, as used in this chapter:

6481 (1) "Board" means the [~~Physician Assistant Licensing Board created in Section~~
6482 ~~58-70a-201~~] Medical Licensing Board created in Section 58-67-201.

6483 (2) "Competence" means possessing the requisite cognitive, non-cognitive, and
6484 communicative abilities and qualities to perform effectively within the scope of practice of the
6485 physician assistant's practice while adhering to professional and ethical standards.

6486 (3) "Health care facility" means the same as that term is defined in Section 26B-2-201.

6487 (4) "Mental health therapist" means the same as that term is defined in Section
6488 58-60-102.

6489 (5) "Physician" means the same as that term is defined in Section 58-67-102.

6490 (6) "Physician assistant" means an individual who is licensed to practice under this
6491 chapter.

6492 (7) "Practice as a physician assistant" means the professional activities and conduct of
6493 a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for
6494 any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the
6495 provisions of this chapter.

6496 (8) "Practice of mental health therapy" means the same as that term is defined in
6497 Section 58-60-102.

6498 (9) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
6499 and 58-70a-502.

6500 (10) "Unprofessional conduct" means "unprofessional conduct":

6501 (a) as defined in Sections 58-1-501 and 58-70a-503; and

6502 (b) as further defined by the division by rule.

6503 Section 96. Section 58-70b-101 is amended to read:

6504 **58-70b-101. Definitions.**

6505 As used in this chapter:

6506 (1) "Anesthesiologist" means an individual who:

6507 (a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
6508 Osteopathic Medical Practice Act; and

6509 (b) has completed a residency program in anesthesiology.

6510 (2) "Anesthesiologist assistant" means an individual licensed under this chapter.

6511 (3) "Board" means the ~~[Physicians]~~ Medical Licensing Board created in Section
6512 [58-67-201](#).

6513 (4) "Practice of assisting an anesthesiologist" means personally performing the health
6514 care services delegated to the anesthesiologist assistant by the supervising anesthesiologist in
6515 accordance with the acceptable medical practice and the American Society of
6516 Anesthesiologists' guidance for best practice of anesthesia in a care team model.

6517 (5) "Supervision standards" means standards established by the division through rule
6518 that:

6519 (a) prohibit an anesthesiologist from supervising more than four anesthesiologist
6520 assistants at any one time; and

6521 (b) comply with the rules and regulations for anesthesia service reimbursement created
6522 by the Centers for Medicare and Medicaid Services to the extent that the rules and regulations
6523 do not conflict with state law.

6524 Section 97. Section **58-71-102** is amended to read:

6525 **58-71-102. Definitions.**

6526 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

6527 (1) "Acupuncture" means the ~~[same as that term is]~~ practice of acupuncture as defined
6528 in Section [58-72-102](#).

6529 (2) "Administrative penalty" means a monetary fine imposed by the division for acts or
6530 omissions determined to constitute unprofessional or unlawful conduct, as a result of an
6531 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
6532 Procedures Act.

6533 (3) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

6534 (4) "Diagnose" means:

6535 (a) to examine in any manner another individual, parts of an individual's body,
6536 substances, fluids, or materials excreted, taken, or removed from an individual's body, or
6537 produced by an individual's body, to determine the source, nature, kind, or extent of a disease

6538 or other physical or mental condition;

6539 (b) to attempt to conduct an examination or determination described under Subsection
6540 (4)(a);

6541 (c) to hold oneself out as making or to represent that one is making an examination or
6542 determination as described in Subsection (4)(a); or

6543 (d) to make an examination or determination as described in Subsection (4)(a) upon or
6544 from information supplied directly or indirectly by another individual, whether or not in the
6545 presence of the individual the examination or determination concerns.

6546 (5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled
6547 prescription drug, which:

6548 (a) is applied topically or by injection associated with the performance of minor office
6549 procedures;

6550 (b) has the ability to produce loss of sensation to a targeted area of an individual's
6551 body;

6552 (c) does not cause loss of consciousness or produce general sedation; and

6553 (d) is part of the competent practice of naturopathic medicine during minor office
6554 procedures.

6555 (6) "Medical naturopathic assistant" means an unlicensed individual working under the
6556 direct and immediate supervision of a licensed naturopathic physician and engaged in specific
6557 tasks assigned by the licensed naturopathic physician in accordance with the standards and
6558 ethics of the profession.

6559 (7) (a) "Minor office procedures" means:

6560 (i) the use of operative, electrical, or other methods for repair and care of superficial
6561 lacerations, abrasions, and benign lesions;

6562 (ii) removal of foreign bodies located in the superficial tissues, excluding the eye or
6563 ear;

6564 (iii) the use of antiseptics and local anesthetics in connection with minor office surgical
6565 procedures; and

6566 (iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

6567 (A) local anesthesia or a prescription drug described in Subsection (8)(d); or

6568 (B) natural substances.

- 6569 (b) "Minor office procedures" does not include:
- 6570 (i) general or spinal anesthesia;
- 6571 (ii) office procedures more complicated or extensive than those set forth in Subsection
- 6572 (7)(a);
- 6573 (iii) procedures involving the eye; and
- 6574 (iv) any office procedure involving nerves, veins, or arteries.
- 6575 (8) "Natural medicine" means any:
- 6576 (a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and
- 6577 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not
- 6578 designated a prescription drug or controlled substance;
- 6579 (b) over-the-counter medication;
- 6580 (c) other nonprescription substance, the prescription or administration of which is not
- 6581 otherwise prohibited or restricted under federal or state law; or
- 6582 (d) prescription drug:
- 6583 (i) the prescription of which is consistent with the competent practice of naturopathic
- 6584 medicine;
- 6585 (ii) that is not a controlled substance except for testosterone; and
- 6586 (iii) that is not any of the following as determined by the federal Food and Drug
- 6587 Administration's general drug category list:
- 6588 (A) an anticoagulant for the management of a bleeding disorder;
- 6589 (B) an anticonvulsant;
- 6590 (C) an antineoplastic;
- 6591 (D) an antipsychotic;
- 6592 (E) a barbiturate;
- 6593 (F) a cytotoxic;
- 6594 (G) a sedative;
- 6595 (H) a sleeping drug;
- 6596 (I) a tranquilizer; or
- 6597 (J) any drug category added after April 1, 2022, unless the division determines the drug
- 6598 category to be consistent with the practice of naturopathic medicine under Section [58-71-203](#).
- 6599 (9) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a

6600 naturopathic physician.

6601 (b) "Naturopathic childbirth" includes the use of:

6602 (i) natural medicines; and

6603 (ii) uncomplicated episiotomy.

6604 (c) "Naturopathic childbirth" does not include the use of:

6605 (i) forceps delivery;

6606 (ii) general or spinal anesthesia;

6607 (iii) caesarean section delivery; or

6608 (iv) induced labor or abortion.

6609 (10) (a) "Naturopathic mobilization therapy" means manually administering

6610 mechanical treatment of body structures or tissues for the purpose of restoring normal

6611 physiological function to the body by normalizing and balancing the musculoskeletal system of

6612 the body.

6613 (b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of

6614 the joints of the human body beyond the elastic barrier.

6615 (c) "Naturopathic mobilization therapy" does not include manipulation as used in

6616 Chapter 73, Chiropractic Physician Practice Act.

6617 (11) (a) "Naturopathic physical medicine" means the use of the physical agents of air,

6618 water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical

6619 modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound,

6620 hydrotherapy, naturopathic mobilization therapy, and exercise.

6621 (b) "Naturopathic physical medicine" does not include the practice of physical therapy

6622 or physical rehabilitation.

6623 (12) "Naturopathic physician" means an individual licensed under this chapter to

6624 engage in the practice of naturopathic medicine.

6625 (13) "Practice of naturopathic medicine" means:

6626 (a) a system of primary health care for the prevention, diagnosis, and treatment of

6627 human health conditions, injuries, and diseases that uses education, natural medicines, and

6628 natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

6629 (i) using naturopathic childbirth, but only if:

6630 (A) the licensee meets standards of the American College of Naturopathic

6631 Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration
6632 with the board; and

6633 (B) the licensee follows a written plan for naturopathic physicians practicing
6634 naturopathic childbirth approved by the division in collaboration with the board, which
6635 includes entering into an agreement with a consulting physician and surgeon or osteopathic
6636 physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and
6637 specialty care and delivery is indicated, detailing the guidelines by which the naturopathic
6638 physician will:

6639 (I) refer patients to the consulting physician; and

6640 (II) consult with the consulting physician;

6641 (ii) using naturopathic mobilization therapy;

6642 (iii) using naturopathic physical medicine;

6643 (iv) using minor office procedures;

6644 (v) prescribing or administering natural medicine;

6645 (vi) prescribing medical equipment and devices, diagnosing by the use of medical
6646 equipment and devices, and administering therapy or treatment by the use of medical devices
6647 necessary and consistent with the competent practice of naturopathic medicine;

6648 (vii) prescribing barrier devices for contraception;

6649 (viii) using dietary therapy;

6650 (ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and
6651 physiological function tests;

6652 (x) taking of body fluids for clinical laboratory tests and using the results of the tests in
6653 diagnosis;

6654 (xi) taking of a history from and conducting of a physical examination upon a human
6655 patient; and

6656 (xii) administering local anesthesia during the performance of a minor office
6657 procedure;

6658 (b) to maintain an office or place of business for the purpose of doing any of the acts
6659 described in Subsection (13)(a), whether or not for compensation; or

6660 (c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or
6661 treatment of human diseases or conditions, in any printed material, stationery, letterhead,

6662 envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic
6663 doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy,"
6664 "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care,"
6665 "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that
6666 might cause a reasonable person to believe the individual using the designation is a licensed
6667 naturopathic physician.

6668 (14) "Prescribe" means to issue a prescription:

6669 (a) orally or in writing; or

6670 (b) by telephone, facsimile transmission, computer, or other electronic means of
6671 communication as defined by division rule.

6672 (15) "Prescription device" means an instrument, apparatus, implement, machine,
6673 contrivance, implant, in vitro reagent, or other similar or related article, and any component
6674 part or accessory, which is required under federal or state law to be prescribed by a practitioner
6675 and dispensed by or through a person licensed under this chapter or exempt from licensure
6676 under this chapter.

6677 (16) "Prescription drug" means a drug that is required by federal or state law or rule to
6678 be dispensed only by prescription or is restricted to administration only by practitioners.

6679 (17) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
6680 and [58-71-501](#).

6681 (18) "Unprofessional conduct" means the same as that term is defined in Sections
6682 [58-1-501](#) and [58-71-502](#), and as may be further defined by division rule.

6683 Section 98. Section **58-72-102** is amended to read:

6684 **58-72-102. Acupuncture licensing -- Definitions.**

6685 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

6686 (1) "Board" means the [~~Acupuncture Licensing Board created in Section [58-72-201](#)~~]
6687 Board of Massage Therapy and Acupuncture created in Section [58-47b-201](#).

6688 (2) (a) "Injection therapy" means the use of a hypodermic needle, by a licensed
6689 acupuncturist who has obtained a clean needle technique certificate from the National
6690 Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM), to inject
6691 any of the following sterile substances in liquid form into acupuncture points on the body
6692 subcutaneously or intramuscularly:

- 6693 (i) a nutritional substance;
- 6694 (ii) a local anesthetic;
- 6695 (iii) autologous blood, if the licensee holds a current phlebotomy certification to draw
6696 blood;
- 6697 (iv) sterile water;
- 6698 (v) dextrose;
- 6699 (vi) sodium bicarbonate; and
- 6700 (vii) sterile saline.
- 6701 (b) "Injection therapy" includes using ultrasound guidance to ensure that an injection is
6702 only a subcutaneous injection or an intramuscular injection.
- 6703 (c) "Injection therapy" does not include injecting a substance into a vein, joint, artery,
6704 blood vessel, nerve, tendon, deep organ, or the spine.
- 6705 (d) "Injection therapy" may not be performed on a pregnant woman or a child under the
6706 age of eight.
- 6707 (3) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been
6708 licensed under this chapter to practice acupuncture.
- 6709 (4) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture
6710 points of the body.
- 6711 (5) (a) "Practice of acupuncture" means the insertion of acupuncture needles, the use of
6712 injection therapy, and the application of moxibustion to specific areas of the body based on
6713 traditional oriental medical diagnosis and modern research as a primary mode of therapy.
- 6714 (b) Adjunctive therapies within the scope of the practice of acupuncture may include:
- 6715 (i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based
6716 on traditional oriental medical diagnosis and modern research;
- 6717 (ii) the recommendation, administration, or provision of dietary guidelines, herbs,
6718 supplements, homeopathics, and therapeutic exercise based on traditional oriental medical
6719 diagnosis and modern research according to practitioner training; and
- 6720 (iii) the practice described in Subsections (5)(a) and (b) on an animal to the extent
6721 permitted by:
- 6722 (A) Subsection 58-28-307(12);
- 6723 (B) the provisions of this chapter; and

6724 (C) division rule.
6725 (c) "Practice of acupuncture" does not include:
6726 (i) the manual manipulation or adjustment of the joints of the body beyond the elastic
6727 barrier; or
6728 (ii) the "manipulation of the articulation of the spinal column" as defined in Section
6729 58-73-102.

6730 (6) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as
6731 may be further defined by division rule.

6732 Section 99. Section 58-88-205 is amended to read:

6733 **58-88-205. Operating standards -- Rulemaking.**

6734 (1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah
6735 Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing
6736 practice licensed under this part which shall include, but is not limited to, standards for:

- 6737 (a) security;
- 6738 (b) labeling;
- 6739 (c) storage;
- 6740 (d) supervision;
- 6741 (e) inventory control; and
- 6742 (f) patient counseling.

6743 (2) The division may designate individual medications and classes of medications that
6744 may not be dispensed at a licensed dispensing practice under this chapter.

6745 (3) When making rules under this part, the division shall consult with a group
6746 consisting of:

- 6747 (a) two members of the ~~[Physicians]~~ Medical Licensing Board created in Section
6748 58-67-201; and
- 6749 (b) two members of the Utah State Board of Pharmacy created in Section 58-17b-201.

6750 Section 100. Section 63C-1-103 is enacted to read:

6751 **63C-1-103. Appointment and terms of boards transitioning on October 1, 2024.**

6752 (1) As used in this section:

- 6753 (a) "Enacted committee" means the following as constituted on or after October 1,
6754 2024:

- 6755 (i) the Physical Therapies Licensing Board created in Section 58-24b-201;
6756 (ii) the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201;
6757 (iii) the Architects and Landscape Architects Licensing Board created in Section
6758 58-3a-201;
6759 (iv) the Construction Services Commission created in Section 58-55-103;
6760 (v) the Board of Massage Therapy and Acupuncture created in Section 58-47b-201;
6761 and
6762 (vi) the Medical Licensing Board created in Section 58-67-201.
6763 (b) "Expired committee" means:
6764 (i) the following which, in accordance with Title 63I, Chapter 2, Repeal Dates by Title
6765 Act, are repealed on October 1, 2024:
6766 (A) the Athletic Trainers Licensing Board created in Section 58-40a-201;
6767 (B) the Board of Occupational Therapy created in Section 58-42a-201;
6768 (C) the Certified Nurse Midwife Board created in Section 58-44a-201;
6769 (D) the Landscape Architects Board created in Section 58-53-201;
6770 (E) the Acupuncture Licensing Board created in Section 58-72-201;
6771 (F) the Osteopathic Physician and Surgeon's Licensing Board created in Section
6772 58-68-201; and
6773 (G) the Physician Assistant Licensing Board created in Section 58-70a-201; and
6774 (ii) the following as constituted before October 1, 2024:
6775 (A) the Physical Therapy Licensing Board created in Section 58-24b-201;
6776 (B) the Board of Nursing created in Section 58-31b-201;
6777 (C) the Architects Licensing Board created in Section 58-3a-201;
6778 (D) the Plumbers Licensing Board created in Section 58-55-201;
6779 (E) the Electricians Licensing Board created in Section 58-55-201;
6780 (F) the Board of Massage Therapy created in Section 58-47b-201; and
6781 (G) the Physicians Licensing Board created in Section 58-67-201.
6782 (2) An individual who is appointed as a member of an expired committee is removed
6783 from the expired committee after September 30, 2024.
6784 (3) (a) On or after May 1, 2024, but before October 1, 2024:
6785 (i) the appointing authority of an enacted committee may appoint a member to the

6786 enacted committee in accordance with the section governing appointment to the enacted
6787 committee; and

6788 (ii) if applicable under the section governing appointment to the enacted committee,
6789 the Senate may provide advice and consent.

6790 (b) A member described in Subsection (3)(a) may not begin the individual's term of
6791 service on the enacted committee before October 1, 2024.

6792 (4) (a) Nothing in this section prevents an appointing authority from appointing an
6793 individual who is removed from an expired committee in accordance with Subsection (2) to an
6794 enacted committee if the individual's appointment meets the requirements of the section
6795 governing appointment to the enacted committee.

6796 (b) If an individual is removed from an expired committee under Subsection (2) and is
6797 then appointed to an enacted committee under Subsection (3)(a), and the appointed position has
6798 limited terms an individual may serve, the appointment under Subsection (3)(a) does not count
6799 as an additional term.

6800 Section 101. Section **63I-1-204** is amended to read:

6801 **63I-1-204. Repeal dates: Title 4.**

6802 (1) Section [4-2-108](#), which creates the Agricultural Advisory Board, is repealed July 1,
6803 2028.

6804 (2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

6805 (3) Section [4-17-104](#), which creates the State Weed Committee, is repealed July 1,
6806 2026.

6807 (4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

6808 (5) Section [4-20-103](#), which creates the Utah Grazing Improvement Program Advisory
6809 Board, is repealed July 1, 2032.

6810 (6) Sections [4-23-104](#) and [4-23-105](#), which create the Agricultural and Wildlife
6811 Damage Prevention Board, are repealed July 1, 2024.

6812 (7) Section [4-24-104](#), which creates the Livestock Brand Board, is repealed July 1,
6813 2025.

6814 [~~(8) Section [4-35-103](#), which creates the Decision and Action Committee, is repealed~~
6815 ~~July 1, 2026.~~]

6816 [~~(9)~~ (8) Section [4-39-104](#), which creates the Domesticated Elk Act Advisory Council,

6817 is repealed July 1, 2027.

6818 Section 102. Section **63I-1-207** is amended to read:

6819 **63I-1-207. Repeal dates: Title 7.**

6820 [(1)] Section **7-1-203**, which creates the Board of Financial Institutions, is repealed
6821 July 1, 2031.

6822 [(2)] Section **7-3-40**, which creates the Board of Bank Advisors, is repealed July 1,
6823 2032.]

6824 [(3)] Section **7-9-43**, which creates the Board of Credit Union Advisors, is repealed July
6825 1, 2033.]

6826 Section 103. Section **63I-1-213** is amended to read:

6827 **63I-1-213. Repeal dates: Title 13.**

6828 (1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1,
6829 2034.

6830 [(2)] Section **13-32a-112**, which creates the Pawnshop and Secondhand Merchandise
6831 Advisory Board, is repealed July 1, 2027.]

6832 [(3)] Section **13-35-103**, which creates the Powersport Motor Vehicle Franchise
6833 Advisory Board, is repealed July 1, 2032.]

6834 [(4)] (2) Section **13-43-202**, which creates the Land Use and Eminent Domain
6835 Advisory Board, is repealed July 1, 2026.

6836 Section 104. Section **63I-1-219** is amended to read:

6837 **63I-1-219. Repeal dates: Title 19.**

6838 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

6839 [(2)] Section **19-2a-102** is repealed July 1, 2026.]

6840 [(3)] Section **19-2a-104** is repealed July 1, 2022.]

6841 [(4)] (2) (a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

6842 (b) Notwithstanding Subsection [(4)(a)] (2)(a), Section **19-4-115**, Drinking water
6843 quality in schools and child care centers, is repealed July 1, 2027.

6844 [(5)] (3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

6845 [(6)] (4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,
6846 2029.

6847 [(7)] (5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed

6848 July 1, 2030.

6849 [~~(8)~~] (6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,
6850 2028.

6851 [~~(9)~~] (7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1,
6852 2026.

6853 [~~(10)~~] (8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1,
6854 2029.

6855 [~~(11)~~] (9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1,
6856 2030.

6857 [~~(12)~~] (10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July
6858 1, 2027.

6859 Section 105. Section **63I-1-234** is amended to read:

6860 **63I-1-234. Repeal dates: Titles 34 and 34A.**

6861 (1) Subsection [~~34A-1-202(2)(c)(i)~~] [34A-1-202\(2\)\(b\)\(i\)](#), related to the Workers'
6862 Compensation Advisory Council, is repealed July 1, 2027.

6863 (2) Subsection [~~34A-1-202(2)(c)(iii)~~] [34A-1-202\(2\)\(b\)\(iii\)](#), related to the Coal Miner
6864 Certification Panel, is repealed July 1, 2024.

6865 (3) Section [34A-2-107](#), which creates the Workers' Compensation Advisory Council, is
6866 repealed July 1, 2027.

6867 (4) Section [34A-2-202.5](#) is repealed December 31, 2030.

6868 Section 106. Section **63I-1-235** is amended to read:

6869 **63I-1-235. Repeal dates: Title 35A.**

6870 (1) Subsection [35A-1-202\(2\)\(d\)](#), related to the Child Care Advisory Committee, is
6871 repealed July 1, 2026.

6872 (2) Section [35A-3-205](#), which creates the Child Care Advisory Committee, is repealed
6873 July 1, 2026.

6874 (3) Subsection [35A-4-502\(5\)](#), which creates the Employment Advisory Council, is
6875 repealed July 1, 2032.

6876 (4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July
6877 1, 2028.

6878 (5) Sections [35A-13-301](#) and [35A-13-302](#), which create the Governor's Committee on

6879 Employment of People with Disabilities, are repealed July 1, 2028.

6880 (6) Section ~~35A-13-303~~, which creates the State Rehabilitation Advisory Council, is
6881 repealed July 1, 2024.

6882 [~~(7) Section 35A-13-404, which creates the advisory council for the Division of
6883 Services for the Blind and Visually Impaired, is repealed July 1, 2025.~~]

6884 [~~(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification
6885 Board, are repealed July 1, 2026.~~]

6886 Section 107. Section **63I-1-236** is amended to read:

6887 **63I-1-236. Repeal dates: Title 36.**

6888 (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

6889 (2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
6890 January 1, 2025.

6891 [~~(3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1,
6892 2028.~~]

6893 [~~(4)~~] (3) Section ~~36-29-112~~, Justice Court Reform Task Force, is repealed July 1, 2025.

6894 Section 108. Section **63I-1-241** is amended to read:

6895 **63I-1-241. Repeal dates: Title 41.**

6896 (1) Subsection ~~41-1a-1201~~(8), related to the Neuro-Rehabilitation Fund, is repealed
6897 January 1, 2025.

6898 [~~(2) Section 41-3-106, which creates an advisory board related to motor vehicle
6899 business regulation, is repealed July 1, 2024.~~]

6900 [~~(3)~~] (2) The following subsections addressing lane filtering are repealed on July 1,
6901 2027:

6902 (a) the subsection in Section ~~41-6a-102~~ that defines "lane filtering";

6903 (b) Subsection ~~41-6a-704~~(5); and

6904 (c) Subsection ~~41-6a-710~~(1)(c).

6905 [~~(4)~~] (3) Subsection ~~41-6a-1406~~(6)(b)(iii), related to the Neuro-Rehabilitation Fund, is
6906 repealed January 1, 2025.

6907 [~~(5)~~] (4) Subsections ~~41-22-2~~(1) and ~~41-22-10~~(1), which authorize an advisory council
6908 that includes in the advisory council's duties addressing off-highway vehicle issues, are
6909 repealed July 1, 2027.

6910 [(6)] (5) Subsection 41-22-8(3), related to the Neuro-Rehabilitation Fund, is repealed
6911 January 1, 2025.

6912 Section 109. Section **63I-1-253 (Superseded 07/01/24)** is amended to read:

6913 **63I-1-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**

6914 (1) Section 53-2a-105, which creates the Emergency Management Administration
6915 Council, is repealed July 1, 2027.

6916 (2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory
6917 Board, are repealed July 1, 2027.

6918 (3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed
6919 July 1, 2024.

6920 [~~(4)~~] Section ~~53B-6-105.5~~, which creates the Technology Initiative Advisory Board, is
6921 repealed July 1, 2024.]

6922 [(5)] (4) Section 53B-7-709, regarding five-year performance goals for the Utah
6923 System of Higher Education is repealed July 1, 2027.

6924 [(6)] (5) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
6925 repealed July 1, 2028.

6926 [(7)] (6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

6927 [(8)] (7) Section 53B-17-1203, which creates the SafeUT and School Safety
6928 Commission, is repealed January 1, 2025.

6929 [(9)] (8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

6930 [(10)] (9) Title 53B, Chapter 18, Part 18, Electrification of Transportation
6931 Infrastructure Research Center, is repealed on July 1, 2028.

6932 [(11)] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of
6933 money from the Land Exchange Distribution Account to the Geological Survey for test wells
6934 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

6935 [(12)] (11) Subsections 53E-3-503(5) and (6), which create coordinating councils for
6936 youth in custody, are repealed July 1, 2027.

6937 [(13)] (12) In relation to a standards review committee, on January 1, 2028:

6938 (a) in Subsection 53E-4-202(8), the language "by a standards review committee and the
6939 recommendations of a standards review committee established under Section 53E-4-203" is
6940 repealed; and

- 6941 (b) Section 53E-4-203 is repealed.
- 6942 [~~(14) Section 53E-4-402, which creates the State Instructional Materials Commission,~~
- 6943 ~~is repealed July 1, 2027.]~~
- 6944 [~~(15)~~ (13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
- 6945 Commission, is repealed July 1, 2033.
- 6946 [~~(16)~~ (14) Section 53F-2-420, which creates the Intensive Services Special Education
- 6947 Pilot Program, is repealed July 1, 2024.
- 6948 [~~(17)~~ (15) Section 53F-5-213 is repealed July 1, 2023.
- 6949 [~~(18)~~ (16) Section 53F-5-214, in relation to a grant for professional learning, is
- 6950 repealed July 1, 2025.
- 6951 [~~(19)~~ (17) Section 53F-5-215, in relation to an elementary teacher preparation grant, is
- 6952 repealed July 1, 2025.
- 6953 [~~(20)~~ (18) Section 53F-5-219, which creates the Local Innovations Civics Education
- 6954 Pilot Program, is repealed on July 1, 2025.
- 6955 [~~(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account~~
- 6956 ~~Committee, is repealed July 1, 2024.]~~
- 6957 [~~(22)~~ (19) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
- 6958 Commission, are repealed January 1, 2025.
- 6959 [~~(23)~~ (20) Section 53G-9-212, Drinking water quality in schools, is repealed July 1,
- 6960 2027.
- 6961 [~~(24)~~ (21) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
- 6962 July 1, 2027.
- 6963 Section 110. Section **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25)** is amended to
- 6964 read:
- 6965 **63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25). Repeal dates: Titles 53 through**
- 6966 **53G.**
- 6967 (1) Section 53-2a-105, which creates the Emergency Management Administration
- 6968 Council, is repealed July 1, 2027.
- 6969 (2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory
- 6970 Board, are repealed July 1, 2027.
- 6971 (3) Section 53-2d-703 is repealed July 1, 2027.

6972 (4) Section [53-5-703](#), which creates the Concealed Firearm Review Board, is repealed
6973 July 1, 2024.

6974 [~~(5)~~ Section [53B-6-105.5](#), which creates the Technology Initiative Advisory Board, is
6975 repealed July 1, 2024.]

6976 [~~(6)~~ (5) Section [53B-7-709](#), regarding five-year performance goals for the Utah
6977 System of Higher Education is repealed July 1, 2027.

6978 [~~(7)~~ (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
6979 repealed July 1, 2028.

6980 [~~(8)~~ (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

6981 [~~(9)~~ (8) Section [53B-17-1203](#), which creates the SafeUT and School Safety
6982 Commission, is repealed January 1, 2025.

6983 [~~(10)~~ (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1,
6984 2028.

6985 [~~(11)~~ (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation
6986 Infrastructure Research Center, is repealed on July 1, 2028.

6987 [~~(12)~~ (11) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of
6988 money from the Land Exchange Distribution Account to the Geological Survey for test wells
6989 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

6990 [~~(13)~~ (12) Subsections [53E-3-503](#)(5) and (6), which create coordinating councils for
6991 youth in custody, are repealed July 1, 2027.

6992 [~~(14)~~ (13) In relation to a standards review committee, on January 1, 2028:

6993 (a) in Subsection [53E-4-202](#)(8), the language "by a standards review committee and the
6994 recommendations of a standards review committee established under Section [53E-4-203](#)" is
6995 repealed; and

6996 (b) Section [53E-4-203](#) is repealed.

6997 [~~(15)~~ Section [53E-4-402](#), which creates the State Instructional Materials Commission,
6998 is repealed July 1, 2027.]

6999 [~~(16)~~ (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
7000 Commission, is repealed July 1, 2033.

7001 [~~(17)~~ (15) Section [53F-2-420](#), which creates the Intensive Services Special Education
7002 Pilot Program, is repealed July 1, 2024.

- 7003 [~~(18)~~] (16) Section [53F-5-213](#) is repealed July 1, 2023.
- 7004 [~~(19)~~] (17) Section [53F-5-214](#), in relation to a grant for professional learning, is
7005 repealed July 1, 2025.
- 7006 [~~(20)~~] (18) Section [53F-5-215](#), in relation to an elementary teacher preparation grant, is
7007 repealed July 1, 2025.
- 7008 [~~(21)~~] (19) Section [53F-5-219](#), which creates the Local Innovations Civics Education
7009 Pilot Program, is repealed on July 1, 2025.
- 7010 [~~(22)~~ Subsection [53F-9-203](#)(7), which creates the Charter School Revolving Account
7011 Committee, is repealed July 1, 2024.]
- 7012 [~~(23)~~] (20) Subsections [53G-4-608](#)(2)(b) and (4)(b), related to the Utah Seismic Safety
7013 Commission, are repealed January 1, 2025.
- 7014 [~~(24)~~] (21) Section [53G-9-212](#), Drinking water quality in schools, is repealed July 1,
7015 2027.
- 7016 [~~(25)~~] (22) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
7017 July 1, 2027.
- 7018 Section 111. Section **63I-1-253 (Contingently Effective 01/01/25)** is amended to read:
7019 **63I-1-253 (Contingently Effective 01/01/25). Repeal dates: Titles 53 through 53G.**
- 7020 (1) Section [53-2a-105](#), which creates the Emergency Management Administration
7021 Council, is repealed July 1, 2027.
- 7022 (2) Sections [53-2a-1103](#) and [53-2a-1104](#), which create the Search and Rescue Advisory
7023 Board, are repealed July 1, 2027.
- 7024 (3) Section [53-2d-703](#) is repealed July 1, 2027.
- 7025 (4) Section [53-5-703](#), which creates the Concealed Firearm Review Board, is repealed
7026 July 1, 2024.
- 7027 [~~(5)~~ Section [53B-6-105.5](#), which creates the Technology Initiative Advisory Board, is
7028 repealed July 1, 2024.]
- 7029 [~~(6)~~] (5) Section [53B-7-709](#), regarding five-year performance goals for the Utah
7030 System of Higher Education is repealed July 1, 2027.
- 7031 [~~(7)~~] (6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is
7032 repealed July 1, 2028.
- 7033 [~~(8)~~] (7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

7034 [(9)] (8) Section [53B-17-1203](#), which creates the SafeUT and School Safety
7035 Commission, is repealed January 1, 2025.

7036 [(10)] (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1,
7037 2028.

7038 [(11)] (10) Title 53B, Chapter 18, Part 18, Electrification of Transportation
7039 Infrastructure Research Center, is repealed on July 1, 2028.

7040 [(12)] (11) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of
7041 money from the Land Exchange Distribution Account to the Geological Survey for test wells
7042 and other hydrologic studies in the West Desert, is repealed July 1, 2030.

7043 [(13)] (12) Subsections [53E-3-503](#)(5) and (6), which create coordinating councils for
7044 youth in custody, are repealed July 1, 2027.

7045 [(14)] (13) In relation to a standards review committee, on January 1, 2028:
7046 (a) in Subsection [53E-4-202](#)(8), the language "by a standards review committee and the
7047 recommendations of a standards review committee established under Section [53E-4-203](#)" is
7048 repealed; and

7049 (b) Section [53E-4-203](#) is repealed.

7050 ~~[(15)] Section [53E-4-402](#), which creates the State Instructional Materials Commission,
7051 is repealed July 1, 2027.]~~

7052 [(16)] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory
7053 Commission, is repealed July 1, 2033.

7054 [(17)] (15) Section [53F-2-420](#), which creates the Intensive Services Special Education
7055 Pilot Program, is repealed July 1, 2024.

7056 [(18)] (16) Section [53F-5-213](#) is repealed July 1, 2023.

7057 [(19)] (17) Section [53F-5-214](#), in relation to a grant for professional learning, is
7058 repealed July 1, 2025.

7059 [(20)] (18) Section [53F-5-215](#), in relation to an elementary teacher preparation grant, is
7060 repealed July 1, 2025.

7061 [(21)] (19) Section [53F-5-219](#), which creates the Local Innovations Civics Education
7062 Pilot Program, is repealed on July 1, 2025.

7063 [(22)] (20) (a) Subsection [53F-9-201.1](#)(2)(b)(ii), in relation to the use of funds from a
7064 loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

7065 (b) On July 1, 2030, the Office of Legislative Research and General Counsel shall
7066 renumber the remaining subsections accordingly.

7067 [~~(23)~~ Subsection ~~53F-9-203~~(7), which creates the Charter School Revolving Account
7068 Committee, is repealed July 1, 2024.]

7069 [~~(24)~~ (21) Subsections ~~53G-4-608~~(2)(b) and (4)(b), related to the Utah Seismic Safety
7070 Commission, are repealed January 1, 2025.

7071 [~~(25)~~ (22) Section ~~53G-9-212~~, Drinking water quality in schools, is repealed July 1,
7072 2027.

7073 [~~(26)~~ (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed
7074 July 1, 2027.

7075 Section 112. Section **63I-1-258** is amended to read:

7076 **63I-1-258. Repeal dates: Title 58.**

7077 [~~(1)~~ Section ~~58-3a-201~~, which creates the Architects Licensing Board, is repealed July
7078 1, 2026.]

7079 [~~(2)~~ (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
7080 repealed July 1, 2026.

7081 [~~(3)~~ (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1,
7082 2025.

7083 [~~(4)~~ (3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1,
7084 2028.

7085 [~~(5)~~ (4) Subsection ~~58-37-6~~(7)(f)(iii), relating to the seven-day opiate supply
7086 restriction, is repealed July 1, 2032, and the Office of Legislative Research and General
7087 Counsel is authorized to renumber the remaining subsections accordingly.

7088 [~~(6)~~ (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
7089 2033.

7090 [~~(7)~~ (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
7091 Act, is repealed July 1, 2029.

7092 [~~(8)~~ Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
7093 2025.]

7094 [~~(9)~~ (7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
7095 repealed July 1, 2033.

- 7096 [~~(10)~~] (8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
7097 2024.
- 7098 [~~(11)~~] (9) Subsection ~~58-55-201~~(2), which creates the Alarm System and Security
7099 Licensing Advisory Board, is repealed July 1, 2027.
- 7100 [~~(12)~~ Subsection ~~58-60-405~~(3), regarding certain educational qualifications for
7101 licensure and reporting, is repealed July 1, 2032.]
- 7102 [~~(13)~~] (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
7103 July 1, 2026.
- 7104 [~~(14)~~ Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.]
7105 Section 113. Section **63I-1-263** is amended to read:
7106 **63I-1-263. Repeal dates: Titles 63A to 63N.**
- 7107 (1) Subsection ~~63A-5b-405~~(5), relating to prioritizing and allocating capital
7108 improvement funding, is repealed July 1, 2024.
- 7109 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
7110 2023.
- 7111 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
7112 Committee, are repealed July 1, 2023.
- 7113 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
7114 1, 2028.
- 7115 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
7116 2025.
- 7117 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
7118 2024.
- 7119 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
7120 repealed July 1, 2023.
- 7121 (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
7122 December 31, 2026.
- 7123 (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
7124 repealed July 1, 2026.
- 7125 (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- 7126 (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

7127 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December
7128 31, 2024.

7129 (13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is
7130 repealed on July 1, 2028.

7131 (14) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
7132 Advisory Board, is repealed July 1, 2026.

7133 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
7134 2028.

7135 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
7136 2024.

7137 (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

7138 (18) Subsection [63J-1-602.2\(25\)](#), related to the Utah Seismic Safety Commission, is
7139 repealed January 1, 2025.

7140 (19) Section [63L-11-204](#), creating a canyon resource management plan to Provo
7141 Canyon, is repealed July 1, 2025.

7142 (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
7143 repealed July 1, 2027.

7144 (21) In relation to the Utah Substance Use and Mental Health Advisory Council, on
7145 January 1, 2033:

7146 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
7147 repealed;

7148 (b) Section [63M-7-305](#), the language that states "council" is replaced with
7149 "commission";

7150 (c) Subsection [63M-7-305\(1\)\(a\)](#) is repealed and replaced with:

7151 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

7152 (d) Subsection [63M-7-305\(2\)](#) is repealed and replaced with:

7153 "(2) The commission shall:

7154 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
7155 Drug-Related Offenses Reform Act; and

7156 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in
7157 Subsections [77-18-103\(2\)\(c\)](#) and (d).".

7158 (22) The Crime Victim Reparations and Assistance Board, created in Section
7159 [63M-7-504](#), is repealed July 1, 2027.

7160 [~~(23)~~] ~~Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,~~
7161 ~~2026.~~

7162 [~~(24)~~] (23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
7163 2026.

7164 [~~(25)~~] (24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is
7165 repealed January 1, 2025.

7166 [~~(26)~~] (25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

7167 [~~(27)~~] (26) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed
7168 July 1, 2028.

7169 [~~(28)~~] (27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is
7170 repealed July 1, 2027.

7171 [~~(29)~~] (28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant
7172 Program, is repealed July 1, 2025.

7173 [~~(30)~~] (29) In relation to the Rural Employment Expansion Program, on July 1, 2028:
7174 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
7175 and

7176 (b) Subsection [63N-4-805](#)(5)(b), referring to the Rural Employment Expansion
7177 Program, is repealed.

7178 [~~(31)~~] (30) In relation to the Board of Tourism Development, on July 1, 2025:
7179 (a) Subsection [63N-2-511](#)(1)(b), which defines "tourism board," is repealed;
7180 (b) Subsections [63N-2-511](#)(3)(a) and (5), the language that states "tourism board" is
7181 repealed and replaced with "Utah Office of Tourism";

7182 (c) Subsection [63N-7-101](#)(1), which defines "board," is repealed;
7183 (d) Subsection [63N-7-102](#)(3)(c), which requires the Utah Office of Tourism to receive
7184 approval from the Board of Tourism Development, is repealed; and

7185 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

7186 [~~(32)~~] (31) Subsection [63N-8-103](#)(3)(c), which allows the Governor's Office of
7187 Economic Opportunity to issue an amount of tax credit certificates only for rural productions,
7188 is repealed on July 1, 2024.

7189 Section 114. Section **63I-1-265** is amended to read:

7190 **63I-1-265. Repeal dates: Title 65A.**

7191 [~~Section **65A-8-306**, which creates the Heritage Trees Advisory Committee, is repealed~~
7192 ~~July 1, 2026.~~]

7193 Section 115. Section **63I-1-279** is amended to read:

7194 **63I-1-279. Repeal dates: Title 79.**

7195 [~~(1) Subsection **79-2-201**(2)(p), related to the Heritage Trees Advisory Committee, is~~
7196 ~~repealed July 1, 2026.~~]

7197 [~~(2)~~] (1) Subsection [~~79-2-201~~(2)(q)] 79-2-201(2)(o), related to the Utah Outdoor
7198 Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

7199 [~~(3)~~] (2) Subsection [~~79-2-201~~(2)(r)(i)] 79-2-201(2)(p)(i), related to an advisory
7200 council created by the Division of Outdoor Recreation to advise on boating policies, is repealed
7201 July 1, 2024.

7202 [~~(4)~~] (3) Subsection [~~79-2-201~~(2)(s)] 79-2-201(2)(q), related to the Wildlife Board
7203 Nominating Committee, is repealed July 1, 2028.

7204 [~~(5)~~] (4) Subsection [~~79-2-201~~(2)(t)] 79-2-201(2)(r), related to regional advisory
7205 councils for the Wildlife Board, is repealed July 1, 2028.

7206 [~~(6)~~] (5) Section **79-7-206**, creating the Utah Outdoor Recreation Infrastructure
7207 Advisory Committee, is repealed July 1, 2027.

7208 [~~(7)~~] (6) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant
7209 Program, is repealed January 1, 2028.

7210 Section 116. Section **63I-2-204** is amended to read:

7211 **63I-2-204. Repeal dates: Title 4.**

7212 [~~(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30,~~
7213 ~~2027.~~]

7214 [~~(2)~~] (1) Subsection 4-41a-102(4), defining the Cannabis Research Review Board, is
7215 repealed July 1, 2026.

7216 (2) Section 4-41a-102.1 is repealed January 1, 2024.

7217 (3) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for
7218 Agricultural Education and Leadership, is repealed on July 1, 2024.

7219 (4) Section 4-46-104, Transition, is repealed July 1, 2024.

7220 Section 117. Section **63I-2-207** is enacted to read:
7221 **63I-2-207. Repeal dates: Title 7.**
7222 (1) Section 7-3-40 is repealed October 1, 2024.
7223 (2) Section 7-9-43 is repealed October 1, 2024.
7224 Section 118. Section **63I-2-209** is amended to read:
7225 **63I-2-209. Repeal dates: Title 9.**
7226 [~~(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed~~
7227 ~~December 31, 2024.~~]
7228 [~~(2) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is~~
7229 ~~repealed June 30, 2021.~~]
7230 [~~(3)~~] (1) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural
7231 Exchange Restricted Account Act, is repealed on July 1, 2024.
7232 [~~(4)~~] (2) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted
7233 Account Act, is repealed on July 1, 2024.
7234 [~~(5)~~] (3) Title 9, Chapter 19, National Professional Men's Soccer Team Support of
7235 Building Communities Restricted Account Act, is repealed on July 1, 2024.
7236 Section 119. Section **63I-2-213** is amended to read:
7237 **63I-2-213. Repeal dates: Title 13.**
7238 (1) Section 13-1-16 is repealed on July 1, 2024.
7239 (2) Section 13-14-103 is repealed October 1, 2024.
7240 (3) Section 13-35-103 is repealed October 1, 2024.
7241 [~~(2)~~] (4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the
7242 program start date, as defined in Section 63G-12-102.
7243 Section 120. Section **63I-2-226 (Superseded 07/01/24)** is amended to read:
7244 **63I-2-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.**
7245 (1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed
7246 July 1, 2024.
7247 (2) Section 26B-1-241 is repealed July 1, 2024.
7248 (3) Section 26B-1-302 is repealed on July 1, 2024.
7249 (4) Section 26B-1-313 is repealed on July 1, 2024.
7250 (5) Section 26B-1-314 is repealed on July 1, 2024.

- 7251 (6) Section [26B-1-321](#) is repealed on July 1, 2024.
- 7252 (7) Section [26B-1-405](#), related to the Air Ambulance Committee, is repealed on July 1,
- 7253 2024.
- 7254 (8) Section [26B-1-419](#), which creates the Utah Health Care Workforce Financial
- 7255 Assistance Program Advisory Committee, is repealed July 1, 2027.
- 7256 (9) Section [26B-1-420](#), which creates the Cannabis Research Review Board, is
- 7257 repealed July 1, 2026.
- 7258 (10) Subsection [26B-1-421\(9\)\(a\)](#) is repealed July 1, 2026.
- 7259 [~~9~~] (11) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 7260 [26B-2-231\(1\)\(a\)](#) is amended to read:
- 7261 "(a) provide the patient or the patient's representative with the following information
- 7262 before contacting an air medical transport provider:
- 7263 (i) which health insurers in the state the air medical transport provider contracts with;
- 7264 (ii) if sufficient data is available, the average charge for air medical transport services
- 7265 for a patient who is uninsured or out of network; and
- 7266 (iii) whether the air medical transport provider balance bills a patient for any charge not
- 7267 paid by the patient's health insurer; and"
- 7268 [~~10~~] (12) Section [26B-3-142](#) is repealed July 1, 2024.
- 7269 [~~11~~] (13) Subsection [26B-3-215\(5\)](#), related to reporting on coverage for in vitro
- 7270 fertilization and genetic testing, is repealed July 1, 2030.
- 7271 (14) Subsection [26B-4-201\(4\)](#), defining the Cannabis Research Review Board, is
- 7272 repealed July 1, 2026.
- 7273 [~~12~~] (15) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
- 7274 [26B-4-135\(1\)\(a\)](#) is amended to read:
- 7275 "(a) provide the patient or the patient's representative with the following information
- 7276 before contacting an air medical transport provider:
- 7277 (i) which health insurers in the state the air medical transport provider contracts with;
- 7278 (ii) if sufficient data is available, the average charge for air medical transport services
- 7279 for a patient who is uninsured or out of network; and
- 7280 (iii) whether the air medical transport provider balance bills a patient for any charge not
- 7281 paid by the patient's health insurer; and"

7282 (16) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is
7283 repealed July 1, 2026.

7284 [~~(13)~~] (17) Section 26B-4-702, related to the Utah Health Care Workforce Financial
7285 Assistance Program, is repealed July 1, 2027.

7286 [~~(14)~~] (18) Section 26B-5-117, related to early childhood mental health support grant
7287 programs, is repealed January 2, 2025.

7288 [~~(15)~~] (19) Subsection 26B-7-117(3), related to reports to the Legislature on syringe
7289 exchange and education, is repealed January 1, 2027.

7290 [~~(16)~~] (20) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1,
7291 2025.

7292 Section 121. Section 63I-2-226 (Effective 07/01/24) is amended to read:

7293 **63I-2-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**

7294 (1) Section 26B-1-241 is repealed July 1, 2024.

7295 (2) Section 26B-1-302 is repealed on July 1, 2024.

7296 (3) Section 26B-1-313 is repealed on July 1, 2024.

7297 (4) Section 26B-1-314 is repealed on July 1, 2024.

7298 (5) Section 26B-1-321 is repealed on July 1, 2024.

7299 (6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial
7300 Assistance Program Advisory Committee, is repealed July 1, 2027.

7301 (7) Section 26B-1-420, which creates the Cannabis Research Review Board, is
7302 repealed July 1, 2026.

7303 (8) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

7304 [~~(7)~~] (9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
7305 26B-2-231(1)(a) is amended to read:

7306 "(a) provide the patient or the patient's representative with the following information
7307 before contacting an air medical transport provider:

7308 (i) which health insurers in the state the air medical transport provider contracts with;

7309 (ii) if sufficient data is available, the average charge for air medical transport services
7310 for a patient who is uninsured or out of network; and

7311 (iii) whether the air medical transport provider balance bills a patient for any charge not
7312 paid by the patient's health insurer; and".

- 7313 ~~[(8)]~~ (10) Section [26B-3-142](#) is repealed July 1, 2024.
- 7314 ~~[(9)]~~ (11) Subsection [26B-3-215](#)(5), related to reporting on coverage for in vitro
7315 fertilization and genetic testing, is repealed July 1, 2030.
- 7316 (12) Subsection [26B-4-201](#)(4), defining the Cannabis Research Review Board, is
7317 repealed July 1, 2026.
- 7318 (13) Subsection [26B-4-212](#)(1)(b), defining the Cannabis Research Review Board, is
7319 repealed July 1, 2026.
- 7320 ~~[(10)]~~ (14) Section [26B-4-702](#), related to the Utah Health Care Workforce Financial
7321 Assistance Program, is repealed July 1, 2027.
- 7322 ~~[(11)]~~ (15) Section [26B-5-117](#), related to early childhood mental health support grant
7323 programs, is repealed January 2, 2025.
- 7324 ~~[(12)]~~ (16) Subsection [26B-7-117](#)(3), related to reports to the Legislature on syringe
7325 exchange and education, is repealed January 1, 2027.
- 7326 ~~[(13)]~~ (17) Section [26B-7-120](#), relating to sickle cell disease, is repealed on July 1,
7327 2025.
- 7328 Section 122. Section **63I-2-234** is amended to read:
7329 **63I-2-234. Repeal dates: Title 34A.**
- 7330 ~~[(1) Section [34A-2-107.3](#) is repealed May 15, 2025. (2)]~~ Subsection [34A-3-113](#)(7)
7331 relating to a study is repealed on January 1, 2025.
- 7332 Section 123. Section **63I-2-253 (Superseded 07/01/24)** is amended to read:
7333 **63I-2-253 (Superseded 07/01/24). Repeal dates: Titles 53 through 53G.**
- 7334 (1) Section [53-1-118](#) is repealed on July 1, 2024.
- 7335 (2) Section [53-1-120](#) is repealed on July 1, 2024.
- 7336 (3) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed
7337 July 1, 2026.
- 7338 ~~[(3)]~~ (4) Section [53-7-109](#) is repealed on July 1, 2024.
- 7339 ~~[(4)]~~ (5) Section [53-22-104](#) is repealed December 31, 2023.
- 7340 ~~[(5)]~~ (6) Section [53B-6-105.7](#) is repealed July 1, 2024.
- 7341 ~~[(6)]~~ (7) Section [53B-7-707](#) regarding performance metrics for technical colleges is
7342 repealed July 1, 2023.
- 7343 ~~[(7)]~~ (8) Section [53B-8-114](#) is repealed July 1, 2024.

7344 ~~[(8)]~~ (9) The following provisions, regarding the Regents' scholarship program, are
7345 repealed on July 1, 2023:

7346 (a) in Subsection 53B-8-105(12), the language that states, "or any scholarship
7347 established under Sections 53B-8-202 through 53B-8-205";

7348 (b) Section 53B-8-202;

7349 (c) Section 53B-8-203;

7350 (d) Section 53B-8-204; and

7351 (e) Section 53B-8-205.

7352 ~~[(9)]~~ (10) Section 53B-10-101 is repealed on July 1, 2027.

7353 ~~[(10)]~~ (11) Subsection 53E-1-201(1)(s) regarding the report by the Educational
7354 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

7355 ~~[(11)]~~ (12) Section 53E-1-202.2, regarding a Public Education Appropriations
7356 Subcommittee evaluation and recommendations, is repealed January 1, 2024.

7357 ~~[(12)]~~ (13) Section 53F-2-209, regarding local education agency budgetary flexibility,
7358 is repealed July 1, 2024.

7359 ~~[(13)]~~ (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the
7360 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

7361 ~~[(14)]~~ (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments,
7362 is repealed July 1, 2024.

7363 ~~[(15)]~~ (16) Section 53F-5-221, regarding a management of energy and water pilot
7364 program, is repealed July 1, 2028.

7365 ~~[(16)]~~ (17) Section 53F-9-401 is repealed on July 1, 2024.

7366 ~~[(17)]~~ (18) Section 53F-9-403 is repealed on July 1, 2024.

7367 ~~[(18)]~~ (19) On July 1, 2023, when making changes in this section, the Office of
7368 Legislative Research and General Counsel shall, in addition to the office's authority under
7369 Section 36-12-12, make corrections necessary to ensure that sections and subsections identified
7370 in this section are complete sentences and accurately reflect the office's perception of the
7371 Legislature's intent.

7372 Section 124. Section 63I-2-253 (Effective 07/01/24) is amended to read:

7373 **63I-2-253 (Effective 07/01/24). Repeal dates: Titles 53 through 53G.**

7374 (1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed

7375 July 1, 2024.

7376 (2) Section [53-1-118](#) is repealed on July 1, 2024.

7377 (3) Section [53-1-120](#) is repealed on July 1, 2024.

7378 (4) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed

7379 July 1, 2026.

7380 [~~(4)~~] (5) Section [53-2d-107](#), regarding the Air Ambulance Committee, is repealed July
7381 1, 2024.

7382 [~~(5)~~] (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection

7383 [53-2d-702](#)(1)(a) is amended to read:

7384 "(a) provide the patient or the patient's representative with the following information
7385 before contacting an air medical transport provider:

7386 (i) which health insurers in the state the air medical transport provider contracts with;

7387 (ii) if sufficient data is available, the average charge for air medical transport services
7388 for a patient who is uninsured or out of network; and

7389 (iii) whether the air medical transport provider balance bills a patient for any charge not
7390 paid by the patient's health insurer; and".

7391 [~~(6)~~] (7) Section [53-7-109](#) is repealed on July 1, 2024.

7392 [~~(7)~~] (8) Section [53-22-104](#) is repealed December 31, 2023.

7393 [~~(8)~~] (9) Section [53B-6-105.7](#) is repealed July 1, 2024.

7394 [~~(9)~~] (10) Section [53B-7-707](#) regarding performance metrics for technical colleges is
7395 repealed July 1, 2023.

7396 [~~(10)~~] (11) Section [53B-8-114](#) is repealed July 1, 2024.

7397 [~~(11)~~] (12) The following provisions, regarding the Regents' scholarship program, are
7398 repealed on July 1, 2023:

7399 (a) in Subsection [53B-8-105](#)(12), the language that states, "or any scholarship
7400 established under Sections [53B-8-202](#) through [53B-8-205](#)";

7401 (b) Section [53B-8-202](#);

7402 (c) Section [53B-8-203](#);

7403 (d) Section [53B-8-204](#); and

7404 (e) Section [53B-8-205](#).

7405 [~~(12)~~] (13) Section [53B-10-101](#) is repealed on July 1, 2027.

7406 [~~(13)~~] (14) Subsection [53E-1-201](#)(1)(s) regarding the report by the Educational
7407 Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

7408 [~~(14)~~] (15) Section [53E-1-202.2](#), regarding a Public Education Appropriations
7409 Subcommittee evaluation and recommendations, is repealed January 1, 2024.

7410 [~~(15)~~] (16) Section [53F-2-209](#), regarding local education agency budgetary flexibility,
7411 is repealed July 1, 2024.

7412 [~~(16)~~] (17) Subsection [53F-2-314](#)(4), relating to a one-time expenditure between the
7413 at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

7414 [~~(17)~~] (18) Section [53F-2-524](#), regarding teacher bonuses for extra work assignments,
7415 is repealed July 1, 2024.

7416 [~~(18)~~] (19) Section [53F-5-221](#), regarding a management of energy and water pilot
7417 program, is repealed July 1, 2028.

7418 [~~(19)~~] (20) Section [53F-9-401](#) is repealed on July 1, 2024.

7419 [~~(20)~~] (21) Section [53F-9-403](#) is repealed on July 1, 2024.

7420 [~~(21)~~] (22) On July 1, 2023, when making changes in this section, the Office of
7421 Legislative Research and General Counsel shall, in addition to the office's authority under
7422 Section [36-12-12](#), make corrections necessary to ensure that sections and subsections identified
7423 in this section are complete sentences and accurately reflect the office's perception of the
7424 Legislature's intent.

7425 Section 125. Section **63I-2-258** is amended to read:

7426 **63I-2-258. Repeal dates: Title 58.**

7427 (1) Section [58-40a-201](#) is repealed October 1, 2024.

7428 (2) Section [58-42a-201](#) is repealed October 1, 2024.

7429 (3) Section [58-44a-201](#) is repealed October 1, 2024.

7430 (4) Section [58-53-201](#) is repealed October 1, 2024.

7431 (5) Section [58-68-201](#) is repealed October 1, 2024.

7432 (6) Section [58-70a-201](#) is repealed October 1, 2024.

7433 (7) Section [58-72-201](#) is repealed October 1, 2024.

7434 Section 126. Section **63I-2-263** is amended to read:

7435 **63I-2-263. Repeal dates: Title 63A to Title 63N.**

7436 (1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services

- 7437 Procurement Advisory Council₂ is repealed July 1, 2025.
- 7438 (2) Section 63A-17-303 is repealed July 1, 2023.
- 7439 (3) Section [63A-17-806](#) is repealed June 30, 2026.
- 7440 (4) Section [63C-1-103](#) is repealed October 1, 2024.
- 7441 ~~[(4)]~~ (5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology
- 7442 Commission is repealed July 1, 2023.
- 7443 ~~[(5)]~~ (6) Section [63H-7a-303](#) is repealed July 1, 2024.
- 7444 ~~[(6)]~~ (7) Subsection [63H-7a-403](#)(2)(b), regarding the charge to maintain the public
- 7445 safety communications network, is repealed July 1, 2033.
- 7446 ~~[(7)]~~ (8) Subsection [63J-1-602.2](#)(45), which lists appropriations to the State Tax
- 7447 Commission for property tax deferral reimbursements, is repealed July 1, 2027.
- 7448 ~~[(8)]~~ (9) Subsection [63N-2-213](#)(12)(a), relating to claiming a tax credit in the same
- 7449 taxable year as the targeted business income tax credit, is repealed December 31, 2024.
- 7450 ~~[(9)]~~ (10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an
- 7451 Enterprise Zone, is repealed December 31, 2024.
- 7452 Section 127. Section **65A-8-302** is amended to read:
- 7453 **65A-8-302. Definitions.**
- 7454 As used in this part:
- 7455 (1) "Alter" means to change the configuration of a heritage tree by pruning, trimming,
- 7456 topping, cutting, or by any other means.
- 7457 ~~[(2) "Committee" means the Heritage Trees Advisory Committee.]~~
- 7458 ~~[(3)]~~ (2) "Division" means the Division of Forestry, Fire, and State Lands.
- 7459 ~~[(4)]~~ (3) "Heritage tree" means any tree or group of trees designated as such by the
- 7460 division, in accordance with the following criteria:
- 7461 (a) any live tree or group of trees indigenous to the state, or which has adapted
- 7462 exceptionally well to the climatic conditions of the state, or is one of a kind;
- 7463 (b) any tree or group of trees that has exceptional national, state, or local historic
- 7464 significance;
- 7465 (c) any tree or group of trees which has an exceptional size or exceptional form for its
- 7466 species;
- 7467 (d) any tree or group of trees which has an exceptional age for its species; or

7468 (e) any tree or group of trees in the state which is the sole representative of its species.

7469 [~~(5)~~] (4) "Person" means any individual, partnership, corporation, or association.

7470 Section 128. Section **65A-8-304** is amended to read:

7471 **65A-8-304. Guidelines and standards for granting or denying applications to**

7472 **alter or remove trees.**

7473 [~~(1) The committee shall develop published guidelines and standards to be used by the~~

7474 ~~board in granting or denying applications for the alteration or removal of heritage trees. (2) In~~

7475 ~~addition to the guidelines and standards developed by the committee, the] The division shall~~

7476 consider the following criteria in granting or denying an application:

7477 [~~(a)~~] (1) the physical condition of the heritage tree or trees with respect to:

7478 [~~(i)~~] (a) insect infestation;

7479 [~~(ii)~~] (b) disease;

7480 [~~(iii)~~] (c) danger of falling;

7481 [~~(iv)~~] (d) proximity to existing or proposed structures; and

7482 [~~(v)~~] (e) interference with utility services;

7483 [~~(b)~~] (2) the necessity of alteration or removal of the heritage tree or trees in order to

7484 construct proposed improvements and allow economic enjoyment of property;

7485 [~~(c)~~] (3) the topography of the land and the effect of removal of the heritage tree or

7486 trees on:

7487 [~~(i)~~] (a) erosion;

7488 [~~(ii)~~] (b) soil retention; and

7489 [~~(iii)~~] (c) the diversion or increased flow of surface waters resultant upon alteration or

7490 removal;

7491 [~~(d)~~] (4) the number of heritage trees existing in the neighborhood on improved

7492 property;

7493 [~~(e)~~] (5) the effect alteration or removal would have on established standards and

7494 property values in the area; and

7495 [~~(f)~~] (6) the number of heritage trees the particular parcel can support according to

7496 good forestry practices.

7497 Section 129. Section **76-7-314** is amended to read:

7498 **76-7-314. Violations of abortion laws -- Classifications.**

7499 (1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5,
7500 76-7-311, or 76-7-312 is a felony of the third degree.

7501 (2) A violation of Section 76-7-326 is a felony of the third degree.

7502 (3) A violation of Section 76-7-314.5 is a felony of the second degree.

7503 (4) A violation of any other provision of this part, including Subsections
7504 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

7505 (5) The Department of Health and Human Services shall report a physician's violation
7506 of any provision of this part to the [Physicians] Medical Licensing Board, described in Section
7507 58-67-201.

7508 (6) Any person with knowledge of a physician's violation of any provision of this part
7509 may report the violation to the [Physicians] Medical Licensing Board, described in Section
7510 58-67-201.

7511 (7) In addition to the penalties described in this section, the department may take any
7512 action described in Section 26B-2-208 against a health care facility if a violation of this chapter
7513 occurs at the health care facility.

7514 Section 130. Section 76-7-328 is amended to read:

7515 **76-7-328. Hearing to determine necessity of physician's conduct.**

7516 (1) A physician accused of an offense under Section 76-7-326 may seek a hearing
7517 before the [Physicians] Medical Licensing Board created in [~~Section 58-67-201, or the~~
7518 ~~Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201~~] Section
7519 58-67-201 on whether the physician's conduct was necessary to save the life of the mother
7520 whose life was endangered by a physical disorder, physical illness, or physical injury, including
7521 a life endangering physical condition caused by or arising from the pregnancy itself.

7522 (2) The findings on that issue are admissible on that issue at the trial of the physician.
7523 Upon a motion from the physician, the court shall delay the beginning of the trial for not more
7524 than 30 days to permit such a hearing to take place.

7525 Section 131. Section 79-2-201 is amended to read:

7526 **79-2-201. Department of Natural Resources created.**

7527 (1) There is created the Department of Natural Resources.

7528 (2) The department comprises the following:

7529 (a) Board of Water Resources, created in Section 73-10-1.5;

7530 (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

7531 [~~(c)~~] ~~Board of State Parks, created in Section 79-4-301;~~

7532 [~~(d)~~] (c) Office of Energy Development, created in Section 79-6-401;

7533 [~~(e)~~] (d) Wildlife Board, created in Section 23A-2-301;

7534 [~~(f)~~] (e) Board of the Utah Geological Survey, created in Section 79-3-301;

7535 [~~(g)~~] (f) Water Development Coordinating Council, created in Section 73-10c-3;

7536 [~~(h)~~] (g) Division of Water Rights, created in Section 73-2-1.1;

7537 [~~(i)~~] (h) Division of Water Resources, created in Section 73-10-18;

7538 [~~(j)~~] (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

7539 [~~(k)~~] (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

7540 [~~(l)~~] (k) Division of State Parks, created in Section 79-4-201;

7541 [~~(m)~~] (l) Division of Outdoor Recreation, created in Section 79-7-201;

7542 [~~(n)~~] (m) Division of Wildlife Resources, created in Section 23A-2-201;

7543 [~~(o)~~] (n) Utah Geological Survey, created in Section 79-3-201;

7544 [~~(p)~~] ~~Heritage Trees Advisory Committee, created in Section 65A-8-306;~~

7545 [~~(q)~~] (o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in

7546 Section 79-7-206;

7547 [~~(r)~~] (p) (i) an advisory council that includes in the advisory council's duties advising

7548 on state boating policy, authorized by Section 73-18-3.5; or

7549 (ii) an advisory council that includes in the advisory council's duties advising on

7550 off-highway vehicle use, authorized by Section 41-22-10;

7551 [~~(s)~~] (q) Wildlife Board Nominating Committee, created in Section 23A-2-302;

7552 [~~(t)~~] (r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;

7553 [~~(u)~~] (s) Utah Watersheds Council, created in Section 73-10g-304;

7554 [~~(v)~~] (t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305;

7555 and

7556 [~~(w)~~] (u) Public Lands Policy Coordinating Office created in Section 63L-11-201.

7557 (3) The department shall provide office space, furnishings, and supplies to the Great

7558 Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake

7559 Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt

7560 Lake Commissioner.

7561 Section 132. Section **79-4-102** is amended to read:

7562 **79-4-102. Definitions.**

7563 [~~(1) "Board" means the Board of State Parks.~~ (2)] "Division" means the Division of

7564 State Parks.

7565 Section 133. **Repealer.**

7566 This bill repeals:

7567 Section **4-2-601, Title.**

7568 Section **4-2-602, Local Food Advisory Council created.**

7569 Section **4-2-603, Duties.**

7570 Section **4-2-604, Duties -- Interim report.**

7571 Section **4-35-103, Decision and Action Committee created -- Members -- How**

7572 **appointed -- Duties of committee -- Per diem and expenses allowed.**

7573 Section **13-32a-112, Pawnshop, Secondhand Merchandise, and Catalytic Converter**

7574 **Advisory Board.**

7575 Section **17-50-340, Establishment of county recorder appeal authority.**

7576 Section **19-2a-102, Air Quality Policy Advisory Board created -- Composition --**

7577 **Responsibility -- Terms of office -- Compensation.**

7578 Section **32B-2-210, Alcoholic Beverage Services Advisory Board.**

7579 Section **34-20-3, Labor relations board.**

7580 Section **34-20-4, Labor relations board -- Employees -- Agencies -- Expenses.**

7581 Section **34-20-5, Labor relations board -- Offices -- Jurisdiction -- Member's**

7582 **participation in case.**

7583 Section **34-20-6, Labor relations board -- Rules and regulations.**

7584 Section **34-20-10, Unfair labor practices -- Powers of board to prevent --**

7585 **Procedure.**

7586 Section **34-20-11, Hearings and investigations -- Power of board -- Witnesses --**

7587 **Procedure.**

7588 Section **34-20-12, Willful interference -- Penalty.**

7589 Section **34A-2-107.3, Mental Health Protections for First Responders Workgroup.**

7590 Section **35A-13-404, Appointment of advisory council.**

7591 Section **35A-13-603, Board.**

- 7592 Section [36-29-108](#), Criminal Code Evaluation Task Force.
- 7593 Section [41-3-106](#), Board -- Creation and composition -- Appointment, terms,
7594 compensation, and expenses of members -- Meetings -- Quorum -- Powers and duties --
7595 Officers' election and duties -- Voting.
- 7596 Section [53B-6-105.5](#), Technology Initiative Advisory Board -- Composition --
7597 Duties.
- 7598 Section [53B-26-303](#), Deep Technology Talent Advisory Council.
- 7599 Section [53E-4-402](#), Creation of commission -- Powers -- Payment of expenses.
- 7600 Section [53E-4-404](#), Meetings -- Notice.
- 7601 Section [63C-30-101](#), Definitions.
- 7602 Section [63C-30-201](#), County Recorder Standards Board created.
- 7603 Section [63C-30-202](#), Duties of the board -- Reporting.
- 7604 Section [63M-7-801](#), Definitions.
- 7605 Section [63M-7-802](#), Sex Offense Management Board - Creation - Members
7606 appointment - Qualifications - Terms.
- 7607 Section [63M-7-803](#), Board duties.
- 7608 Section [65A-8-306](#), Heritage Trees Advisory Committee -- Members -- Officers --
7609 Expenses -- Functions.
- 7610 Section [79-4-301](#), Board of State Parks -- Creation -- Functions.
- 7611 Section [79-4-302](#), Board appointment and terms of members -- Expenses.
- 7612 Section [79-4-303](#), Board meetings -- Quorum.
- 7613 Section [79-4-304](#), Board rulemaking authority.
- 7614 Section [79-4-305](#), Long-range plans.
- 7615 Section [79-4-502](#), Violations of rules.
- 7616 Section 134. Effective date.
- 7617 (1) Except as provided in Subsections (2) through (4), this bill takes effect on May 1,
7618 2024.
- 7619 (2) The actions affecting the following sections take effect on July 1, 2024:
- 7620 (a) Section [63I-1-253](#) (Effective 07/01/24) (Contingently Superseded 01/01/25);
- 7621 (b) Section [63I-2-226](#) (Effective 07/01/24); and
- 7622 (c) Section [63I-2-253](#) (Effective 07/01/24).

- 7623 (3) The actions affecting the following sections take effect on October 1, 2024:
- 7624 (a) Section [7-1-203](#);
- 7625 (b) Section [13-14-102](#);
- 7626 (c) Section [13-14-104](#);
- 7627 (d) Section [13-14-106](#);
- 7628 (e) Section [13-14-107](#);
- 7629 (f) Section [13-14-201](#);
- 7630 (g) Section [13-14-202](#);
- 7631 (h) Section [13-14-203](#);
- 7632 (i) Section [13-14-301](#);
- 7633 (j) Section [13-14-302](#);
- 7634 (k) Section [13-14-303](#);
- 7635 (l) Section [13-14-304](#);
- 7636 (m) Section [13-14-305](#);
- 7637 (n) Section [13-14-306](#);
- 7638 (o) Section [13-35-102](#);
- 7639 (p) Section [13-35-104](#);
- 7640 (q) Section [13-35-106](#);
- 7641 (r) Section [13-35-107](#);
- 7642 (s) Section [13-35-201](#);
- 7643 (t) Section [13-35-202](#);
- 7644 (u) Section [13-35-203](#);
- 7645 (v) Section [13-35-301](#);
- 7646 (w) Section [13-35-302](#);
- 7647 (x) Section [13-35-303](#);
- 7648 (y) Section [13-35-305](#);
- 7649 (z) Section [13-35-306](#);
- 7650 (aa) Section [15A-1-204](#);
- 7651 (bb) Section [15A-1-206](#);
- 7652 (cc) Section [26B-1-239](#);
- 7653 (dd) Section [26B-3-303](#);

7654 (ee) Section 26B-4-219;
7655 (ff) Section 26B-4-506;
7656 (gg) Section 26B-4-513;
7657 (hh) Section 58-3a-102;
7658 (ii) Section 58-3a-201;
7659 (jj) Section 58-17b-102;
7660 (kk) Section 58-17b-605;
7661 (ll) Section 58-17b-610.8;
7662 (mm) Section 58-17b-625;
7663 (nn) Section 58-17b-1005;
7664 (oo) Section 58-24b-102;
7665 (pp) Section 58-24b-201;
7666 (qq) Section 58-24c-104;
7667 (rr) Section 58-31b-102;
7668 (ss) Section 58-31b-201;
7669 (tt) Section 58-31e-103;
7670 (uu) Section 58-37f-304;
7671 (vv) Section 58-38a-201;
7672 (ww) Section 58-40a-102;
7673 (xx) Section 58-42a-102;
7674 (yy) Section 58-44a-102;
7675 (zz) Section 58-47b-102;
7676 (aaa) Section 58-47b-201;
7677 (bbb) Section 58-53-102;
7678 (ccc) Section 58-54-201;
7679 (ddd) Section 58-55-102;
7680 (eee) Section 58-55-103;
7681 (fff) Section 58-55-201;
7682 (ggg) Section 58-55-302;
7683 (hhh) Section 58-67-102;
7684 (iii) Section 58-67-201;

7685 (jii) Section 58-68-102;
7686 (kkk) Section 58-70a-102;
7687 (lll) Section 58-70b-101;
7688 (mmm) Section 58-72-102;
7689 (nnn) Section 58-88-205;
7690 (ooo) Section 76-7-314; and
7691 (ppp) Section 76-7-328.
7692 (4) The actions affecting section 63I-1-253 (Contingently Effective 01/01/25)
7693 contingently take effect on January 1, 2025.