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PHYSICIAN ASSISTANT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to practice as a physician assistant.

Highlighted Provisions:

This bill:

- ▶ amends the Insect Infestation Emergency Control Act to allow a physician assistant to sign an affidavit stating that a planned treatment for controlling an insect infestation emergency is a danger to the health of the owner or occupant of a property;
- ▶ amends the Residential, Vocational and Life Skills Program Act to allow a physician assistant to grant certain clearances;
- ▶ amends the Professional Corporation Act's definition of "professional service" to include a personal service rendered by a physician assistant;
- ▶ amends the Election Code to allow a physician assistant to certify that a party's candidate has acquired a physical or mental disability;
- ▶ amends the Wildlife Resources Code of Utah to allow a physician assistant to make certain certifications with respect to licenses, certificates, or permits;
- ▶ amends the Utah Vital Statistics Act to allow a physician assistant to complete and file a birth certificate for a live birth that occurs outside a birthing facility;
- ▶ amends the Utah Medical Examiner Act to:
 - include the death of a person who has not been seen by a physician assistant in the definition of an "unattended death";

- 29 • allow a physician assistant to certify cause of death in certain instances; and
30 • require the state medical examiner to provide a copy of a final report of
31 examination to a physician assistant, upon written request by the physician
32 assistant;
- 33 ▶ amends the Utah Communicable Disease Control Act to include a physician
34 assistant among those:
- 35 • from whom the Department of Health suggests a person should seek screening
36 for a sexually transmitted disease;
- 37 • to whom a person with venereal disease is required to report;
- 38 • recognized to provide medical care or services to a minor who may be afflicted
39 with a sexually transmitted disease;
- 40 • to whom a person may be required by the Department of Health to report at the
41 time of the expiration of the person's term of imprisonment; and
- 42 • authorized to take a blood sample from a pregnant or recently delivered woman;
- 43 ▶ amends the Utah Health Code to include a physician assistant among those who
44 may find that an individual or group is subject to examination, treatment, isolation,
45 or quarantine;
- 46 ▶ amends the Utah Emergency Medical Services System Act by:
- 47 • amending the composition of the Trauma System Advisory Committee within
48 the Department of Health; and
- 49 • extending certain immunities to a physician assistant;
- 50 ▶ amends the composition of certain committees within the Utah Statewide Stroke
51 and Cardiac Registry Act to include physician assistants;
- 52 ▶ amends the Utah Health Code to include a physician assistant among those whose
53 diagnosis of hearing loss in a child younger than six years old satisfies a
54 requirement for obtaining hearing aids from a program offered by the Department of
55 Health;

- 56 ▶ amends the Medical Assistance Act to prohibit a pharmacist from altering an
- 57 outpatient drug therapy prescribed by a physician assistant without the consent of
- 58 the physician assistant when conducting a prospective drug utilization review;
- 59 ▶ amends the Revised Uniform Anatomical Gift Act to include a physician assistant
- 60 who:
- 61 • attends a decedent's death and a physician assistant who determines the time of a
- 62 decedent's death among those who are prohibited from participating in the
- 63 procedures for removing or transplanting a part from the decedent; and
- 64 • is qualified to remove a donated part from the body of a donor among those
- 65 authorized to remove the part;
- 66 ▶ amends the Utah Health Data Authority Act definition of "health care provider" to
- 67 include a physician assistant;
- 68 ▶ amends the Insurance Code to include certain physician assistants among those from
- 69 whom an insured may be required by a health insurance policy to select as a primary
- 70 care provider;
- 71 ▶ amends the Motor Vehicle Act to include a physician assistant among those who
- 72 may certify specified information about a person with a disability who is applying
- 73 for a disability special group license plate, a temporary removable windshield
- 74 placard, or a removable windshield placard;
- 75 ▶ amends the Traffic Code to include a physician assistant among those who may
- 76 administer certain chemical tests or draw blood under certain circumstances;
- 77 ▶ amends the Motor Vehicle Safety Belt Usage Act to include a physician assistant
- 78 among those who may provide written verification that an operator or passenger of a
- 79 motor vehicle is unable to wear a safety belt for physical or medical reasons;
- 80 ▶ amends the Unincorporated Business Entity Act definition of "professional
- 81 services" to include a personal service provided by a physician assistant;
- 82 ▶ amends the Public Employees' Contributory Retirement Act to include a physician

83 assistant among those who may be appointed by the Utah State Retirement Board to conduct
84 certain medical examinations;

85 ▶ amends the Firefighters' Retirement Act to include a physician assistant among
86 those who may make certain evaluations, diagnoses, and recommendations;

87 ▶ amends the Public Employees' Long-Term Disability Act to include a physician
88 assistant among those:

- 89 • under whom an eligible employee may receive ongoing care and treatment; and
- 90 • who may set forth the limitations of an office-approved rehabilitation program;

91 ▶ amends the Statewide Mutual Aid Act definition of "emergency responder" to
92 include a physician assistant;

93 ▶ amends the Criminal Investigations and Technical Services Act to include a
94 physician assistant among those who may draw a blood sample in a medically
95 acceptable manner;

96 ▶ permits a physician assistant to:

- 97 • receive information from a behavioral health information form completed by
98 school personnel at the request of a student's parent;

99 • be included in a list of health care providers that a school counselor or other
100 mental health professional working within a school system may provide to a
101 parent or guardian;

- 102 • permit a student to possess or self-apply certain sunscreens;

- 103 • train nonlicensed volunteers to administer glucagon; and

104 • train a nonlicensed school employee who volunteers to administer a seizure
105 rescue medication;

106 ▶ amends the Public Telecommunications Law to include a physician assistant among
107 those who may certify that a state resident is deaf, hard of hearing, or severely
108 speech impaired;

109 ▶ amends the Division of Occupational and Professional Licensing Act to require the

110 Department of Health to establish certain procedures to authorize the dispensing,
111 administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription
112 medication;

- 113 ▶ amends the Speech-Language Pathology and Audiology Licensing Act to exempt
114 certain physician assistants from the licensing requirement;
- 115 ▶ amends the Hearing Instrument Specialist Licensing Act to:
 - 116 • exempt certain physician assistants from the licensing requirement; and
 - 117 • permit a physician assistant to receive certain referrals and issue certain
118 prescriptions;
- 119 ▶ amends the Massage Therapy Practice Act to exempt a physician assistant from the
120 licensing requirement;
- 121 ▶ renames the Physician Assistant Act as the Utah Physician Assistant Act;
- 122 ▶ amends the Genetic Counselors Licensing Act to exempt certain physician assistants
123 from the licensing requirement;
- 124 ▶ amends the Utah Human Services Code to permit a physician assistant to take
125 photographs of the areas of trauma visible on a child and, if medically indicated,
126 perform radiological examinations;
- 127 ▶ amends the Government Records Access and Management Act to include a
128 physician assistant among those to whom a governmental entity shall, under certain
129 conditions, disclose a controlled record upon request;
- 130 ▶ amends the Pete Suazo Utah Athletic Commission Act to include a physician
131 assistant in certain definitions;
- 132 ▶ allows a physician assistant to serve on a Children's Justice Center local advisory
133 board or the Advisory Board on Children's Justice;
- 134 ▶ amends the Utah Criminal Code to specify that certain sexual offenses committed
135 by a "health professional" include offenses committed by a physician assistant;
- 136 ▶ amends the Utah Code of Criminal Procedure to include a physician assistant

137 among those who may draw blood;
138 ▶ amends the Judicial Code to include physician assistants in certain provisions
139 relating to other health care professionals; and
140 ▶ makes corresponding and other technical amendments.

141 **Money Appropriated in this Bill:**

142 None

143 **Other Special Clauses:**

144 None

145 **Utah Code Sections Affected:**

146 AMENDS:

- 147 **4-35-107**, as renumbered and amended by Laws of Utah 2017, Chapter 345
148 **13-53-107**, as enacted by Laws of Utah 2018, Chapter 252
149 **16-11-2**, as last amended by Laws of Utah 2011, Chapter 289
150 **20A-1-501**, as last amended by Laws of Utah 2016, Chapter 16
151 **23-19-36**, as last amended by Laws of Utah 2011, Chapter 366
152 **23-19-38**, as last amended by Laws of Utah 2010, Chapter 288
153 **26-2-5**, as last amended by Laws of Utah 2008, Chapter 3
154 **26-4-2**, as last amended by Laws of Utah 2018, Chapters 326 and 414
155 **26-4-14**, as last amended by Laws of Utah 1993, Chapter 38
156 **26-4-17**, as last amended by Laws of Utah 2018, Chapter 414
157 **26-6-3**, as last amended by Laws of Utah 2011, Chapter 297
158 **26-6-17**, as enacted by Laws of Utah 1981, Chapter 126
159 **26-6-18**, as last amended by Laws of Utah 2011, Chapter 297
160 **26-6-19**, as enacted by Laws of Utah 1981, Chapter 126
161 **26-6-20**, as last amended by Laws of Utah 2011, Chapter 297
162 **26-6b-5**, as last amended by Laws of Utah 2008, Chapter 115
163 **26-8a-251**, as enacted by Laws of Utah 2000, Chapter 305

- 164 **26-8a-601**, as last amended by Laws of Utah 2017, Chapter 326
- 165 **26-8d-104**, as enacted by Laws of Utah 2018, Chapter 104
- 166 **26-8d-105**, as enacted by Laws of Utah 2018, Chapter 104
- 167 **26-10-11**, as last amended by Laws of Utah 2018, Chapter 415
- 168 **26-18-107**, as enacted by Laws of Utah 1992, Chapter 273
- 169 **26-21-7**, as last amended by Laws of Utah 2011, Chapter 161
- 170 **26-28-114**, as last amended by Laws of Utah 2011, Chapter 297
- 171 **26-33a-102**, as last amended by Laws of Utah 2016, Chapter 74
- 172 **31A-22-624**, as last amended by Laws of Utah 2002, Chapter 308
- 173 **41-1a-420**, as last amended by Laws of Utah 2017, Chapter 41
- 174 **41-6a-520**, as last amended by Laws of Utah 2018, Chapter 35
- 175 **41-6a-523**, as last amended by Laws of Utah 2017, Chapter 326
- 176 **41-6a-1804**, as last amended by Laws of Utah 2018, Chapter 113
- 177 **48-1d-102**, as enacted by Laws of Utah 2013, Chapter 412
- 178 **48-3a-1101**, as enacted by Laws of Utah 2013, Chapter 412
- 179 **49-12-601**, as last amended by Laws of Utah 2011, Chapter 366
- 180 **49-16-102**, as last amended by Laws of Utah 2017, Chapter 93
- 181 **49-16-602**, as last amended by Laws of Utah 2011, Chapter 366
- 182 **49-21-402**, as last amended by Laws of Utah 2018, Chapter 185
- 183 **49-21-406**, as last amended by Laws of Utah 2015, Chapter 328
- 184 **53-2a-302**, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 185 **53-10-405**, as last amended by Laws of Utah 2017, Chapter 326
- 186 **53G-9-203**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 187 **53G-9-208**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 188 **53G-9-504**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 189 **53G-9-505**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 190 **54-8b-10**, as last amended by Laws of Utah 2017, Chapters 43 and 423

- 191 **58-1-307**, as last amended by Laws of Utah 2017, Chapter 326
- 192 **58-41-4**, as last amended by Laws of Utah 2018, Chapter 415
- 193 **58-46a-305**, as last amended by Laws of Utah 2004, Chapter 90
- 194 **58-46a-502**, as last amended by Laws of Utah 2015, Chapter 252
- 195 **58-47b-304**, as last amended by Laws of Utah 2014, Chapters 330, 348 and last
- 196 amended by Coordination Clause, Laws of Utah 2014, Chapter 330
- 197 **58-70a-101**, as enacted by Laws of Utah 1997, Chapter 229
- 198 **58-70a-305**, as last amended by Laws of Utah 2016, Chapter 238
- 199 **58-75-304**, as enacted by Laws of Utah 2001, Chapter 100
- 200 **62A-4a-406**, as last amended by Laws of Utah 2008, Chapter 299
- 201 **63G-2-202**, as last amended by Laws of Utah 2018, Chapter 270
- 202 **63N-10-102**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 203 **63N-10-301**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 204 **67-5b-105**, as last amended by Laws of Utah 2016, Chapter 290
- 205 **67-5b-106**, as last amended by Laws of Utah 2016, Chapter 290
- 206 **76-5-406**, as last amended by Laws of Utah 2018, Chapter 176
- 207 **77-23-213**, as enacted by Laws of Utah 2018, Chapter 35
- 208 **78B-1-137**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 209 **78B-2-114**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 210 **78B-3-403**, as last amended by Laws of Utah 2013, Chapter 104

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

212 Section 1. Section **4-35-107** is amended to read:

213 **4-35-107. Notice to owner or occupant -- Corrective action required -- Directive**
214 **issued by department -- Costs -- Owner or occupant may prohibit treatment.**

215 (1) The department or an authorized agent of the department shall notify the owner or
216 occupant of the problem and the available alternatives to remedy the problem. The owner or
217

218 occupant shall take corrective action within 30 days.

219 (2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the
220 department may issue a directive for corrective action which shall be taken within 15 days.

221 (b) If the owner or occupant fails to act within the required time, the department shall
222 take the necessary action.

223 (c) The department may recover costs incurred for controlling an insect infestation
224 emergency from the owner or occupant of the property on whose property corrective action was
225 taken.

226 (3) (a) Owners or occupants of property may prohibit treatment by presenting an
227 affidavit from the owner's or occupant's attending physician or physician assistant to the
228 department which states that the treatment as planned is a danger to the owner's or occupant's
229 health.

230 (b) The department shall provide the owner or occupant with alternatives to treatment
231 which will abate the infestation.

232 Section 2. Section **13-53-107** is amended to read:

233 **13-53-107. Participant screening.**

234 (1) A residential, vocational and life skills program shall interview and screen all
235 prospective participants for medical prescriptions, physical and mental health history, and
236 recent alcohol or drug use.

237 (2) Unless an individual obtains a medical clearance from a physician or physician
238 assistant, a residential, vocational and life skills program may not have as a participant an
239 individual who:

240 (a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

241 (b) has an active prescription for medication for a mental, social, psychiatric, or
242 psychological illness.

243 (3) A residential, vocational and life skills program may not admit a minor.

244 Section 3. Section **16-11-2** is amended to read:

245 **16-11-2. Definitions.**

246 As used in this chapter:

247 (1) "Filed" means the division has received and approved, as to form, a document
248 submitted under this chapter, and has marked on the face of the document a stamp or seal
249 indicating the time of day and date of approval, the name of the division, the division director's
250 signature and division seal, or facsimiles of the signature or seal.

251 (2) "Professional corporation" means a corporation organized under this chapter.

252 (3) "Professional service" means the personal service rendered by:

253 (a) a physician, surgeon, or doctor of medicine holding a license under Title 58,
254 Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of
255 medicine;

256 (b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
257 Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

258 (c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
259 Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of
260 osteopathy;

261 (d) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician
262 Assistant Act, and any subsequent laws regulating the practice as a physician assistant;

263 ~~(d)~~ (e) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic
264 Physician Practice Act, and any subsequent laws regulating the practice of chiropractics;

265 ~~(e)~~ (f) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
266 Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

267 ~~(f)~~ (g) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
268 Practice Act, and any subsequent laws regulating the practice of optometry;

269 ~~(g)~~ (h) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice
270 Act, and any subsequent laws regulating the practice of veterinary medicine;

271 ~~(h)~~ (i) an architect holding a license under Title 58, Chapter 3a, Architects Licensing

272 Act, and any subsequent laws regulating the practice of architecture;
273 ~~[(†)]~~ (j) a public accountant holding a license under Title 58, Chapter 26a, Certified
274 Public Accountant Licensing Act, and any subsequent laws regulating the practice of public
275 accounting;
276 ~~[(†)]~~ (k) a naturopath holding a license under Title 58, Chapter 71, Naturopathic
277 Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;
278 ~~[(†)]~~ (l) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice
279 Act, and any subsequent laws regulating the practice of pharmacy;
280 ~~[(†)]~~ (m) an attorney granted the authority to practice law by:
281 (i) the Utah Supreme Court; or
282 (ii) the Supreme Court, other court, agency, instrumentality, or regulating board that
283 licenses or regulates the authority to practice law in any state or territory of the United States
284 other than Utah;
285 ~~[(†)]~~ (n) a professional engineer registered under Title 58, Chapter 22, Professional
286 Engineers and Professional Land Surveyors Licensing Act;
287 ~~[(†)]~~ (o) a principal broker, associate broker, or sales agent holding a license under
288 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and any subsequent laws
289 regulating the selling, exchanging, purchasing, renting, or leasing of real estate;
290 ~~[(†)]~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist
291 Licensing Act, and any subsequent laws regulating the practice of psychology;
292 ~~[(†)]~~ (q) a clinical or certified social worker holding a license under Title 58, Chapter
293 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of
294 social work;
295 ~~[(†)]~~ (r) a physical therapist holding a license under Title 58, Chapter 24b, Physical
296 Therapy Practice Act, and any subsequent laws regulating the practice of physical therapy;
297 ~~[(†)]~~ (s) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,
298 Chapter 44a, Nurse Midwife Practice Act;

299 ~~[(s)]~~ (t) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects
300 Licensing Act, and any subsequent laws regulating landscape architects; or

301 ~~[(t)]~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real
302 Estate Appraiser Licensing and Certification Act, and any subsequent laws regulating the
303 practice of appraising real estate.

304 (4) "Regulating board" means the board that is charged with the licensing and
305 regulation of the practice of the profession which the professional corporation is organized to
306 render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act,
307 apply to this chapter unless the context clearly indicates that a different meaning is intended.

308 Section 4. Section **20A-1-501** is amended to read:

309 **20A-1-501. Candidate vacancies -- Procedure for filling.**

310 (1) The state central committee of a political party, for candidates for United States
311 senator, United States representative, governor, lieutenant governor, attorney general, state
312 treasurer, and state auditor, and for legislative candidates whose legislative districts encompass
313 more than one county, and the county central committee of a political party, for all other party
314 candidates seeking an office elected at a regular general election, may certify the name of
315 another candidate to the appropriate election officer if:

316 (a) for a registered political party that will have a candidate on a ballot in a primary
317 election, after the close of the period for filing a declaration of candidacy and continuing
318 through the day before the day on which the lieutenant governor provides the list described in
319 Subsection **20A-9-403(4)(a)**:

320 (i) only one or two candidates from that party have filed a declaration of candidacy for
321 that office; and

322 (ii) one or both:

323 (A) dies;

324 (B) resigns because of acquiring a physical or mental disability, certified by a physician
325 or physician assistant, that prevents the candidate from continuing the candidacy; or

326 (C) is disqualified by an election officer for improper filing or nominating procedures;
327 (b) for a registered political party that does not have a candidate on the ballot in a
328 primary, but that will have a candidate on the ballot for a general election, after the close of the
329 period for filing a declaration of candidacy and continuing through the day before the day on
330 which the lieutenant governor makes the certification described in Section 20A-5-409, the
331 party's candidate:

- 332 (i) dies;
- 333 (ii) resigns because of acquiring a physical or mental disability as certified by a
334 physician or physician assistant;
- 335 (iii) is disqualified by an election officer for improper filing or nominating procedures;
- 336 or
- 337 (iv) resigns to become a candidate for president or vice president of the United States;

338 or

339 (c) for a registered political party with a candidate certified as winning a primary
340 election, after the deadline described in Subsection (1)(a) and continuing through the day
341 before that day on which the lieutenant governor makes the certification described in Section
342 20A-5-409, the party's candidate:

- 343 (i) dies;
- 344 (ii) resigns because of acquiring a physical or mental disability as certified by a
345 physician or physician assistant;
- 346 (iii) is disqualified by an election officer for improper filing or nominating procedures;
- 347 or
- 348 (iv) resigns to become a candidate for president or vice president of the United States.

349 (2) If no more than two candidates from a political party have filed a declaration of
350 candidacy for an office elected at a regular general election and one resigns to become the party
351 candidate for another position, the state central committee of that political party, for candidates
352 for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for

353 legislative candidates whose legislative districts encompass more than one county, and the
354 county central committee of that political party, for all other party candidates, may certify the
355 name of another candidate to the appropriate election officer.

356 (3) Each replacement candidate shall file a declaration of candidacy as required by
357 Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

358 (4) (a) The name of a candidate who is certified under Subsection (1)(a) after the
359 deadline described in Subsection (1)(a) may not appear on the primary election ballot.

360 (b) The name of a candidate who is certified under Subsection (1)(b) after the deadline
361 described in Subsection (1)(b) may not appear on the general election ballot.

362 (c) The name of a candidate who is certified under Subsection (1)(c) after the deadline
363 described in Subsection (1)(c) may not appear on the general election ballot.

364 (5) A political party may not replace a candidate who is disqualified for failure to
365 timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and
366 Financial Reporting Requirements, or Section 17-16-6.5.

367 Section 5. Section 23-19-36 is amended to read:

368 **23-19-36. Persons with a physical or intellectual disability, terminally ill persons,**
369 **and children in the custody of the state -- License to fish for free.**

370 (1) A resident who is blind, has paraplegia, or has another permanent disability so as to
371 be permanently confined to a wheelchair or the use of crutches, or who has lost either or both
372 lower extremities, may receive a free license to fish upon furnishing satisfactory proof of this
373 fact to the Division of Wildlife Resources.

374 (2) A resident who has an intellectual disability and is not eligible under Section
375 23-19-14 to fish without a license may receive a free license to fish upon furnishing
376 verification from a physician or physician assistant that the person has an intellectual disability.

377 (3) A resident who is terminally ill, and has less than five years to live, may receive a
378 free license to fish:

379 (a) upon furnishing verification from a physician or physician assistant; and

380 (b) if the resident qualifies for assistance under any low income public assistance
381 program administered by a state agency.

382 (4) A child placed in the custody of the state by a court order may receive a free fishing
383 license upon furnishing verification of custody to the Division of Wildlife Resources.

384 Section 6. Section **23-19-38** is amended to read:

385 **23-19-38. Sales of licenses, certificates, or permits final -- Exceptions --**
386 **Reallocation of surrendered permits.**

387 (1) Sales of all licenses, certificates, or permits are final, and no refunds may be made
388 by the division except as provided in Subsections (2) and (3).

389 (2) The division may refund the amount of the license, certificate, or permit if:

390 (a) the division or the Wildlife Board discontinues the activity for which the license,
391 certificate, or permit was obtained;

392 (b) the division determines that it has erroneously collected a fee;

393 (c) (i) the person to whom the license, certificate, or permit is issued becomes ill or
394 suffers an injury that precludes the person from using the license, certificate, or permit;

395 (ii) the person furnishes verification of illness or injury from a physician or physician
396 assistant;

397 (iii) the person does not actually use the license, certificate, or permit; and

398 (iv) the license, certificate, or permit is surrendered before the end of the season for
399 which the permit was issued; or

400 (d) the person to whom the license, certificate, or permit is issued dies prior to the
401 person being able to use the license, certificate, or permit.

402 (3) The Wildlife Board may establish additional exceptions in rule to the refund
403 prohibitions in Subsection (1).

404 (4) The division director may reallocate surrendered permits in accordance with rules
405 adopted by the Wildlife Board.

406 Section 7. Section **26-2-5** is amended to read:

407 **26-2-5. Birth certificates -- Execution and registration requirements.**

408 (1) As used in this section, "birthing facility" means a general acute hospital or birthing
409 center as defined in Section [26-21-2](#).

410 (2) For each live birth occurring in the state, a certificate shall be filed with the local
411 registrar for the district in which the birth occurred within 10 days following the birth. The
412 certificate shall be registered if it is completed and filed in accordance with this chapter.

413 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the
414 birthing facility, or his designee, shall obtain and enter the information required under this
415 chapter on the certificate, securing the required signatures, and filing the certificate.

416 (b) (i) The date, time, place of birth, and required medical information shall be certified
417 by the birthing facility administrator or his designee.

418 (ii) The attending physician or nurse midwife may sign the certificate, but if the
419 attending physician or nurse midwife has not signed the certificate within seven days of the
420 date of birth, the birthing facility administrator or his designee shall enter the attending
421 physician's or nurse midwife's name and transmit the certificate to the local registrar.

422 (iii) The information on the certificate about the parents shall be provided and certified
423 by the mother or father or, in their incapacity or absence, by a person with knowledge of the
424 facts.

425 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be
426 completed and filed by the physician, physician assistant, nurse, midwife, or other person
427 primarily responsible for providing assistance to the mother at the birth. If there is no such
428 person, either the presumed or declarant father shall complete and file the certificate. In his
429 absence, the mother shall complete and file the certificate, and in the event of her death or
430 disability, the owner or operator of the premises where the birth occurred shall do so.

431 (b) The certificate shall be completed as fully as possible and shall include the date,
432 time, and place of birth, the mother's name, and the signature of the person completing the
433 certificate.

434 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
435 administrator or director of that facility, or his designee, shall:

436 (i) provide the birth mother and declarant father, if present, with:

437 (A) a voluntary declaration of paternity form published by the state registrar;

438 (B) oral and written notice to the birth mother and declarant father of the alternatives
439 to, the legal consequences of, and the rights and responsibilities that arise from signing the
440 declaration; and

441 (C) the opportunity to sign the declaration;

442 (ii) witness the signature of a birth mother or declarant father in accordance with
443 Section 78B-15-302 if the signature occurs at the facility;

444 (iii) enter the declarant father's information on the original birth certificate, but only if
445 the mother and declarant father have signed a voluntary declaration of paternity or a court or
446 administrative agency has issued an adjudication of paternity; and

447 (iv) file the completed declaration with the original birth certificate.

448 (b) If there is a presumed father, the voluntary declaration will only be valid if the
449 presumed father also signs the voluntary declaration.

450 (c) The state registrar shall file the information provided on the voluntary declaration
451 of paternity form with the original birth certificate and may provide certified copies of the
452 declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform
453 Parentage Act.

454 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
455 a description of the process for filing a voluntary declaration of paternity, and of the rights and
456 responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15,
457 Utah Uniform Parentage Act.

458 (b) Information regarding the form and services related to voluntary paternity
459 establishment shall be made available to birthing facilities and to any other entity or individual
460 upon request.

461 (7) The name of a declarant father may only be included on the birth certificate of a
462 child of unmarried parents if:

- 463 (a) the mother and declarant father have signed a voluntary declaration of paternity; or
- 464 (b) a court or administrative agency has issued an adjudication of paternity.

465 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or
466 administrative agencies, and voluntary rescissions of paternity shall be filed with and
467 maintained by the state registrar for the purpose of comparing information with the state case
468 registry maintained by the Office of Recovery Services pursuant to Section [62A-11-104](#).

469 Section 8. Section **26-4-2** is amended to read:

470 **26-4-2. Definitions.**

471 As used in this chapter:

472 (1) "Dead body" is as defined in Section [26-2-2](#).

473 (2) "Death by violence" means death that resulted by the decedent's exposure to
474 physical, mechanical, or chemical forces, and includes death which appears to have been due to
475 homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping,
476 robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence,
477 assault with a dangerous weapon, assault with intent to commit any offense punishable by
478 imprisonment for more than one year, arson punishable by imprisonment for more than one
479 year, or any attempt to commit any of the foregoing offenses.

480 (3) "Immediate relative" means an individual's spouse, child, parent, sibling,
481 grandparent, or grandchild.

482 (4) "Medical examiner" means the state medical examiner appointed pursuant to
483 Section [26-4-4](#) or a deputy appointed by the medical examiner.

484 (5) "Medical examiner record" means:

- 485 (a) all information that the medical examiner obtains regarding a decedent; and
- 486 (b) reports that the medical examiner makes regarding a decedent.

487 (6) "Regional pathologist" means a trained pathologist licensed to practice medicine

488 and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

489 (7) "Sudden death while in apparent good health" means apparently instantaneous
490 death without obvious natural cause, death during or following an unexplained syncope or
491 coma, or death during an acute or unexplained rapidly fatal illness.

492 (8) "Sudden infant death syndrome" means the death of a child who was thought to be
493 in good health or whose terminal illness appeared to be so mild that the possibility of a fatal
494 outcome was not anticipated.

495 (9) "Suicide" means death caused by an intentional and voluntary act of a person who
496 understands the physical nature of the act and intends by such act to accomplish
497 self-destruction.

498 (10) "Unattended death" means the death of a person who has not been seen by a
499 physician or physician assistant within the scope of the physician's or physician assistant's
500 professional capacity within 30 days immediately prior to the date of death. This definition
501 does not require an investigation, autopsy, or inquest in any case where death occurred without
502 medical attendance solely because the deceased was under treatment by prayer or spiritual
503 means alone in accordance with the tenets and practices of a well-recognized church or
504 religious denomination.

505 (11) (a) "Unavailable for postmortem investigation" means that a dead body is:

506 (i) transported out of state;

507 (ii) buried at sea;

508 (iii) cremated;

509 (iv) processed by alkaline hydrolysis; or

510 (v) otherwise made unavailable to the medical examiner for postmortem investigation
511 or autopsy.

512 (b) "Unavailable for postmortem investigation" does not include embalming or burial
513 of a dead body pursuant to the requirements of law.

514 (12) "Within the scope of the decedent's employment" means all acts reasonably

515 necessary or incident to the performance of work, including matters of personal convenience
516 and comfort not in conflict with specific instructions.

517 Section 9. Section **26-4-14** is amended to read:

518 **26-4-14. Certification of death by attending physician or physician assistant --**
519 **Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.**

520 The physician or physician assistant in attendance at the last illness of a deceased
521 person who, in the judgment of the physician or physician assistant, does not appear to have
522 died in a manner described in Section **26-4-7**, shall certify the cause of death to his best
523 knowledge and belief. When there is no physician or physician assistant in attendance during
524 the last illness or when an attending physician or physician assistant is unable to determine
525 with reasonable certainty the cause of death, the physician, physician assistant, or person with
526 custody of the body shall so notify the medical examiner. If the medical examiner has reason to
527 believe there may be criminal responsibility for the death, he shall notify the district attorney or
528 county attorney having criminal jurisdiction or the head of the law enforcement agency having
529 jurisdiction to make further investigation of the death.

530 Section 10. Section **26-4-17** is amended to read:

531 **26-4-17. Records of medical examiner -- Confidentiality.**

532 (1) The medical examiner shall maintain complete, original records for the medical
533 examiner record, which shall:

- 534 (a) be properly indexed, giving the name, if known, or otherwise identifying every
535 individual whose death is investigated;
- 536 (b) indicate the place where the body was found;
- 537 (c) indicate the date of death;
- 538 (d) indicate the cause and manner of death;
- 539 (e) indicate the occupation of the decedent, if available;
- 540 (f) include all other relevant information concerning the death; and
- 541 (g) include a full report and detailed findings of the autopsy or report of the

542 investigation.

543 (2) Upon written request from an individual described in Subsections (2)(a) through
544 (d), the medical examiner shall provide a copy of the medical examiner's final report of
545 examination for the decedent, including the autopsy report, toxicology report, lab reports, and
546 investigative reports to:

547 (a) a decedent's immediate relative;

548 (b) a decedent's legal representative;

549 (c) a physician or physician assistant who attended the decedent during the year before
550 the decedent's death; or

551 (d) as necessary for the performance of the individual's professional duties, a county
552 attorney, a district attorney, a criminal defense attorney, or other law enforcement official with
553 jurisdiction.

554 (3) Reports provided under Subsection (2) may not include records that the medical
555 examiner obtains from a third party in the course of investigating the decedent's death.

556 (4) The medical examiner may provide a medical examiner record to a researcher who:

557 (a) has an advanced degree;

558 (b) (i) is affiliated with an accredited college or university, a hospital, or another
559 system of care, including an emergency medical response or a local health agency; or

560 (ii) is part of a research firm contracted with an accredited college or university, a
561 hospital, or another system of care;

562 (c) requests a medical examiner record for a research project or a quality improvement
563 initiative that will have a public health benefit, as determined by the Department of Health; and

564 (d) provides to the medical examiner an approval from:

565 (i) the researcher's sponsoring organization; and

566 (ii) the Utah Department of Health Institutional Review Board.

567 (5) Records provided under Subsection (4) may not include a third party record, unless:

568 (a) a court has ordered disclosure of the third party record; and

- 569 (b) disclosure is conducted in compliance with state and federal law.
- 570 (6) A person who obtains a medical examiner record under Subsection (4) shall:
- 571 (a) maintain the confidentiality of the medical examiner record by removing personally
572 identifying information about a decedent or the decedent's family and any other information
573 that may be used to identify a decedent before using the medical examiner record in research;
- 574 (b) conduct any research within and under the supervision of the Office of the Medical
575 Examiner, if the medical examiner record contains a third party record with personally
576 identifiable information;
- 577 (c) limit the use of a medical examiner record to the purpose for which the person
578 requested the medical examiner record;
- 579 (d) destroy a medical examiner record and the data abstracted from the medical
580 examiner record at the conclusion of the research for which the person requested the medical
581 examiner record;
- 582 (e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs
583 incurred by the medical examiner in providing a medical examiner record;
- 584 (f) allow the medical examiner to review, before public release, a publication in which
585 data from a medical examiner record is referenced or analyzed; and
- 586 (g) provide the medical examiner access to the researcher's database containing data
587 from a medical examiner record, until the day on which the researcher permanently destroys
588 the medical examiner record and all data obtained from the medical examiner record.
- 589 (7) Except as provided in this chapter or ordered by a court, the medical examiner may
590 not disclose any part of a medical examiner record.
- 591 (8) A person who obtains a medical examiner record under Subsection (4) is guilty of a
592 class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)
593 through (d).

594 Section 11. Section 26-6-3 is amended to read:

595 **26-6-3. Authority to investigate and control epidemic infections and**

596 **communicable disease.**

597 (1) The department has authority to investigate and control the causes of epidemic
598 infections and communicable disease, and shall provide for the detection, reporting,
599 prevention, and control of communicable diseases and epidemic infections or any other health
600 hazard which may affect the public health.

601 (2) (a) As part of the requirements of Subsection (1), the department shall distribute to
602 the public and to health care professionals:

603 (i) medically accurate information about sexually transmitted diseases that may cause
604 infertility and sterility if left untreated, including descriptions of:

605 (A) the probable side effects resulting from an untreated sexually transmitted disease,
606 including infertility and sterility;

607 (B) medically accepted treatment for sexually transmitted diseases;

608 (C) the medical risks commonly associated with the medical treatment of sexually
609 transmitted diseases; and

610 (D) ~~suggest~~ suggested screening by a private physician or physician assistant; and

611 (ii) information about:

612 (A) public services and agencies available to assist individuals with obtaining
613 treatment for the sexually transmitted disease;

614 (B) medical assistance benefits that may be available to the individual with the
615 sexually transmitted disease; and

616 (C) abstinence before marriage and fidelity after marriage being the surest prevention
617 of sexually transmitted disease.

618 (b) The information required by Subsection (2)(a):

619 (i) shall be distributed by the department and by local health departments free of
620 charge;

621 (ii) shall be relevant to the geographic location in which the information is distributed
622 by:

623 (A) listing addresses and telephone numbers for public clinics and agencies providing
624 services in the geographic area in which the information is distributed; and

625 (B) providing the information in English as well as other languages that may be
626 appropriate for the geographic area.

627 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written
628 material that includes the information required by this Subsection (2).

629 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department
630 may distribute the information required by this Subsection (2) by any other methods the
631 department determines is appropriate to educate the public, excluding public schools, including
632 websites, toll free telephone numbers, and the media.

633 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the
634 written pamphlet developed by the department, the written material shall include either a
635 website, or a 24-hour toll free telephone number that the public may use to obtain that
636 information.

637 Section 12. Section **26-6-17** is amended to read:

638 **26-6-17. Venereal disease -- Examinations by authorities -- Treatment of infected**
639 **persons.**

640 State, county, and municipal health officers within their respective jurisdictions may
641 make examinations of persons reasonably suspected of being infected with venereal disease.
642 Persons infected with venereal disease shall be required to report for treatment to either a
643 reputable physician or physician assistant and continue treatment until cured or to submit to
644 treatment provided at public expense until cured.

645 Section 13. Section **26-6-18** is amended to read:

646 **26-6-18. Venereal disease -- Consent of minor to treatment.**

647 (1) A consent to medical care or services by a hospital or public clinic or the
648 performance of medical care or services by a licensed physician or physician assistant executed
649 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the

650 same legal effect upon the minor and the same legal obligations with regard to the giving of
651 consent as a consent given by a person of full legal age and capacity, the infancy of the minor
652 and any contrary provision of law notwithstanding.

653 (2) The consent of the minor is not subject to later disaffirmance by reason of minority
654 at the time it was given and the consent of no other person or persons shall be necessary to
655 authorize hospital or clinical care or services to be provided to the minor by a licensed
656 physician or physician assistant.

657 (3) The provisions of this section shall apply also to minors who profess to be in need
658 of hospital or clinical care and services or medical care or services provided by a physician or
659 physician assistant for suspected sexually transmitted disease, regardless of whether such
660 professed suspicions are subsequently substantiated on a medical basis.

661 Section 14. Section **26-6-19** is amended to read:

662 **26-6-19. Venereal disease -- Examination and treatment of persons in prison or**
663 **jail.**

664 (1) All persons confined in any state, county, or city prison or jail shall be examined,
665 and if infected, treated for venereal diseases by the health authorities. The prison authorities of
666 every state, county, or city prison or jail shall make available to the health authorities such
667 portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons
668 suffering with venereal disease at the time of the expiration of their terms of imprisonment,
669 shall be isolated and treated at public expense until cured.

670 (2) The department may require persons suffering with venereal disease at the time of
671 the expiration of their terms of imprisonment to report for treatment to a licensed physician or
672 physician assistant or submit to treatment provided at public expense in lieu of isolation.
673 Nothing in this section shall interfere with the service of any sentence imposed by a court as a
674 punishment for the commission of crime.

675 Section 15. Section **26-6-20** is amended to read:

676 **26-6-20. Serological testing of pregnant or recently delivered women.**

677 (1) Every licensed physician and surgeon attending a pregnant or recently delivered
678 woman for conditions relating to her pregnancy shall take or cause to be taken a sample of
679 blood of the woman at the time of first examination or within 10 days thereafter. The blood
680 sample shall be submitted to an approved laboratory for a standard serological test for syphilis.
681 The provisions of this section do not apply to any female who objects thereto on the grounds
682 that she is a bona fide member of a specified, well recognized religious organization whose
683 teachings are contrary to the tests.

684 (2) Every other person attending a pregnant or recently delivered woman, who is not
685 permitted by law to take blood samples, shall within 10 days from the time of first attendance
686 cause a sample of blood to be taken by a licensed physician or physician assistant. The blood
687 sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

688 (3) An approved laboratory is a laboratory approved by the department according to its
689 rules governing the approval of laboratories for the purpose of this title. In submitting the
690 sample to the laboratory the physician or physician assistant shall designate whether it is a
691 prenatal test or a test following recent delivery.

692 (4) For the purpose of this chapter, a "standard serological test" means a test for
693 syphilis approved by the department and made at an approved laboratory.

694 (5) The laboratory shall transmit a detailed report of the standard serological test,
695 showing the result thereof to the physician or physician assistant.

696 Section 16. Section **26-6b-5** is amended to read:

697 **26-6b-5. Petition for judicial review of order of restriction -- Court-ordered**
698 **examination period.**

699 (1) (a) A department may petition for a judicial review of the department's order of
700 restriction for an individual or group of individuals who are subject to restriction by filing a
701 written petition with the district court of the county in which the individual or group of
702 individuals reside or are located.

703 (b) (i) The county attorney for the county where the individual or group of individuals

704 reside or are located shall represent the local health department in any proceedings under this
705 chapter.

706 (ii) The Office of the Attorney General shall represent the department when the
707 petitioner is the Department of Health in any proceedings under this chapter.

708 (2) The petition under Subsection (1) shall be accompanied by:

709 (a) written affidavit of the department stating:

710 (i) a belief the individual or group of individuals are subject to restriction;

711 (ii) a belief that the individual or group of individuals who are subject to restriction are
712 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
713 restrained;

714 (iii) this failure would pose a threat to the public health; and

715 (iv) the personal knowledge of the individual's or group of individuals' condition or the
716 circumstances that lead to that belief; and

717 (b) a written statement by a licensed physician or physician assistant indicating the
718 physician or physician assistant finds the individual or group of individuals are subject to
719 restriction.

720 (3) The court shall issue an order of restriction requiring the individual or group of
721 individuals to submit to involuntary restriction to protect the public health if the district court
722 finds:

723 (a) there is a reasonable basis to believe that the individual's or group of individuals'
724 condition requires involuntary examination, quarantine, treatment, or isolation pending
725 examination and hearing; or

726 (b) the individual or group of individuals have refused to submit to examination by a
727 health professional as directed by the department or to voluntarily submit to examination,
728 treatment, quarantine, or isolation.

729 (4) If the individual or group of individuals who are subject to restriction are not in
730 custody, the court may make its determination and issue its order of restriction in an ex parte

731 hearing.

732 (5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department
733 which is the petitioner, shall report to the court, in writing, the opinion of qualified health care
734 providers:

735 (a) regarding whether the individual or group of individuals are infected by or
736 contaminated with:

737 (i) a communicable or possible communicable disease that poses a threat to public
738 health;

739 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

740 (iii) a chemical or biological agent that poses a threat to public health; or

741 (iv) a condition that poses a threat to public health;

742 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
743 been completed;

744 (c) whether the individual or group of individuals have agreed to voluntarily comply
745 with necessary examination, treatment, quarantine, or isolation; and

746 (d) whether the petitioner believes the individual or group of individuals will comply
747 without court proceedings.

748 Section 17. Section 26-8a-251 is amended to read:

749 **26-8a-251. Trauma system advisory committee.**

750 (1) There is created within the department the trauma system advisory committee.

751 (2) (a) The committee shall be comprised of individuals knowledgeable in adult or
752 pediatric trauma care, including physicians, physician assistants, nurses, hospital
753 administrators, emergency medical services personnel, government officials, consumers, and
754 persons affiliated with professional health care associations.

755 (b) Representation on the committee shall be broad and balanced among the health care
756 delivery systems in the state with no more than three representatives coming from any single
757 delivery system.

- 758 (3) The committee shall:
- 759 (a) advise the department regarding trauma system needs throughout the state;
- 760 (b) assist the department in evaluating the quality and outcomes of the overall trauma
- 761 system;
- 762 (c) review and comment on proposals and rules governing the statewide trauma
- 763 system; and
- 764 (d) make recommendations for the development of statewide triage, treatment,
- 765 transportation, and transfer guidelines.

- 766 (4) The department shall:
- 767 (a) determine, by rule, the term and causes for removal of committee members;
- 768 (b) establish committee procedures and administration policies consistent with this
- 769 chapter and department rule; and
- 770 (c) provide administrative support to the committee.

771 Section 18. Section **26-8a-601** is amended to read:

772 **26-8a-601. Persons and activities exempt from civil liability.**

773 (1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's

774 assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written

775 instructions to any of the following is not liable for any civil damages as a result of issuing the

776 instructions:

- 777 (i) an individual licensed under Section [26-8a-302](#);
- 778 (ii) a person who uses a fully automated external defibrillator, as defined in Section
- 779 [26-8b-102](#); or
- 780 (iii) a person who administers CPR, as defined in Section [26-8b-102](#).

781 (b) The liability protection described in Subsection (1)(a) does not apply if the

782 instructions given were the result of gross negligence or willful misconduct.

783 (2) An individual licensed under Section [26-8a-302](#), during either training or after

784 licensure, a licensed physician, a ~~[physician's]~~ physician assistant, or a registered nurse who,

785 gratuitously and in good faith, provides emergency medical instructions or renders emergency
786 medical care authorized by this chapter is not liable for any civil damages as a result of any act
787 or omission in providing the emergency medical instructions or medical care, unless the act or
788 omission is the result of gross negligence or willful misconduct.

789 (3) An individual licensed under Section 26-8a-302 is not subject to civil liability for
790 failure to obtain consent in rendering emergency medical services authorized by this chapter to
791 any individual who is unable to give his consent, regardless of the individual's age, where there
792 is no other person present legally authorized to consent to emergency medical care, provided
793 that the licensed individual acted in good faith.

794 (4) A principal, agent, contractor, employee, or representative of an agency,
795 organization, institution, corporation, or entity of state or local government that sponsors,
796 authorizes, supports, finances, or supervises any functions of an individual licensed under
797 Section 26-8a-302 is not liable for any civil damages for any act or omission in connection with
798 such sponsorship, authorization, support, finance, or supervision of the licensed individual
799 where the act or omission occurs in connection with the licensed individual's training or occurs
800 outside a hospital where the life of a patient is in immediate danger, unless the act or omission
801 is inconsistent with the training of the licensed individual, and unless the act or omission is the
802 result of gross negligence or willful misconduct.

803 (5) A physician or physician assistant who gratuitously and in good faith arranges for,
804 requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit
805 in another hospital is not liable for any civil damages as a result of such transfer where:

806 (a) sound medical judgment indicates that the patient's medical condition is beyond the
807 care capability of the transferring hospital or the medical community in which that hospital is
808 located; and

809 (b) the physician or physician assistant has secured an agreement from the receiving
810 facility to accept and render necessary treatment to the patient.

811 (6) A person who is a registered member of the National Ski Patrol System (NSPS) or

812 a member of a ski patrol who has completed a course in winter emergency care offered by the
813 NSPS combined with CPR for medical technicians offered by the American Red Cross or
814 American Heart Association, or an equivalent course of instruction, and who in good faith
815 renders emergency care in the course of ski patrol duties is not liable for civil damages as a
816 result of any act or omission in rendering the emergency care, unless the act or omission is the
817 result of gross negligence or willful misconduct.

818 (7) An emergency medical service provider who, in good faith, transports an individual
819 against his will but at the direction of a law enforcement officer pursuant to Section
820 [62A-15-629](#) is not liable for civil damages for transporting the individual.

821 Section 19. Section **26-8d-104** is amended to read:

822 **26-8d-104. Stroke registry advisory committee.**

823 (1) There is created within the department a stroke registry advisory committee.

824 (2) The stroke registry advisory committee created in Subsection (1) shall:

825 (a) be composed of individuals knowledgeable in adult and pediatric stroke care,
826 including physicians, physician assistants, nurses, hospital administrators, emergency medical
827 services personnel, government officials, consumers, and persons affiliated with professional
828 health care associations;

829 (b) advise the department regarding the development and implementation of the stroke
830 registry;

831 (c) assist the department in evaluating the quality and outcomes of the stroke registry;

832 and

833 (d) review and comment on proposals and rules governing the statewide stroke registry.

834 Section 20. Section **26-8d-105** is amended to read:

835 **26-8d-105. Cardiac registry advisory committee.**

836 (1) There is created within the department a cardiac registry advisory committee.

837 (2) The cardiac registry advisory committee created in Subsection (1) shall:

838 (a) be composed of individuals knowledgeable in adult and pediatric cardiac care,

839 including physicians, physician assistants, nurses, hospital administrators, emergency medical
840 services personnel, government officials, consumers, and persons affiliated with professional
841 health care associations;

842 (b) advise the department regarding the development and implementation of the
843 cardiac registry;

844 (c) assist the department in evaluating the quality and outcomes of the cardiac registry;
845 and

846 (d) review and comment on proposals and rules governing the statewide cardiac
847 registry.

848 Section 21. Section **26-10-11** is amended to read:

849 **26-10-11. Children's Hearing Aid Program.**

850 (1) The department shall offer a program to provide hearing aids to children who
851 qualify under this section.

852 (2) The department shall provide hearing aids to a child who:

853 (a) is younger than six years old;

854 (b) is a resident of Utah;

855 (c) has been diagnosed with hearing loss by:

856 (i) an audiologist with pediatric expertise; and

857 (ii) a physician or physician assistant;

858 (d) provides documentation from an audiologist with pediatric expertise certifying that
859 the child needs hearing aids;

860 (e) has obtained medical clearance by a medical provider for hearing aid fitting;

861 (f) does not qualify to receive a contribution that equals the full cost of a hearing aid
862 from the state's Medicaid program or the Utah Children's Health Insurance Program; and

863 (g) meets the financial need qualification criteria established by the department by rule,
864 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
865 participation in the program.

- 866 (3) (a) There is established the Children's Hearing Aid Advisory Committee.
- 867 (b) The committee shall be composed of five members appointed by the executive
- 868 director, and shall include:
- 869 (i) one audiologist with pediatric expertise;
- 870 (ii) one speech language pathologist;
- 871 (iii) one teacher, certified under Title 53E, Public Education System -- State
- 872 Administration, as a teacher of the deaf or a listening and spoken language therapist;
- 873 (iv) one ear, nose, and throat specialist; and
- 874 (v) one parent whose child:
- 875 (A) is six years old or older; and
- 876 (B) has hearing loss.
- 877 (c) A majority of the members constitutes a quorum.
- 878 (d) A vote of the majority of the members, with a quorum present, constitutes an action
- 879 of the committee.
- 880 (e) The committee shall elect a chair from its members.
- 881 (f) The committee shall:
- 882 (i) meet at least quarterly;
- 883 (ii) recommend to the department medical criteria and procedures for selecting children
- 884 who may qualify for assistance from the account; and
- 885 (iii) review rules developed by the department.
- 886 (g) A member may not receive compensation or benefits for the member's service, but
- 887 may receive per diem and travel expenses in accordance with Sections [63A-3-106](#) and
- 888 [63A-3-107](#) and rules made by the Division of Finance, pursuant to Sections [63A-3-106](#) and
- 889 [63A-3-107](#).
- 890 (h) The department shall provide staff to the committee.
- 891 (4) (a) There is created within the General Fund a restricted account known as the
- 892 "Children's Hearing Aid Program Restricted Account."

893 (b) The Children's Hearing Aid Program Restricted Account shall consist of:
894 (i) amounts appropriated to the account by the Legislature; and
895 (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or
896 services, from any source, or any other conveyance that may be made to the account from
897 private sources.

898 (c) Upon appropriation, all actual and necessary operating expenses for the committee
899 described in Subsection (3) shall be paid by the account.

900 (d) Upon appropriation, no more than 9% of the account money may be used for the
901 department's expenses.

902 (e) If this account is repealed in accordance with Section [63I-1-226](#), any remaining
903 assets in the account shall be deposited into the General Fund.

904 (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
905 Administrative Rulemaking Act, to establish procedures for:

906 (a) identifying the children who are financially eligible to receive services under the
907 program; and

908 (b) reviewing and paying for services provided to a child under the program.

909 (6) The department shall, before December 1 of each year, submit a report to the
910 Health and Human Services Interim Committee that describes the operation and
911 accomplishments of the program.

912 Section 22. Section **26-18-107** is amended to read:

913 **26-18-107. Retrospective and prospective DUR.**

914 (1) The board, in cooperation with the division, shall include in its state plan the
915 creation and implementation of a retrospective and prospective DUR program for Medicaid
916 outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely
917 to result in adverse medical outcomes.

918 (2) The retrospective and prospective DUR program shall be operated under guidelines
919 established by the board under Subsections (3) and (4).

920 (3) The retrospective DUR program shall be based on guidelines established by the
921 board, using the mechanized drug claims processing and information retrieval system to
922 analyze claims data in order to:

923 (a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically
924 unnecessary care; and

925 (b) assess data on drug use against explicit predetermined standards that are based on
926 the compendia and other sources for the purpose of monitoring:

927 (i) therapeutic appropriateness;

928 (ii) overutilization or underutilization;

929 (iii) therapeutic duplication;

930 (iv) drug-disease contraindications;

931 (v) drug-drug interactions;

932 (vi) incorrect drug dosage or duration of drug treatment; and

933 (vii) clinical abuse and misuse.

934 (4) The prospective DUR program shall be based on guidelines established by the
935 board and shall provide that, before a prescription is filled or delivered, a review will be
936 conducted by the pharmacist at the point of sale to screen for potential drug therapy problems
937 resulting from:

938 (a) therapeutic duplication;

939 (b) drug-drug interactions;

940 (c) incorrect dosage or duration of treatment;

941 (d) drug-allergy interactions; and

942 (e) clinical abuse or misuse.

943 (5) In conducting the prospective DUR, a pharmacist may not alter the prescribed
944 outpatient drug therapy without the consent of the prescribing physician or physician assistant.

945 This section does not effect the ability of a pharmacist to substitute a generic equivalent.

946 Section 23. Section **26-21-7** is amended to read:

947 **26-21-7. Exempt facilities.**

948 This chapter does not apply to:

949 (1) a dispensary or first aid facility maintained by any commercial or industrial plant,
950 educational institution, or convent;

951 (2) a health care facility owned or operated by an agency of the United States;

952 (3) the office of a physician, physician assistant, or dentist whether it is an individual
953 or group practice, except that it does apply to an abortion clinic;

954 (4) a health care facility established or operated by any recognized church or
955 denomination for the practice of religious tenets administered by mental or spiritual means
956 without the use of drugs, whether gratuitously or for compensation, if it complies with statutes
957 and rules on environmental protection and life safety;

958 (5) any health care facility owned or operated by the Department of Corrections,
959 created in Section [64-13-2](#); and

960 (6) a residential facility providing 24-hour care:

961 (a) that does not employ direct care staff;

962 (b) in which the residents of the facility contract with a licensed hospice agency to
963 receive end-of-life medical care; and

964 (c) that meets other requirements for an exemption as designated by administrative
965 rule.

966 Section 24. Section **26-28-114** is amended to read:

967 **26-28-114. Rights and duties of procurement organization and others.**

968 (1) When a hospital refers an individual at or near death to a procurement organization,
969 the organization shall make a reasonable search of the records of the Department of Public
970 Safety and any donor registry that it knows exists for the geographical area in which the
971 individual resides to ascertain whether the individual has made an anatomical gift.

972 (2) A procurement organization shall be allowed reasonable access to information in
973 the records of the Department of Public Safety to ascertain whether an individual at or near

974 death is a donor.

975 (3) When a hospital refers an individual at or near death to a procurement organization,
976 the organization may conduct any reasonable examination necessary to ensure the medical
977 suitability of a part that is or could be the subject of an anatomical gift for transplantation,
978 therapy, research, or education from a donor or a prospective donor. During the examination
979 period, measures necessary to ensure the medical suitability of the part may not be withdrawn
980 unless the hospital or procurement organization knows that the individual expressed a contrary
981 intent.

982 (4) Unless prohibited by law other than this chapter, at any time after a donor's death,
983 the person to which a part passes under Section 26-28-111 may conduct any reasonable
984 examination necessary to ensure the medical suitability of the body or part for its intended
985 purpose.

986 (5) Unless prohibited by law other than this chapter, an examination under Subsection
987 (3) or (4) may include an examination of all medical and dental records of the donor or
988 prospective donor.

989 (6) Upon the death of a minor who was a donor or had signed a refusal, unless a
990 procurement organization knows the minor is emancipated, the procurement organization shall
991 conduct a reasonable search for the parents of the minor and provide the parents with an
992 opportunity to revoke or amend the anatomical gift or revoke the refusal.

993 (7) Upon referral by a hospital under Subsection (1), a procurement organization shall
994 make a reasonable search for any person listed in Section 26-28-109 having priority to make an
995 anatomical gift on behalf of a prospective donor. If a procurement organization receives
996 information that an anatomical gift to any other person was made, amended, or revoked, it shall
997 promptly advise the other person of all relevant information.

998 (8) Subject to Subsection 26-28-111(9) and Section 26-28-123, the rights of the person
999 to which a part passes under Section 26-28-111 are superior to the rights of all others with
1000 respect to the part. The person may accept or reject an anatomical gift in whole or in part.

1001 Subject to the terms of the document of gift and this chapter, a person that accepts an
1002 anatomical gift of an entire body may allow embalming, burial or cremation, and use of
1003 remains in a funeral service. If the gift is of a part, the person to which the part passes under
1004 Section 26-28-111, upon the death of the donor and before embalming, burial, or cremation,
1005 shall cause the part to be removed without unnecessary mutilation.

1006 (9) Neither the physician or physician assistant who attends the decedent at death nor
1007 the physician or physician assistant who determines the time of the decedent's death may
1008 participate in the procedures for removing or transplanting a part from the decedent.

1009 (10) A physician, physician assistant, or technician may remove a donated part from
1010 the body of a donor that the physician, physician assistant, or technician is qualified to remove.

1011 Section 25. Section 26-33a-102 is amended to read:

1012 **26-33a-102. Definitions.**

1013 As used in this chapter:

1014 (1) "Committee" means the Health Data Committee created by Section 26-1-7.

1015 (2) "Control number" means a number assigned by the committee to an individual's
1016 health data as an identifier so that the health data can be disclosed or used in research and
1017 statistical analysis without readily identifying the individual.

1018 (3) "Data supplier" means a health care facility, health care provider, self-funded
1019 employer, third-party payor, health maintenance organization, or government department which
1020 could reasonably be expected to provide health data under this chapter.

1021 (4) "Disclosure" or "disclose" means the communication of health care data to any
1022 individual or organization outside the committee, its staff, and contracting agencies.

1023 (5) "Executive director" means the director of the department.

1024 (6) (a) "Health care facility" means a facility that is licensed by the department under
1025 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

1026 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1027 committee, with the concurrence of the department, may by rule add, delete, or modify the list

1028 of facilities that come within this definition for purposes of this chapter.

1029 (7) "Health care provider" means any person, partnership, association, corporation, or
1030 other facility or institution that renders or causes to be rendered health care or professional
1031 services as a physician, physician assistant, registered nurse, licensed practical nurse,
1032 nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist,
1033 pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician,
1034 naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
1035 speech pathologist, certified social worker, social service worker, social service aide, marriage
1036 and family counselor, or practitioner of obstetrics, and others rendering similar care and
1037 services relating to or arising out of the health needs of persons or groups of persons, and
1038 officers, employees, or agents of any of the above acting in the course and scope of their
1039 employment.

1040 (8) "Health data" means information relating to the health status of individuals, health
1041 services delivered, the availability of health manpower and facilities, and the use and costs of
1042 resources and services to the consumer, except vital records as defined in Section 26-2-2 shall
1043 be excluded.

1044 (9) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

1045 (10) "Identifiable health data" means any item, collection, or grouping of health data
1046 that makes the individual supplying or described in the health data identifiable.

1047 (11) "Individual" means a natural person.

1048 (12) "Organization" means any corporation, association, partnership, agency,
1049 department, unit, or other legally constituted institution or entity, or part thereof.

1050 (13) "Research and statistical analysis" means activities using health data analysis
1051 including:

1052 (a) describing the group characteristics of individuals or organizations;

1053 (b) analyzing the noncompliance among the various characteristics of individuals or
1054 organizations;

1055 (c) conducting statistical procedures or studies to improve the quality of health data;

1056 (d) designing sample surveys and selecting samples of individuals or organizations;

1057 and

1058 (e) preparing and publishing reports describing these matters.

1059 (14) "Self-funded employer" means an employer who provides for the payment of
1060 health care services for employees directly from the employer's funds, thereby assuming the
1061 financial risks rather than passing them on to an outside insurer through premium payments.

1062 (15) "Plan" means the plan developed and adopted by the Health Data Committee
1063 under Section 26-33a-104.

1064 (16) "Third party payor" means:

1065 (a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at
1066 least 2,500 enrollees in the state;

1067 (b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter
1068 7, Nonprofit Health Service Insurance Corporations;

1069 (c) a program funded or administered by Utah for the provision of health care services,
1070 including the Medicaid and medical assistance programs described in Chapter 18, Medical
1071 Assistance Act; and

1072 (d) a corporation, organization, association, entity, or person:

1073 (i) which administers or offers a health benefit plan to at least 2,500 enrollees in the
1074 state; and

1075 (ii) which is required by administrative rule adopted by the department in accordance
1076 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the
1077 committee.

1078 Section 26. Section 31A-22-624 is amended to read:

1079 **31A-22-624. Primary care physician or physician assistant.**

1080 An accident and health insurance policy that requires an insured to select a primary care
1081 physician to receive optimum coverage:

- 1082 (1) shall permit an insured to select a participating provider who:
- 1083 (a) is an:
- 1084 (i) obstetrician;
- 1085 (ii) gynecologist; [~~or~~]
- 1086 (iii) pediatrician; [~~and~~] or
- 1087 (iv) physician assistant who works with a physician:
- 1088 (A) providing primary care; or
- 1089 (B) described in Subsections (1)(a)(i), (ii), or (iii); and
- 1090 (b) is qualified and willing to provide primary care services, as defined by the health
- 1091 care plan, as the insured's provider from whom primary care services are received;
- 1092 (2) shall clearly state in literature explaining the policy the option available to insureds
- 1093 under Subsection (1); and
- 1094 (3) may not impose a higher premium, higher copayment requirement, or any other
- 1095 additional expense on an insured because the insured selected a primary care physician in
- 1096 accordance with Subsection (1).

Section 27. Section **41-1a-420** is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

- 1100 (1) As used in this section:
- 1101 (a) "Advanced practice registered nurse" means a person licensed to practice as an
- 1102 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.
- 1103 (b) "Nurse practitioner" means an advanced practice registered nurse specializing as a
- 1104 nurse practitioner.
- 1105 (c) "Physician" means a person licensed to practice as a physician or osteopath in this
- 1106 state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
- 1107 Osteopathic Medical Practice Act.
- 1108 (d) "Physician assistant" means an individual licensed to practice as a physician

1109 assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

1110 [~~(e)~~] (e) "Temporary wheelchair user placard" means a removable windshield placard
1111 that is issued to a qualifying person, as provided in this section, who has a walking disability
1112 that is not permanent.

1113 [~~(f)~~] (f) "Walking disability" means a physical disability that requires the use of a
1114 walking-assistive device or wheelchair or similar low-powered motorized or mechanically
1115 propelled vehicle that is designed to specifically assist a person who has a limited or impaired
1116 ability to walk.

1117 [~~(g)~~] (g) "Wheelchair user placard" means a removable windshield placard that is
1118 issued to a qualifying person, as provided in this section, who has a walking disability.

1119 (2) (a) The division shall issue a disability special group license plate, a temporary
1120 removable windshield placard, or a removable windshield placard to an applicant who is either:

1121 (i) a qualifying person with a disability; or

1122 (ii) the registered owner of a vehicle that an organization uses primarily for the
1123 transportation of persons with disabilities that limit or impair the ability to walk.

1124 (b) The division shall issue a temporary wheelchair user placard or a wheelchair user
1125 placard to an applicant who is either:

1126 (i) a qualifying person with a walking disability; or

1127 (ii) the registered owner of a vehicle that an organization uses primarily for the
1128 transportation of persons with walking disabilities.

1129 (c) The division shall require that an applicant under Subsection (2)(b) certifies that the
1130 person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's
1131 walking-assistive device or wheelchair and requires a van accessible parking space.

1132 (3) (a) The person with a disability shall ensure that the initial application contains the
1133 certification of a physician, physician assistant, or nurse practitioner that:

1134 (i) the applicant meets the definition of a person with a disability that limits or impairs
1135 the ability to walk as defined in the federal Uniform System for Parking for Persons with

1136 Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

1137 (ii) if the person is applying for a temporary wheelchair user placard or a wheelchair
1138 user placard, the applicant has a walking disability; and

1139 (iii) specifies the period of time that the physician, physician assistant, or nurse
1140 practitioner determines the applicant will have the disability, not to exceed six months in the
1141 case of a temporary disability or a temporary walking disability.

1142 (b) The division shall issue a disability special group license plate, a removable
1143 windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent
1144 disability.

1145 (c) The issuance of a person with a disability special group license plate does not
1146 preclude the issuance to the same applicant of a removable windshield placard or wheelchair
1147 user placard.

1148 (d) (i) On request of an applicant with a disability special group license plate, a
1149 temporary removable windshield placard, or a removable windshield placard, the division shall
1150 issue one additional placard.

1151 (ii) On request of a qualified applicant with a disability special group license plate, the
1152 division shall issue up to two temporary wheelchair user placards or two wheelchair user
1153 placards.

1154 (iii) On request of a qualified applicant with a temporary wheelchair user placard or a
1155 wheelchair user placard, the division shall issue one additional placard.

1156 (e) The division shall ensure that a temporary wheelchair user placard and a wheelchair
1157 user placard have the following visible features:

1158 (i) a large "W" next to the internationally recognized disabled persons symbol; and

1159 (ii) the words "Wheelchair User" printed on a portion of the placard.

1160 (f) A disability special group license plate, temporary removable windshield placard, or
1161 removable windshield placard may be used to allow one motorcycle to share a parking space
1162 reserved for persons with a disability if:

- 1163 (i) the person with a disability:
- 1164 (A) is using a motorcycle; and
- 1165 (B) displays on the motorcycle a disability special group license plate, temporary
- 1166 removable windshield placard, or a removable windshield placard;
- 1167 (ii) the person who shares the parking space assists the person with a disability with the
- 1168 parking accommodation; and
- 1169 (iii) the parking space is sufficient size to accommodate both motorcycles without
- 1170 interfering with other parking spaces or traffic movement.
- 1171 (4) (a) When a vehicle is parked in a parking space reserved for persons with
- 1172 disabilities, a temporary removable windshield placard, a removable windshield placard, a
- 1173 temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the
- 1174 placard is visible from the front of the vehicle.
- 1175 (b) If a motorcycle is being used, the temporary removable windshield placard or
- 1176 removable windshield placard shall be displayed in plain sight on or near the handle bars of the
- 1177 motorcycle.
- 1178 (5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
- 1179 Administrative Rulemaking Act, to:
- 1180 (a) establish qualifying criteria for persons to receive, renew, or surrender a disability
- 1181 special group license plate, a temporary removable windshield placard, a removable windshield
- 1182 placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with
- 1183 this section;
- 1184 (b) establish the maximum number of numerals or characters for a disability special
- 1185 group license plate;
- 1186 (c) require all temporary removable windshield placards, removable windshield
- 1187 placards, temporary wheelchair user placards, and wheelchair user placards to include:
- 1188 (i) an identification number;
- 1189 (ii) an expiration date not to exceed:

- 1190 (A) six months for a temporary removable windshield placard; and
- 1191 (B) two years for a removable windshield placard; and
- 1192 (iii) the seal or other identifying mark of the division.
- 1193 (6) The commission shall insert the following on motor vehicle registration certificates:
- 1194 "State law prohibits persons who do not lawfully possess a disability placard or
- 1195 disability special group license plate from parking in an accessible parking space designated for
- 1196 persons with disabilities. Persons who possess a disability placard or disability special group
- 1197 license plate are discouraged from parking in an accessible parking space designated as van
- 1198 accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

1199 Section 28. Section **41-6a-520** is amended to read:

1200 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
1201 **tests -- Refusal -- Warning, report.**

1202 (1) (a) A person operating a motor vehicle in this state is considered to have given the
1203 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for
1204 the purpose of determining whether the person was operating or in actual physical control of a
1205 motor vehicle while:

1206 (i) having a blood or breath alcohol content statutorily prohibited under Section
1207 [41-6a-502](#), [41-6a-530](#), or [53-3-231](#);

1208 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
1209 under Section [41-6a-502](#); or

1210 (iii) having any measurable controlled substance or metabolite of a controlled
1211 substance in the person's body in violation of Section [41-6a-517](#).

1212 (b) A test or tests authorized under this Subsection (1) must be administered at the
1213 direction of a peace officer having grounds to believe that person to have been operating or in
1214 actual physical control of a motor vehicle while in violation of any provision under Subsections
1215 (1)(a)(i) through (iii).

1216 (c) (i) The peace officer determines which of the tests are administered and how many

1217 of them are administered.

1218 (ii) If a peace officer requests more than one test, refusal by a person to take one or
1219 more requested tests, even though the person does submit to any other requested test or tests, is
1220 a refusal under this section.

1221 (d) (i) A person who has been requested under this section to submit to a chemical test
1222 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be
1223 administered.

1224 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
1225 not a defense to taking a test requested by a peace officer, and it is not a defense in any
1226 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
1227 requested test or tests.

1228 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to
1229 submit to the test or tests may result in revocation of the person's license to operate a motor
1230 vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of
1231 alcohol in the person's body depending on the person's prior driving history, and a three-year
1232 prohibition of driving without an ignition interlock device if the person:

1233 (i) has been placed under arrest;

1234 (ii) has then been requested by a peace officer to submit to any one or more of the
1235 chemical tests under Subsection (1); and

1236 (iii) refuses to submit to any chemical test requested.

1237 (b) (i) Following the warning under Subsection (2)(a), if the person does not
1238 immediately request that the chemical test or tests as offered by a peace officer be
1239 administered, a peace officer shall, on behalf of the Driver License Division and within 24
1240 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
1241 privilege or license to operate a motor vehicle.

1242 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
1243 peace officer shall:

- 1244 (A) take the Utah license certificate or permit, if any, of the operator;
- 1245 (B) issue a temporary license certificate effective for only 29 days from the date of
- 1246 arrest; and
- 1247 (C) supply to the operator, in a manner specified by the Driver License Division, basic
- 1248 information regarding how to obtain a hearing before the Driver License Division.
- 1249 (c) A citation issued by a peace officer may, if provided in a manner specified by the
- 1250 Driver License Division, also serve as the temporary license certificate.
- 1251 (d) As a matter of procedure, the peace officer shall submit a signed report, within 10
- 1252 calendar days after the day on which notice is provided under Subsection (2)(b), that:
- 1253 (i) the peace officer had grounds to believe the arrested person was in violation of any
- 1254 provision under Subsections (1)(a)(i) through (iii); and
- 1255 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).
- 1256 (3) Upon the request of the person who was tested, the results of the test or tests shall
- 1257 be made available to the person.
- 1258 (4) (a) The person to be tested may, at the person's own expense, have a physician or
- 1259 physician assistant of the person's own choice administer a chemical test in addition to the test
- 1260 or tests administered at the direction of a peace officer.
- 1261 (b) The failure or inability to obtain the additional test does not affect admissibility of
- 1262 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
- 1263 test or tests to be taken at the direction of a peace officer.
- 1264 (c) The additional test shall be subsequent to the test or tests administered at the
- 1265 direction of a peace officer.
- 1266 (5) For the purpose of determining whether to submit to a chemical test or tests, the
- 1267 person to be tested does not have the right to consult an attorney or have an attorney, physician,
- 1268 or other person present as a condition for the taking of any test.
- 1269 (6) Notwithstanding the provisions in this section, a blood test taken under this section
- 1270 is subject to Section [77-23-213](#).

1271 Section 29. Section **41-6a-523** is amended to read:

1272 **41-6a-523. Persons authorized to draw blood -- Immunity from liability.**

1273 (1) (a) Only the following, acting at the request of a peace officer, may draw blood to
1274 determine its alcohol or drug content:

1275 (i) a physician;

1276 (ii) a physician assistant;

1277 [~~(ii)~~] (iii) a registered nurse;

1278 [~~(iii)~~] (iv) a licensed practical nurse;

1279 [~~(iv)~~] (v) a paramedic;

1280 [~~(v)~~] (vi) as provided in Subsection (1)(b), emergency medical service personnel other
1281 than paramedics; or

1282 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under
1283 Section [26-1-30](#).

1284 (b) The Department of Health may designate by rule, in accordance with Title 63G,
1285 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
1286 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection [~~(1)(a)(v)~~]
1287 (1)(a)(vi), based on the type of license under Section [26-8a-302](#).

1288 (c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

1289 (2) The following are immune from civil or criminal liability arising from drawing a
1290 blood sample from a person whom a peace officer has reason to believe is driving in violation
1291 of this chapter, if the sample is drawn in accordance with standard medical practice:

1292 (a) a person authorized to draw blood under Subsection (1)(a); and

1293 (b) if the blood is drawn at a hospital or other medical facility, the medical facility.

1294 Section 30. Section **41-6a-1804** is amended to read:

1295 **41-6a-1804. Exceptions.**

1296 (1) This part does not apply to an operator or passenger of:

1297 (a) a motor vehicle manufactured before July 1, 1966;

1298 (b) a motor vehicle in which the operator or passengers possess a written verification
1299 from a licensed physician or physician assistant that the person is unable to wear a safety belt
1300 for physical or medical reasons; or

1301 (c) a motor vehicle or seating position which is not required to be equipped with a
1302 safety belt system under federal law.

1303 (2) This part does not apply to a passenger if all seating positions are occupied by other
1304 passengers.

1305 (3) This part does not apply to a passenger of a public transit vehicle with a gross
1306 vehicle weight rating exceeding 10,000 pounds.

1307 Section 31. Section **48-1d-102** is amended to read:

1308 **48-1d-102. Definitions.**

1309 As used in this chapter:

1310 (1) "Business" includes every trade, occupation, and profession.

1311 (2) "Contribution," except in the phrase "right of contribution," means property or a
1312 benefit described in Section [48-1d-501](#) which is provided by a person to a partnership to
1313 become a partner or in the person's capacity as a partner.

1314 (3) "Debtor in bankruptcy" means a person that is the subject of:

1315 (a) an order for relief under Title 11 of the United States Code or a comparable order
1316 under a successor statute of general application; or

1317 (b) a comparable order under federal, state, or foreign law governing insolvency.

1318 (4) "Distribution" means a transfer of money or other property from a partnership to a
1319 person on account of a transferable interest or in a person's capacity as a partner. The term:

1320 (a) includes:

1321 (i) a redemption or other purchase by a partnership of a transferable interest; and

1322 (ii) a transfer to a partner in return for the partner's relinquishment of any right to
1323 participate as a partner in the management or conduct of the partnership's activities and affairs
1324 or have access to records or other information concerning the partnership's activities and

1325 affairs; and

1326 (b) does not include amounts constituting reasonable compensation for present or past
1327 service or payments made in the ordinary course of business under a bona fide retirement plan
1328 or other bona fide benefits program.

1329 (5) "Division" means the Division of Corporations and Commercial Code.

1330 (6) "Foreign limited liability partnership" means a foreign partnership whose partners
1331 have limited liability for the debts, obligations, or other liabilities of the foreign partnership
1332 under a provision similar to Subsection 48-1d-306(3).

1333 (7) "Foreign partnership" means an unincorporated entity formed under the law of a
1334 jurisdiction other than this state which would be a partnership if formed under the law of this
1335 state. The term includes a foreign limited liability partnership.

1336 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a
1337 foreign country, or a political subdivision of a foreign country.

1338 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

1339 (a) under whose law the entity is formed; or

1340 (b) in the case of a limited liability partnership or foreign limited liability partnership,
1341 in which the partnership's statement of qualification is filed.

1342 (10) "Limited liability partnership," except in the phrase "foreign limited liability
1343 partnership," means a partnership that has filed a statement of qualification under Section
1344 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.

1345 (11) "Partner" means a person that:

1346 (a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a
1347 partnership when the partnership became subject to this chapter under Section 48-1d-1405; and

1348 (b) has not dissociated as a partner under Section 48-1d-701.

1349 (12) "Partnership" means an association of two or more persons to carry on as
1350 co-owners a business for profit formed under this chapter or that becomes subject to this
1351 chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section

1352 48-1d-1405. The term includes a limited liability partnership.

1353 (13) "Partnership agreement" means the agreement, whether or not referred to as a
1354 partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of
1355 all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1).
1356 The term includes the agreement as amended or restated.

1357 (14) "Partnership at will" means a partnership in which the partners have not agreed to
1358 remain partners until the expiration of a definite term or the completion of a particular
1359 undertaking.

1360 (15) "Person" means an individual, business corporation, nonprofit corporation,
1361 partnership, limited partnership, limited liability company, limited cooperative association,
1362 unincorporated nonprofit association, statutory trust, business trust, common-law business
1363 trust, estate, trust, association, joint venture, public corporation, government or governmental
1364 subdivision, agency, or instrumentality, or any other legal or commercial entity.

1365 (16) "Principal office" means the principal executive office of a partnership or a
1366 foreign limited liability partnership, whether or not the office is located in this state.

1367 (17) "Professional services" means a personal service provided by:

1368 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public
1369 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

1370 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
1371 or a subsequent law regulating the practice of architecture;

1372 (c) an attorney granted the authority to practice law by the:

1373 (i) Utah Supreme Court; or

1374 (ii) one or more of the following that licenses or regulates the authority to practice law
1375 in a state or territory of the United States other than Utah:

1376 (A) a supreme court;

1377 (B) a court other than a supreme court;

1378 (C) an agency;

- 1379 (D) an instrumentality; or
1380 (E) a regulating board;
- 1381 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
1382 Practice Act, or a subsequent law regulating the practice of chiropractics;
- 1383 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
1384 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;
- 1385 (f) a professional engineer registered under Title 58, Chapter 22, Professional
1386 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the
1387 practice of engineers or land surveyors;
- 1388 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
1389 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 1390 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a,
1391 Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;
- 1392 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
1393 Practice Act, or a subsequent law regulating the practice of optometry;
- 1394 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
1395 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
1396 osteopathy;
- 1397 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
1398 or a subsequent law regulating the practice of pharmacy;
- 1399 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,
1400 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of
1401 medicine;
- 1402 (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician
1403 Assistant Act, or a subsequent law regulating the practice as a physician assistant;
- 1404 [~~m~~] (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical
1405 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

1406 ~~[(n)]~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
1407 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

1408 ~~[(o)]~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist
1409 Licensing Act, or a subsequent law regulating the practice of psychology;

1410 ~~[(p)]~~ (q) a principal broker, associate broker, or sales agent holding a license under
1411 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating
1412 the sale, exchange, purchase, rental, or leasing of real estate;

1413 ~~[(q)]~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter
1414 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social
1415 work;

1416 ~~[(r)]~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental
1417 Health Professional Practice Act, or a subsequent law regulating the practice of mental health
1418 therapy;

1419 ~~[(s)]~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice
1420 Act, or a subsequent law regulating the practice of veterinary medicine; or

1421 ~~[(t)]~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real
1422 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of
1423 appraising real estate.

1424 (18) "Property" means all property, whether real, personal, or mixed, or tangible or
1425 intangible, or any right or interest therein.

1426 (19) "Record," used as a noun, means information that is inscribed on a tangible
1427 medium or that is stored in an electronic or other medium and is retrievable in perceivable
1428 form.

1429 (20) "Registered agent" means an agent of a limited liability partnership or foreign
1430 limited liability partnership which is authorized to receive service of any process, notice, or
1431 demand required or permitted by law to be served on the partnership.

1432 (21) "Registered foreign limited liability partnership" means a foreign limited liability

1433 partnership that is registered to do business in this state pursuant to a statement of registration
1434 filed by the division.

1435 (22) "Sign" means, with present intent to authenticate or adopt a record:

1436 (a) to execute or adopt a tangible symbol; or

1437 (b) to attach to or logically associate with the record an electronic symbol, sound, or
1438 process.

1439 (23) "State" means a state of the United States, the District of Columbia, Puerto Rico,
1440 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
1441 of the United States.

1442 (24) "Transfer" includes:

1443 (a) an assignment;

1444 (b) a conveyance;

1445 (c) a sale;

1446 (d) a lease;

1447 (e) an encumbrance, including a mortgage or security interest;

1448 (f) a gift; and

1449 (g) a transfer by operation of law.

1450 (25) "Transferable interest" means the right, as initially owned by a person in the
1451 person's capacity as a partner, to receive distributions from a partnership in accordance with the
1452 partnership agreement, whether or not the person remains a partner or continues to own any
1453 part of the right. The term applies to any fraction of the interest, by whomever owned.

1454 (26) "Transferee" means a person to which all or part of a transferable interest has been
1455 transferred, whether or not the transferor is a partner.

1456 (27) "Tribal partnership" means a partnership:

1457 (a) formed under the law of a tribe; and

1458 (b) that is at least 51% owned or controlled by the tribe under whose law the
1459 partnership is formed.

1460 (28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or
1461 community of Indians, including an Alaska Native village, that is legally recognized as eligible
1462 for and is consistent with a special program, service, or entitlement provided by the United
1463 States to Indians because of their status as Indians.

1464 Section 32. Section **48-3a-1101** is amended to read:

1465 **48-3a-1101. Definitions.**

1466 As used in this part:

1467 (1) "Professional services" means a personal service provided by:

1468 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public
1469 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

1470 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,
1471 or a subsequent law regulating the practice of architecture;

1472 (c) an attorney granted the authority to practice law by the:

1473 (i) Utah Supreme Court; or

1474 (ii) one or more of the following that licenses or regulates the authority to practice law
1475 in a state or territory of the United States other than Utah:

1476 (A) a supreme court;

1477 (B) a court other than a supreme court;

1478 (C) an agency;

1479 (D) an instrumentality; or

1480 (E) a regulating board;

1481 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
1482 Practice Act, or any subsequent law regulating the practice of chiropractics;

1483 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
1484 Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;

1485 (f) a professional engineer registered under Title 58, Chapter 22, Professional
1486 Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the

1487 practice of engineers and land surveyors;

1488 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
1489 Practice Act, or a subsequent law regulating the practice of naturopathy;

1490 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,
1491 Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of
1492 nursing;

1493 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
1494 Practice Act, or a subsequent law regulating the practice of optometry;

1495 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
1496 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
1497 osteopathy;

1498 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
1499 or a subsequent law regulating the practice of pharmacy;

1500 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,
1501 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of
1502 medicine;

1503 (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician
1504 Assistant Act, or a subsequent law regulating the practice as a physician assistant;

1505 [~~m~~] (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical
1506 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

1507 [~~n~~] (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
1508 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

1509 [~~o~~] (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist
1510 Licensing Act, or any subsequent law regulating the practice of psychology;

1511 [~~p~~] (q) a principal broker, associate broker, or sales agent holding a license under
1512 Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating
1513 the sale, exchange, purchase, rental, or leasing of real estate;

1514 ~~[(r)]~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter
1515 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social
1516 work;

1517 ~~[(s)]~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental
1518 Health Professional Practice Act, or a subsequent law regulating the practice of mental health
1519 therapy;

1520 ~~[(t)]~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice
1521 Act, or a subsequent law regulating the practice of veterinary medicine; or

1522 ~~[(u)]~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real
1523 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of
1524 appraising real estate.

1525 (2) "Regulating board" means the entity organized pursuant to state law that licenses
1526 and regulates the practice of the profession that a limited liability company is organized to
1527 provide.

1528 Section 33. Section **49-12-601** is amended to read:

1529 **49-12-601. Disability retirement -- Medical examinations -- Reemployment of**
1530 **retirant with a disability -- Cancellation of benefit -- Service credit -- Retirant with a**
1531 **disability engaging in gainful employment -- Reduction of allowance -- Refusal to submit**
1532 **to medical examination.**

1533 (1) Only members of this system who became eligible for a disability retirement
1534 allowance before January 1, 1983, are covered under this section.

1535 (2) (a) The board may, upon the recommendation of the administrator, require any
1536 retirant who has been retired for disability and who has not attained the age of 60 years, to
1537 undergo a medical examination by a physician, physician assistant, or surgeon, appointed by
1538 the board, at the place of residence of the retirant or other place mutually agreed upon.

1539 (b) Upon the basis of the examination, the board shall determine whether the retirant
1540 with a disability is still incapacitated, physically or mentally, for service under this chapter.

1541 (c) If the board determines that the retirant is not incapacitated, the retirement
1542 allowance shall be cancelled and the retirant shall be reinstated immediately to a position of the
1543 same class as that held by the retirant when retired for disability.

1544 (d) If any employing unit is unable to reinstate the retirant, the board shall continue the
1545 disability retirement allowance of the retirant until employment is available.

1546 (3) (a) If a retirant with a disability under this system reenters covered service and is
1547 eligible for membership in the retirement system, the retirement allowance shall be cancelled
1548 and the retirant shall immediately become a member of the retirement system.

1549 (b) (i) The member's individual account shall be credited with an amount which is the
1550 actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the
1551 member's retirement allowance which was derived from the member's accumulated
1552 contributions.

1553 (ii) The amount credited may not exceed the amount of accumulated contributions
1554 standing at the time of retirement.

1555 (c) Each member shall receive credit for the service in the member's account at the
1556 time of retirement.

1557 (4) If the retirement allowance of any retirant with a disability is cancelled for any
1558 cause other than reentry into service, the retirant shall be paid the accumulated contributions
1559 less the amounts prescribed by Subsection (6).

1560 (5) (a) If any member retired for disability engages in a gainful occupation prior to
1561 attaining age 60, the administrator shall reduce the amount of the retirement allowance to an
1562 amount which, when added to the compensation earned monthly by the retirant in that
1563 occupation, may not exceed the amount of the final average monthly salary on the basis of
1564 which the current service retirement allowance was determined.

1565 (b) If the earning capacity of the retirant is further altered, the administrator may
1566 further alter the retirement allowance as provided in this Subsection (5).

1567 (c) In no event, however, may the retirement benefit be reduced below that portion of

1568 the retirant's allowance derived from the retirant's own accumulated contributions.

1569 (d) When the retirant reaches age 60, the retirement allowance shall be made equal to
1570 the amount upon which the retirant was originally retired and may not again be modified for
1571 any cause.

1572 (6) (a) If any member who retired for disability under age 60, refuses to submit to a
1573 medical examination, the retirement allowance may be discontinued until the retirant
1574 withdraws that refusal.

1575 (b) If the refusal continues for one year the disability status may be cancelled and
1576 membership terminated.

1577 (c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent
1578 on the date of the retirant's change of status, based on a disabled life, of that portion of the
1579 disability retirement allowance which was derived from the retirant's accumulated
1580 contributions.

1581 (ii) The amount credited may not exceed the amount of the retirant's accumulated
1582 contributions at the time of disability retirement.

1583 Section 34. Section **49-16-102** is amended to read:

1584 **49-16-102. Definitions.**

1585 As used in this chapter:

1586 (1) (a) "Compensation" means the total amount of payments that are includable as
1587 gross income which are received by a firefighter service employee as base income for the
1588 regularly scheduled work period. The participating employer shall establish the regularly
1589 scheduled work period. Base income shall be determined prior to the deduction of member
1590 contributions or any amounts the firefighter service employee authorizes to be deducted for
1591 salary deferral or other benefits authorized by federal law.

1592 (b) "Compensation" includes performance-based bonuses and cost-of-living
1593 adjustments.

1594 (c) "Compensation" does not include:

- 1595 (i) overtime;
- 1596 (ii) sick pay incentives;
- 1597 (iii) retirement pay incentives;
- 1598 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,
- 1599 or similar payments;
- 1600 (v) a lump-sum payment or special payments covering accumulated leave; and
- 1601 (vi) all contributions made by a participating employer under this system or under any
- 1602 other employee benefit system or plan maintained by a participating employer for the benefit of
- 1603 a member or participant.
- 1604 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
- 1605 under Section 401(a)(17), Internal Revenue Code.
- 1606 (2) (a) "Disability" means the complete inability, due to objective medical impairment,
- 1607 whether physical or mental, to perform firefighter service.
- 1608 (b) "Disability" does not include the inability to meet an employer's required standards
- 1609 or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined
- 1610 under Subsection (2)(a).
- 1611 (3) "Final average salary" means the amount calculated by averaging the highest three
- 1612 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).
- 1613 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
- 1614 compensation in any one of the years used may not exceed the previous year's compensation by
- 1615 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
- 1616 of the dollar during the previous year, as measured by a United States Bureau of Labor
- 1617 Statistics Consumer Price Index average as determined by the board.
- 1618 (b) In cases where the participating employer provides acceptable documentation to the
- 1619 office the limitation in Subsection (3)(a) may be exceeded if:
- 1620 (i) the member has transferred from another agency; or
- 1621 (ii) the member has been promoted to a new position.

1622 (c) The annual compensation used to calculate final average salary shall be based on:

1623 (i) a calendar year for a member employed by a participating employer that is not an
1624 educational institution; or

1625 (ii) a contract year for a member employed by an educational institution.

1626 (4) (a) "Firefighter service" means employment normally requiring an average of 2,080
1627 hours of regularly scheduled employment per year rendered by a member who is:

1628 (i) a firefighter service employee trained in firefighter techniques and assigned to a
1629 position of hazardous duty with a regularly constituted fire department; or

1630 (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire
1631 marshal.

1632 (b) "Firefighter service" does not include secretarial staff or other similar employees.

1633 (5) "Firefighter service employee" means an employee of a participating employer who
1634 provides firefighter service under this chapter. An employee of a regularly constituted fire
1635 department who does not perform firefighter service is not a firefighter service employee.

1636 (6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

1637 (i) external force, violence, or disease directly resulting from firefighter service; or

1638 (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous
1639 training or another strenuous activity required as an act of duty as a firefighter service
1640 employee.

1641 (b) "Line-of-duty death or disability" does not include a death or disability that:

1642 (i) occurs during an activity that is required as an act of duty as a firefighter service
1643 employee if the activity is not a strenuous activity, including an activity that is clerical,
1644 administrative, or of a nonmanual nature;

1645 (ii) occurs during the commission of a crime committed by the employee;

1646 (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether
1647 prescribed or nonprescribed, contributes to the employee's death or disability; or

1648 (iv) occurs in a manner other than as described in Subsection (6)(a).

1649 (c) "Line-of-duty death or disability" includes the death or disability of a paid
1650 firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid
1651 firefighter has five years of firefighter service credit.

1652 (7) "Objective medical impairment" means an impairment resulting from an injury or
1653 illness which is diagnosed by a physician or physician assistant and which is based on accepted
1654 objective medical tests or findings rather than subjective complaints.

1655 (8) "Participating employer" means an employer which meets the participation
1656 requirements of Section 49-16-201.

1657 (9) "Regularly constituted fire department" means a fire department that employs a fire
1658 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid
1659 employment per year.

1660 (10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or
1661 vigorous fire suppression, rescue, hazardous material response, emergency medical service,
1662 physical law enforcement, prison security, disaster relief, or other emergency response activity.

1663 (b) "Strenuous activity" includes participating in a participating employer sanctioned
1664 and funded training exercise that involves difficult, stressful, or vigorous physical activity.

1665 (11) "System" means the Firefighters' Retirement System created under this chapter.

1666 (12) (a) "Volunteer firefighter" means any individual that is not regularly employed as
1667 a firefighter service employee, but who:

1668 (i) has been trained in firefighter techniques and skills;

1669 (ii) continues to receive regular firefighter training; and

1670 (iii) is on the rolls of a legally organized volunteer fire department which provides
1671 ongoing training and serves a political subdivision of the state.

1672 (b) An individual that volunteers assistance but does not meet the requirements of
1673 Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

1674 (13) "Years of service credit" means the number of periods, each to consist of 12 full
1675 months as determined by the board, whether consecutive or not, during which a firefighter

1676 service employee was employed by a participating employer or received full-time pay while on
1677 sick leave, including any time the firefighter service employee was absent in the service of the
1678 United States on military duty.

1679 Section 35. Section **49-16-602** is amended to read:

1680 **49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to**
1681 **service retirement -- Examinations -- Reemployment.**

1682 (1) A member of this system who applies and is qualified for disability retirement shall
1683 receive a disability retirement benefit until the earlier of:

1684 (a) the date the member of this system no longer has a disability;

1685 (b) the date the member of this system has accumulated 20 years of firefighter service
1686 credit, including years earned while the member of this system had a disability; or

1687 (c) the date the member of this system has received disability retirement benefits for
1688 the following time periods:

1689 (i) if the member is under age 60 on the date of disability, the disability retirement
1690 benefit is payable until age 65;

1691 (ii) if the member is 60 or 61 years of age on the date of disability, the disability
1692 retirement benefit is payable for five years;

1693 (iii) if the member is 62 or 63 years of age on the date of disability, the disability
1694 retirement benefit is payable for four years;

1695 (iv) if the member is 64 or 65 years of age on the date of disability, the disability
1696 retirement benefit is payable for three years;

1697 (v) if the member is 66, 67, or 68 years of age on the date of disability, the disability
1698 retirement benefit is payable for two years; and

1699 (vi) if the member is 69 years of age or older on the date of disability, the disability
1700 retirement benefit is payable for one year.

1701 (2) (a) (i) The retiree with a disability shall receive service credit in this system during
1702 the period of disability.

1703 (ii) If the retiree with a disability is employed by a participating employer during the
1704 period of disability, the retiree with a disability may not receive service credit for that
1705 employment.

1706 (b) The disability retirement shall be converted to a service retirement at the time the
1707 disability retirement benefits terminate.

1708 (3) The office shall approve or disapprove applications for disability retirement
1709 benefits based upon:

1710 (a) the evaluation and recommendations of one or more treating physicians or
1711 physician assistants along with medical records relating to the condition;

1712 (b) the evaluation and recommendations of one or more independent physicians or
1713 physician assistants selected by the office; and

1714 (c) receipt of documentation by the office from the participating employer that the
1715 member is mentally or physically unable to perform firefighter service.

1716 (4) (a) A retiree with a disability who receives benefits under this section shall, upon
1717 request of the executive director, submit to a medical examination by one or more physicians
1718 or physician assistants as directed by the office.

1719 (b) If, after an examination, the examiners report that the retiree with a disability is
1720 physically and mentally able and capable of resuming firefighter service employment, the
1721 retiree with a disability shall be reinstated by the participating employer for which the retiree
1722 with a disability last worked at the former classification and rank of the retiree with a disability,
1723 and the disability retirement benefit shall terminate.

1724 (c) A retiree with a disability may not be required to submit to an examination under
1725 this Subsection (4) more than once every year.

1726 (d) A retiree with a disability who returns to firefighter service employment with a
1727 participating employer in this system shall immediately begin accruing service credit that shall
1728 be added to that service credit that has been previously accrued, including service credit while
1729 disabled.

1730 (5) A retiree with a disability is not subject to medical examinations after reaching age
1731 55.

1732 (6) Refusal or neglect of a member to submit to an examination as requested by the
1733 office either before or after a decision regarding disability benefits has been made is sufficient
1734 cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect
1735 continues for one year, the rights of the member or retiree with a disability to disability
1736 retirement benefits may be revoked by the office.

1737 (7) (a) A retiree with a disability who receives benefits under this part shall file a sworn
1738 statement with the office on or before March 15 of each year for the first five years a retiree
1739 with a disability receives benefits.

1740 (b) The sworn statement shall indicate whether or not the retiree with a disability
1741 engaged in any employment during the preceding year and, if so, the amount of earnings
1742 received during the calendar year.

1743 (c) If the total amount received in one year by a retiree with a disability for disability
1744 retirement benefits and gross earnings from other employment exceeds 125% of the final
1745 average salary of the retiree with a disability, the office shall offset the disability retirement
1746 benefit paid the following year by the amount in excess of 125% of the final average salary of
1747 the retiree with a disability.

1748 (d) (i) If a retiree with a disability refuses or neglects to file a sworn statement as
1749 required under this Subsection (7), the executive director may suspend payment of any and all
1750 benefits pending receipt of the statement.

1751 (ii) Upon filing the statement, the payments of the retiree with a disability shall be
1752 resumed.

1753 (8) The disability retirement benefit shall be improved by the annual cost-of-living
1754 increase factor applied to retirees of the system that covered the firefighter service employee at
1755 the time of disability.

1756 (9) A line of duty disability allowance paid on or after January 1, 2002, under Section

1757 49-16-601 is exempt from taxation to the extent permitted under federal law.

1758 (10) (a) An active member of this system with five or more years of firefighter service
1759 credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease,
1760 lung disease, or respiratory tract disease.

1761 (b) An active member of this system who receives a line-of-duty disability benefit for
1762 more than six months due to violence or illness other than heart disease, lung disease, or
1763 respiratory tract disease, and then returns to paid firefighter service, is not eligible for a
1764 line-of-duty death or disability benefit due to those diseases for two years after the member
1765 returned to paid firefighter service unless clear and convincing evidence is presented that the
1766 heart, lung, or respiratory tract disease was directly a result of firefighter service.

1767 (11) Disability retirement benefits shall be considered an allowance for purposes of
1768 Section 49-11-701.

1769 Section 36. Section 49-21-402 is amended to read:

1770 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**

1771 **Application for other benefits required.**

1772 (1) A monthly disability benefit may be terminated unless:

1773 (a) the eligible employee is under the ongoing care and treatment of a physician or
1774 physician assistant other than the eligible employee; and

1775 (b) the eligible employee provides the information and documentation requested by the
1776 office.

1777 (2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount
1778 received by, or payable to, the eligible employee for the same injury or illness that is the basis
1779 for the monthly disability benefit from the following sources:

1780 (i) workers' compensation indemnity benefits, regardless of whether the amount is
1781 received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers'
1782 compensation indemnity carrier;

1783 (ii) any money received by judgment, legal action, or settlement from a third party

1784 liable to the employee for the monthly disability benefit;
1785 (iii) automobile no-fault, medical payments, or similar insurance payments;
1786 (iv) any money received by a judgment, settlement, or other payment as a result of a
1787 claim against an employer; or
1788 (v) annual leave or similar lump-sum payments.
1789 (b) The monthly disability benefit shall be reduced or reimbursed by any amount
1790 received by, or payable to, the eligible employee for the same period of time during which the
1791 eligible employee is entitled to receive a monthly disability benefit from the following sources:
1792 (i) social security disability benefits, including all benefits received by the eligible
1793 employee, the eligible employee's spouse, and the eligible employee's children as determined
1794 by the Social Security Administration;
1795 (ii) unemployment compensation benefits;
1796 (iii) sick leave benefits; or
1797 (iv) compensation received for employment, including self-employment, except for
1798 eligible amounts from approved rehabilitative employment in accordance with Section
1799 [49-21-406](#).
1800 (3) The monthly disability benefit shall be reduced by any amount in excess of
1801 one-third of the eligible employee's regular monthly salary received by, or payable to, the
1802 eligible employee from the following sources for the same period of time during which the
1803 eligible employee is entitled to receive a monthly disability benefit:
1804 (a) any retirement payment earned through or provided by public or private
1805 employment; and
1806 (b) any disability benefit, other than social security or workers' compensation
1807 indemnity benefits, resulting from the disability for which benefits are being received under
1808 this chapter.
1809 (4) After the date of disability, cost-of-living increases to any of the benefits listed in
1810 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability

1811 benefit.

1812 (5) Any amounts payable to the eligible employee from one or more of the sources
1813 under Subsection (2) are considered as amounts received whether or not the amounts were
1814 actually received by the eligible employee.

1815 (6) (a) An eligible employee shall first apply for all disability benefits from
1816 governmental entities under Subsection (2) to which the eligible employee is or may be
1817 entitled, and provide to the office evidence of the applications.

1818 (b) If the eligible employee fails to make application under this Subsection (6), the
1819 monthly disability benefit shall be suspended.

1820 (7) During a period of total disability, an eligible employee has an affirmative duty to
1821 keep the program informed regarding:

1822 (a) the award or receipt of an amount from a source that could result in the monthly
1823 disability benefit being reduced or reimbursed under this section within 10 days of the award or
1824 receipt of the amount; and

1825 (b) any employment, including self-employment, of the eligible employee and the
1826 compensation for that employment within 10 days of beginning the employment or a material
1827 change in the compensation from that employment.

1828 (8) The program shall use commercially reasonable means to collect any amounts of
1829 overpayments and reimbursements.

1830 (9) (a) If the program is unable to reduce or obtain reimbursement for the required
1831 amount from the monthly disability benefit for any reason, the employee will have received an
1832 overpayment of monthly disability benefits.

1833 (b) If an eligible employee receives an overpayment of monthly disability benefits, the
1834 eligible employee shall repay to the office the amount of the overpayment, plus interest as
1835 determined by the program, within 30 days from the date the overpayment is received by:

1836 (i) the eligible employee; or

1837 (ii) a third party related to the eligible employee.

1838 (c) The executive director may waive the interest on an overpayment of monthly
1839 disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of
1840 the overpayment of monthly disability benefits.

1841 Section 37. Section **49-21-406** is amended to read:

1842 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**
1843 **Maintaining eligibility -- Additional treatment and care.**

1844 (1) (a) If an eligible employee, during a period of total disability for which the monthly
1845 disability benefit is payable, engages in approved rehabilitative employment, the monthly
1846 disability benefit otherwise payable shall be reduced:

1847 (i) by an amount equal to 50% of the income to which the eligible employee is entitled
1848 for the employment during the month; and

1849 (ii) so that the combined amount received from the rehabilitative employment and the
1850 monthly disability payment does not exceed 100% of the eligible employee's monthly salary
1851 prior to the employee's disability.

1852 (b) This rehabilitative benefit is payable for up to two years or to the end of the
1853 maximum benefit period, whichever occurs first.

1854 (2) (a) Each eligible employee receiving a monthly disability benefit shall be
1855 interviewed by the office.

1856 (b) The office may refer the eligible employee to a rehabilitative or vocational
1857 specialist for a review of the eligible employee's condition and a written rehabilitation plan and
1858 return to work assistance.

1859 (3) If an eligible employee receiving a monthly disability benefit fails to participate in
1860 an office-approved rehabilitation program within the limitations set forth by a physician or
1861 physician assistant, the monthly disability benefit may be suspended or terminated.

1862 (4) The office may, as a condition of paying a monthly disability benefit, require that
1863 the eligible employee receive medical care and treatment if that treatment is reasonable or usual
1864 according to current medical practices.

1865 Section 38. Section **53-2a-302** is amended to read:

1866 **53-2a-302. Definitions.**

1867 As used in this part:

1868 (1) "Emergency responder":

1869 (a) means a person in the public or private sector:

1870 (i) who has special skills, qualification, training, knowledge, or experience, whether or
1871 not possessing a license, certificate, permit, or other official recognition for the skills,
1872 qualification, training, knowledge, or experience, that would benefit a participating political
1873 subdivision in responding to a locally declared emergency or in an authorized drill or exercise;
1874 and

1875 (ii) whom a participating political subdivision requests or authorizes to assist in
1876 responding to a locally declared emergency or in an authorized drill or exercise; and

1877 (b) includes:

1878 (i) a law enforcement officer;

1879 (ii) a firefighter;

1880 (iii) an emergency medical services worker;

1881 (iv) a physician, physician assistant, nurse, or other public health worker;

1882 (v) an emergency management official;

1883 (vi) a public works worker;

1884 (vii) a building inspector;

1885 (viii) an architect, engineer, or other design professional; or

1886 (ix) a person with specialized equipment operations skills or training or with any other
1887 skills needed to provide aid in a declared emergency.

1888 (2) "Participating political subdivision" means each county, municipality, public safety
1889 district, and public safety interlocal entity that has not adopted a resolution under Section
1890 **53-2a-306** withdrawing itself from the statewide mutual aid system.

1891 (3) "Public safety district" means a local district under Title 17B, Limited Purpose

1892 Local Government Entities - Local Districts, or special service district under Title 17D,
 1893 Chapter 1, Special Service District Act, that provides public safety service.

1894 (4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter
 1895 13, Interlocal Cooperation Act, that provides public safety service.

1896 (5) "Public safety service" means a service provided to the public to protect life and
 1897 property and includes fire protection, police protection, emergency medical service, and
 1898 hazardous material response service.

1899 (6) "Requesting political subdivision" means a participating political subdivision that
 1900 requests emergency assistance under Section 53-2a-207 from one or more other participating
 1901 political subdivisions.

1902 (7) "Responding political subdivision" means a participating political subdivision that
 1903 responds to a request under Section 53-2a-307 from a requesting political subdivision.

1904 (8) "State" means the state of Utah.

1905 (9) "Statewide mutual aid system" or "system" means the aggregate of all participating
 1906 political subdivisions and the state.

1907 Section 39. Section 53-10-405 is amended to read:

1908 **53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency --**
 1909 **Blood sample to be drawn by professional.**

1910 (1) (a) A saliva sample shall be obtained by the responsible agency under Subsection
 1911 53-10-404(5).

1912 (b) The sample shall be obtained in a professionally acceptable manner, using
 1913 appropriate procedures to ensure the sample is adequate for DNA analysis.

1914 (2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the
 1915 following:

1916 (i) a physician;

1917 (ii) a physician assistant;

1918 [(ii)] (iii) a registered nurse;

1919 [~~(iii)~~] (iv) a licensed practical nurse;
1920 [~~(iv)~~] (v) a paramedic;
1921 [~~(v)~~] (vi) as provided in Subsection (2)(b), emergency medical service personnel other
1922 than paramedics; or
1923 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under
1924 Section [26-1-30](#).

1925 (b) The Department of Health may designate by rule, in accordance with Title 63G,
1926 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
1927 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection [~~(2)(a)(v)~~]
1928 (2)(a)(vi), based on the type of license under Section [26-8a-302](#).

1929 (c) A person authorized by this section to draw a blood sample may not be held civilly
1930 liable for drawing a sample in a medically acceptable manner.

1931 (3) A test result or opinion based upon a test result regarding a DNA specimen may not
1932 be rendered inadmissible as evidence solely because of deviations from procedures adopted by
1933 the department that do not affect the reliability of the opinion or test result.

1934 (4) A DNA specimen is not required to be obtained if:

1935 (a) the court or the responsible agency confirms with the department that the
1936 department has previously received an adequate DNA specimen obtained from the person in
1937 accordance with this section; or

1938 (b) the court determines that obtaining a DNA specimen would create a substantial and
1939 unreasonable risk to the health of the person.

1940 Section 40. Section [53G-9-203](#) is amended to read:

1941 **53G-9-203. Definitions -- School personnel -- Medical recommendations --**
1942 **Exceptions -- Penalties.**

1943 (1) As used in this section:

1944 (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or
1945 mental health therapist.

1946 (b) "School personnel" means a school district or charter school employee, including a
1947 licensed, part-time, contract, or nonlicensed employee.

1948 (2) School personnel may:

1949 (a) provide information and observations to a student's parent or guardian about that
1950 student, including observations and concerns in the following areas:

1951 (i) progress;

1952 (ii) health and wellness;

1953 (iii) social interactions;

1954 (iv) behavior; or

1955 (v) topics consistent with Subsection [53E-9-203\(6\)](#);

1956 (b) communicate information and observations between school personnel regarding a
1957 child;

1958 (c) refer students to other appropriate school personnel and agents, consistent with
1959 local school board or charter school policy, including referrals and communication with a
1960 school counselor or other mental health professionals working within the school system;

1961 (d) consult or use appropriate health care professionals in the event of an emergency
1962 while the student is at school, consistent with the student emergency information provided at
1963 student enrollment;

1964 (e) exercise their authority relating to the placement within the school or readmission
1965 of a child who may be or has been suspended or expelled for a violation of Section [53G-8-205](#);
1966 and

1967 (f) complete a behavioral health evaluation form if requested by a student's parent or
1968 guardian to provide information to a licensed physician or physician assistant.

1969 (3) School personnel shall:

1970 (a) report suspected child abuse consistent with Section [62A-4a-403](#);

1971 (b) comply with applicable state and local health department laws, rules, and policies;
1972 and

1973 (c) conduct evaluations and assessments consistent with the Individuals with
1974 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

1975 (4) Except as provided in Subsection (2), Subsection (6), and Section [53G-9-604](#),
1976 school personnel may not:

1977 (a) recommend to a parent or guardian that a child take or continue to take a
1978 psychotropic medication;

1979 (b) require that a student take or continue to take a psychotropic medication as a
1980 condition for attending school;

1981 (c) recommend that a parent or guardian seek or use a type of psychiatric or
1982 psychological treatment for a child;

1983 (d) conduct a psychiatric or behavioral health evaluation or mental health screening,
1984 test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the
1985 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent
1986 amendments; or

1987 (e) make a child abuse or neglect report to authorities, including the Division of Child
1988 and Family Services, solely or primarily on the basis that a parent or guardian refuses to
1989 consent to:

1990 (i) a psychiatric, psychological, or behavioral treatment for a child, including the
1991 administration of a psychotropic medication to a child; or

1992 (ii) a psychiatric or behavioral health evaluation of a child.

1993 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would
1994 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under
1995 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of
1996 others.

1997 (6) Notwithstanding Subsection (4), a school counselor or other mental health
1998 professional acting in accordance with Title 58, Chapter 60, Mental Health Professional
1999 Practice Act, or licensed through the State Board of Education, working within the school

2000 system may:

2001 (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

2002 (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for
2003 a child;

2004 (c) conduct a psychiatric or behavioral health evaluation or mental health screening,
2005 test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

2006 (d) provide to a parent or guardian, upon the specific request of the parent or guardian,
2007 a list of three or more health care professionals or providers, including licensed physicians,
2008 physician assistants, psychologists, or other health specialists.

2009 (7) Local school boards or charter schools shall adopt a policy:

2010 (a) providing for training of appropriate school personnel on the provisions of this
2011 section; and

2012 (b) indicating that an intentional violation of this section is cause for disciplinary action
2013 consistent with local school board or charter school policy and under Section 53G-11-513.

2014 (8) Nothing in this section shall be interpreted as discouraging general communication
2015 not prohibited by this section between school personnel and a student's parent or guardian.

2016 Section 41. Section 53G-9-208 is amended to read:

2017 **53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.**

2018 (1) As used in this section, "sunscreen" means a compound topically applied to prevent
2019 sunburn.

2020 (2) A public school shall permit a student, without a [~~parent or physician's~~] parent's
2021 physician's, or physician assistant's authorization, to possess or self-apply sunscreen that is
2022 regulated by the Food and Drug Administration.

2023 (3) If a student is unable to self-apply sunscreen, a volunteer school employee may
2024 apply the sunscreen on the student if the student's parent or legal guardian provides written
2025 consent for the assistance.

2026 (4) A volunteer school employee who applies sunscreen on a student in compliance

2027 with Subsection (3) and the volunteer school employee's employer are not liable for:

2028 (a) an adverse reaction suffered by the student as a result of having the sunscreen
2029 applied; or

2030 (b) discontinuing the application of the sunscreen at any time.

2031 Section 42. Section **53G-9-504** is amended to read:

2032 **53G-9-504. Administration of glucagon -- Training of volunteer school personnel**
2033 **-- Authority to use glucagon -- Immunity from liability.**

2034 (1) As used in this section, "glucagon authorization" means a signed statement from a
2035 parent or guardian of a student with diabetes:

2036 (a) certifying that glucagon has been prescribed for the student;

2037 (b) requesting that the student's public school identify and train school personnel who
2038 volunteer to be trained in the administration of glucagon in accordance with this section; and

2039 (c) authorizing the administration of glucagon in an emergency to the student in
2040 accordance with this section.

2041 (2) (a) A public school shall, within a reasonable time after receiving a glucagon
2042 authorization, train two or more school personnel who volunteer to be trained in the
2043 administration of glucagon, with training provided by the school nurse or another qualified,
2044 licensed medical professional.

2045 (b) A public school shall allow all willing school personnel to receive training in the
2046 administration of glucagon, and the school shall assist and may not obstruct the identification
2047 or training of volunteers under this Subsection (2).

2048 (c) The Utah Department of Health, in cooperation with the state superintendent of
2049 public instruction, shall design a glucagon authorization form to be used by public schools in
2050 accordance with this section.

2051 (3) (a) Training in the administration of glucagon shall include:

2052 (i) techniques for recognizing the symptoms that warrant the administration of
2053 glucagon;

2054 (ii) standards and procedures for the storage and use of glucagon;
2055 (iii) other emergency procedures, including calling the emergency 911 number and
2056 contacting, if possible, the student's parent or guardian; and
2057 (iv) written materials covering the information required under this Subsection (3).
2058 (b) A school shall retain for reference the written materials prepared in accordance with
2059 Subsection (3)(a)(iv).
2060 (4) A public school shall permit a student or school personnel to possess or store
2061 prescribed glucagon so that it will be available for administration in an emergency in
2062 accordance with this section.
2063 (5) (a) A person who has received training in accordance with this section may
2064 administer glucagon at a school or school activity to a student with a glucagon authorization if:
2065 (i) the student is exhibiting the symptoms that warrant the administration of glucagon;
2066 and
2067 (ii) a licensed health care professional is not immediately available.
2068 (b) A person who administers glucagon in accordance with Subsection (5)(a) shall
2069 direct a responsible person to call 911 and take other appropriate actions in accordance with the
2070 training materials retained under Subsection (3)(b).
2071 (6) School personnel who provide or receive training under this section and act in good
2072 faith are not liable in any civil or criminal action for any act taken or not taken under the
2073 authority of this section with respect to the administration of glucagon.
2074 (7) Section 53G-9-502 does not apply to the administration of glucagon in accordance
2075 with this section.
2076 (8) Section 53G-8-205 does not apply to the possession and administration of glucagon
2077 in accordance with this section.
2078 (9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and
2079 Professions, do not apply to a person licensed as a health professional under Title 58,
2080 Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist

2081 who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with
2082 this section.

2083 Section 43. Section **53G-9-505** is amended to read:

2084 **53G-9-505. Trained school employee volunteers -- Administration of seizure**
2085 **rescue medication -- Exemptions from liability.**

2086 (1) As used in this section:

2087 (a) "Prescribing health care professional" means:

2088 (i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice
2089 Act;

2090 (ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah
2091 Osteopathic Medical Practice Act;

2092 (iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2093 Practice Act; or

2094 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
2095 Assistant Act.

2096 (b) "Section 504 accommodation plan" means a plan developed pursuant to Section
2097 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to
2098 an individual with a disability to ensure access to major life activities.

2099 (c) "Seizure rescue authorization" means a student's Section 504 accommodation plan
2100 that:

2101 (i) certifies that:

2102 (A) a prescribing health care professional has prescribed a seizure rescue medication
2103 for the student;

2104 (B) the student's parent or legal guardian has previously administered the student's
2105 seizure rescue medication in a nonmedically-supervised setting without a complication; and

2106 (C) the student has previously ceased having full body prolonged or convulsive seizure
2107 activity as a result of receiving the seizure rescue medication;

2108 (ii) describes the specific seizure rescue medication authorized for the student,
2109 including the indicated dose, and instructions for administration;

2110 (iii) requests that the student's public school identify and train school employees who
2111 are willing to volunteer to receive training to administer a seizure rescue medication in
2112 accordance with this section; and

2113 (iv) authorizes a trained school employee volunteer to administer a seizure rescue
2114 medication in accordance with this section.

2115 (d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing
2116 health care professional, to be administered as described in a student's seizure rescue
2117 authorization, while the student experiences seizure activity.

2118 (ii) A seizure rescue medication does not include a medication administered
2119 intravenously or intramuscularly.

2120 (e) "Trained school employee volunteer" means an individual who:

2121 (i) is an employee of a public school where at least one student has a seizure rescue
2122 authorization;

2123 (ii) is at least 18 years old; and

2124 (iii) as described in this section:

2125 (A) volunteers to receive training in the administration of a seizure rescue medication;

2126 (B) completes a training program described in this section;

2127 (C) demonstrates competency on an assessment; and

2128 (D) completes annual refresher training each year that the individual intends to remain
2129 a trained school employee volunteer.

2130 (2) (a) The Department of Health shall, with input from the State Board of Education
2131 and a children's hospital, develop a training program for trained school employee volunteers in
2132 the administration of seizure rescue medications that includes:

2133 (i) techniques to recognize symptoms that warrant the administration of a seizure
2134 rescue medication;

- 2135 (ii) standards and procedures for the storage of a seizure rescue medication;
- 2136 (iii) procedures, in addition to administering a seizure rescue medication, in the event
- 2137 that a student requires administration of the seizure rescue medication, including:
- 2138 (A) calling 911; and
- 2139 (B) contacting the student's parent or legal guardian;
- 2140 (iv) an assessment to determine if an individual is competent to administer a seizure
- 2141 rescue medication;
- 2142 (v) an annual refresher training component; and
- 2143 (vi) written materials describing the information required under this Subsection (2)(a).
- 2144 (b) A public school shall retain for reference the written materials described in
- 2145 Subsection (2)(a)(vi).
- 2146 (c) The following individuals may provide the training described in Subsection (2)(a):
- 2147 (i) a school nurse; or
- 2148 (ii) a licensed health care professional.
- 2149 (3) (a) A public school shall, after receiving a seizure rescue authorization:
- 2150 (i) inform school employees of the opportunity to be a school employee volunteer; and
- 2151 (ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who
- 2152 volunteers, using the training program described in Subsection (2)(a).
- 2153 (b) A public school may not:
- 2154 (i) obstruct the identification or training of a trained school employee volunteer; or
- 2155 (ii) compel a school employee to become a trained school employee volunteer.
- 2156 (4) A trained school employee volunteer may possess or store a prescribed rescue
- 2157 seizure medication, in accordance with this section.
- 2158 (5) A trained school employee volunteer may administer a seizure rescue medication to
- 2159 a student with a seizure rescue authorization if:
- 2160 (a) the student is exhibiting a symptom, described on the student's seizure rescue
- 2161 authorization, that warrants the administration of a seizure rescue medication; and

2162 (b) a licensed health care professional is not immediately available to administer the
2163 seizure rescue medication.

2164 (6) A trained school employee volunteer who administers a seizure rescue medication
2165 shall direct an individual to call 911 and take other appropriate actions in accordance with the
2166 training described in Subsection (2).

2167 (7) A trained school employee volunteer who administers a seizure rescue medication
2168 in accordance with this section in good faith is not liable in a civil or criminal action for an act
2169 taken or not taken under this section.

2170 (8) Section 53G-9-502 does not apply to the administration of a seizure rescue
2171 medication.

2172 (9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication
2173 in accordance with this section.

2174 (10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations
2175 and Professions, do not apply to a person licensed as a health care professional under Title 58,
2176 Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist
2177 for, in good faith, training a nonlicensed school employee who volunteers to administer a
2178 seizure rescue medication in accordance with this section.

2179 (b) Allowing a trained school employee volunteer to administer a seizure rescue
2180 medication in accordance with this section does not constitute unlawful or inappropriate
2181 delegation under Title 58, Occupations and Professions.

2182 Section 44. Section 54-8b-10 is amended to read:

2183 **54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech**
2184 **impaired individuals with telecommunication devices -- Definitions -- Procedures for**
2185 **establishing program -- Surcharge -- Administration and disposition of surcharge money.**

2186 (1) As used in this section:

2187 (a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any
2188 state resident who:

- 2189 (i) is so certified by:
- 2190 (A) a licensed physician;
- 2191 (B) a licensed physician assistant;
- 2192 [~~(B)~~] (C) an otolaryngologist;
- 2193 [~~(C)~~] (D) a speech language pathologist;
- 2194 [~~(D)~~] (E) an audiologist; or
- 2195 [~~(E)~~] (F) a qualified state agency; and
- 2196 (ii) qualifies for assistance under any low income public assistance program
- 2197 administered by a state agency.
- 2198 (b) "Certified interpreter" means a person who is a certified interpreter under Title
- 2199 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.
- 2200 (c) (i) "Telecommunication device" means any mechanical adaptation device that
- 2201 enables a deaf, hard of hearing, or severely speech impaired individual to use the telephone.
- 2202 (ii) "Telecommunication device" includes:
- 2203 (A) telecommunication devices for the deaf (TDD);
- 2204 (B) telephone amplifiers;
- 2205 (C) telephone signal devices;
- 2206 (D) artificial larynxes; and
- 2207 (E) adaptive equipment for TDD keyboard access.
- 2208 (2) The commission shall establish a program whereby a certified deaf, hard of hearing,
- 2209 or severely speech impaired customer of a telecommunications corporation that provides
- 2210 service through a local exchange or of a wireless telecommunications provider may obtain a
- 2211 telecommunication device capable of serving the customer at no charge to the customer beyond
- 2212 the rate for basic service.
- 2213 (3) (a) The program described in Subsection (2) shall provide a dual party relay system
- 2214 using third party intervention to connect a certified deaf, hard of hearing, or severely speech
- 2215 impaired individual with a normal hearing individual by way of telecommunication devices

2216 designed for that purpose.

2217 (b) The commission may, by rule, establish the type of telecommunications device to
2218 be provided to ensure functional equivalence.

2219 (4) The commission shall cover the costs of the program described in this section from
2220 the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

2221 (5) In administering the program described in this section, the commission may use
2222 funds from the Universal Public Telecommunications Service Support Fund:

2223 (a) for the purchase, maintenance, repair, and distribution of telecommunication
2224 devices;

2225 (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

2226 (c) for the general administration of the program;

2227 (d) to train individuals in the use of telecommunications devices; and

2228 (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code,

2229 with:

2230 (i) an institution within the state system of higher education listed in Section
2231 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as
2232 certified interpreters; or

2233 (ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program
2234 that trains persons to qualify as certified interpreters.

2235 (6) The commission may create disbursement criteria and procedures by rule made
2236 under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds
2237 under Subsection (5).

2238 (7) The commission shall solicit advice, counsel, and physical assistance from deaf,
2239 hard of hearing, or severely speech impaired individuals and the organizations serving deaf,
2240 hard of hearing, or severely speech impaired individuals in the design and implementation of
2241 the program.

2242 Section 45. Section 58-1-307 is amended to read:

2243 **58-1-307. Exemptions from licensure.**

2244 (1) Except as otherwise provided by statute or rule, the following individuals may
2245 engage in the practice of their occupation or profession, subject to the stated circumstances and
2246 limitations, without being licensed under this title:

2247 (a) an individual serving in the armed forces of the United States, the United States
2248 Public Health Service, the United States Department of Veterans Affairs, or other federal
2249 agencies while engaged in activities regulated under this chapter as a part of employment with
2250 that federal agency if the individual holds a valid license to practice a regulated occupation or
2251 profession issued by any other state or jurisdiction recognized by the division;

2252 (b) a student engaged in activities constituting the practice of a regulated occupation or
2253 profession while in training in a recognized school approved by the division to the extent the
2254 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
2255 part of the training program;

2256 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
2257 fellowship, apprenticeship, or on-the-job training program approved by the division while
2258 under the supervision of qualified individuals;

2259 (d) an individual residing in another state and licensed to practice a regulated
2260 occupation or profession in that state, who is called in for a consultation by an individual
2261 licensed in this state, and the services provided are limited to that consultation;

2262 (e) an individual who is invited by a recognized school, association, society, or other
2263 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
2264 regulated occupation or profession if the individual does not establish a place of business or
2265 regularly engage in the practice of the regulated occupation or profession in this state;

2266 (f) an individual licensed under the laws of this state, other than under this title, to
2267 practice or engage in an occupation or profession, while engaged in the lawful, professional,
2268 and competent practice of that occupation or profession;

2269 (g) an individual licensed in a health care profession in another state who performs that

2270 profession while attending to the immediate needs of a patient for a reasonable period during
2271 which the patient is being transported from outside of this state, into this state, or through this
2272 state;

2273 (h) an individual licensed in another state or country who is in this state temporarily to
2274 attend to the needs of an athletic team or group, except that the practitioner may only attend to
2275 the needs of the athletic team or group, including all individuals who travel with the team or
2276 group in any capacity except as a spectator;

2277 (i) an individual licensed and in good standing in another state, who is in this state:

2278 (i) temporarily, under the invitation and control of a sponsoring entity;

2279 (ii) for a reason associated with a special purpose event, based upon needs that may
2280 exceed the ability of this state to address through its licensees, as determined by the division;
2281 and

2282 (iii) for a limited period of time not to exceed the duration of that event, together with
2283 any necessary preparatory and conclusionary periods; and

2284 (j) the spouse of an individual serving in the armed forces of the United States while
2285 the individual is stationed within this state, provided:

2286 (i) the spouse holds a valid license to practice a regulated occupation or profession
2287 issued by any other state or jurisdiction recognized by the division; and

2288 (ii) the license is current and the spouse is in good standing in the state of licensure.

2289 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
2290 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
2291 practitioner derives authority to practice.

2292 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
2293 exempt status, denial of license, or other disciplinary proceedings.

2294 (3) An individual who is licensed under a specific chapter of this title to practice or
2295 engage in an occupation or profession may engage in the lawful, professional, and competent
2296 practice of that occupation or profession without additional licensure under other chapters of

2297 this title, except as otherwise provided by this title.

2298 (4) Upon the declaration of a national, state, or local emergency, a public health
2299 emergency as defined in Section 26-23b-102, or a declaration by the president of the United
2300 States or other federal official requesting public health-related activities, the division in
2301 collaboration with the board may:

2302 (a) suspend the requirements for permanent or temporary licensure of individuals who
2303 are licensed in another state for the duration of the emergency while engaged in the scope of
2304 practice for which they are licensed in the other state;

2305 (b) modify, under the circumstances described in this Subsection (4) and Subsection
2306 (5), the scope of practice restrictions under this title for individuals who are licensed under this
2307 title as:

2308 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
2309 Osteopathic Medical Practice Act;

2310 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure
2311 Compact;

2312 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

2313 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
2314 Pharmacy Practice Act;

2315 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

2316 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
2317 Practice Act; and

2318 (vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

2319 (c) suspend the requirements for licensure under this title and modify the scope of
2320 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
2321 services personnel or paramedics required to be licensed under Section 26-8a-302;

2322 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require
2323 certain prescriptive procedures;

2324 (e) exempt or modify the requirement for licensure of an individual who is activated as
2325 a member of a medical reserve corps during a time of emergency as provided in Section
2326 26A-1-126; and

2327 (f) exempt or modify the requirement for licensure of an individual who is registered as
2328 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
2329 Volunteer Health Practitioners Act.

2330 (5) Individuals exempt under Subsection (4)(c) and individuals operating under
2331 modified scope of practice provisions under Subsection (4)(b):

2332 (a) are exempt from licensure or subject to modified scope of practice for the duration
2333 of the emergency;

2334 (b) must be engaged in the distribution of medicines or medical devices in response to
2335 the emergency or declaration; and

2336 (c) must be employed by or volunteering for:

2337 (i) a local or state department of health; or

2338 (ii) a host entity as defined in Section 26-49-102.

2339 (6) In accordance with the protocols established under Subsection (8), upon the
2340 declaration of a national, state, or local emergency, the Department of Health or a local health
2341 department shall coordinate with public safety authorities as defined in Subsection
2342 26-23b-110(1) and may:

2343 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
2344 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
2345 consequence of, the emergency; or

2346 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
2347 a controlled substance:

2348 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
2349 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
2350 is exhausted; or

2351 (ii) for dispensing or direct administration to treat the disease or condition that gave
2352 rise to, or was a consequence of, the emergency by:

2353 (A) a pharmacy;

2354 (B) a prescribing practitioner;

2355 (C) a licensed health care facility;

2356 (D) a federally qualified community health clinic; or

2357 (E) a governmental entity for use by a community more than 50 miles from a person
2358 described in Subsections (6)(b)(ii)(A) through (D).

2359 (7) In accordance with protocols established under Subsection (8), upon the declaration
2360 of a national, state, or local emergency, the Department of Health shall coordinate the
2361 distribution of medications:

2362 (a) received from the strategic national stockpile to local health departments; and

2363 (b) from local health departments to emergency personnel within the local health
2364 departments' geographic region.

2365 (8) The Department of Health shall establish by rule, made in accordance with Title
2366 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
2367 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
2368 not a controlled substance in the event of a declaration of a national, state, or local emergency.
2369 The protocol shall establish procedures for the Department of Health or a local health
2370 department to:

2371 (a) coordinate the distribution of:

2372 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
2373 controlled substance received by the Department of Health from the strategic national stockpile
2374 to local health departments; and

2375 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
2376 medication received by a local health department to emergency personnel within the local
2377 health department's geographic region;

2378 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
2379 an antibiotic, or other prescription medication that is not a controlled substance to the contact
2380 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
2381 that of the physician's or physician assistant's patient; and

2382 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
2383 an antibiotic, or other non-controlled prescription medication to an individual who:

2384 (i) is working in a triage situation;

2385 (ii) is receiving preventative or medical treatment in a triage situation;

2386 (iii) does not have coverage for the prescription in the individual's health insurance
2387 plan;

2388 (iv) is involved in the delivery of medical or other emergency services in response to
2389 the declared national, state, or local emergency; or

2390 (v) otherwise has a direct impact on public health.

2391 (9) The Department of Health shall give notice to the division upon implementation of
2392 the protocol established under Subsection (8).

2393 Section 46. Section **58-41-4** is amended to read:

2394 **58-41-4. Exemptions from chapter.**

2395 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
2396 persons may engage in the practice of speech-language pathology and audiology subject to the
2397 stated circumstances and limitations without being licensed under this chapter:

2398 (a) a qualified person licensed in this state under any law existing in this state prior to
2399 May 13, 1975, [~~from~~] engaging in the profession for which he is licensed;

2400 (b) a medical doctor, physician, physician assistant, or surgeon licensed in this state,
2401 [~~from~~] engaging in his or her specialty in the practice of medicine;

2402 (c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing
2403 hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid
2404 dealer may not conduct audiologic testing on persons under the age of 18 years except under

2405 the direct supervision of an audiologist licensed under this chapter;

2406 (d) a person who has obtained a valid and current credential issued by the State Board
2407 of Education while performing specifically the functions of a speech-language pathologist or
2408 audiologist, in no way in his own interest, solely within the confines of and under the direction
2409 and jurisdiction of and only in the academic interest of the schools by which employed in this
2410 state;

2411 (e) a person employed as a speech-language pathologist or audiologist by federal
2412 government agencies or subdivisions or, prior to July 1, 1989, by state or local government
2413 agencies or subdivisions, while specifically performing speech-language pathology or
2414 audiology services in no way in his own interest, solely within the confines of and under the
2415 direction and jurisdiction of and in the specific interest of that agency or subdivision;

2416 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or
2417 monetary or other compensation, without being licensed; however, such person may elect to be
2418 subject to the requirements of this chapter;

2419 (g) a person employed by accredited colleges or universities as a speech-language
2420 pathologist or audiologist from performing the services or functions described in this chapter
2421 when they are:

2422 (i) performed solely as an assigned teaching function of employment;

2423 (ii) solely in academic interest and pursuit as a function of that employment;

2424 (iii) in no way for their own interest; and

2425 (iv) provided for no fee, monetary or otherwise, other than their agreed institutional
2426 salary;

2427 (h) a person pursuing a course of study leading to a degree in speech-language
2428 pathology or audiology while enrolled in an accredited college or university, provided those
2429 activities constitute an assigned, directed, and supervised part of his curricular study, and in no
2430 other interest, and that all examinations, tests, histories, charts, progress notes, reports,
2431 correspondence, and all documents and records which he produces be identified clearly as

2432 having been conducted and prepared by a student in training and that such a person is
2433 obviously identified and designated by appropriate title clearly indicating the training status
2434 and provided that he does not hold himself out directly or indirectly as being qualified to
2435 practice independently;

2436 (i) a person trained in elementary audiometry and qualified to perform basic
2437 audiometric tests while employed by a licensed medical doctor to perform solely for him while
2438 under his direct supervision, the elementary conventional audiometric tests of air conduction
2439 screening, air conduction threshold testing, and tympanometry;

2440 (j) a person while performing as a speech-language pathologist or audiologist for the
2441 purpose of obtaining required professional experience under the provisions of this chapter, if he
2442 meets all training requirements and is professionally responsible to and under the supervision
2443 of a speech-language pathologist or audiologist who holds the CCC or a state license in
2444 speech-language pathology or audiology. This provision is applicable only during the time that
2445 person is obtaining the required professional experience;

2446 (k) a corporation, partnership, trust, association, group practice, or like organization
2447 engaging in speech-language pathology or audiology services without certification or license, if
2448 it acts only through employees or consists only of persons who are licensed under this chapter;

2449 (l) performance of speech-language pathology or audiology services in this state by a
2450 speech-language pathologist or audiologist who is not a resident of this state and is not licensed
2451 under this chapter if those services are performed for no more than one month in any calendar
2452 year in association with a speech-language pathologist or audiologist licensed under this
2453 chapter, and if that person meets the qualifications and requirements for application for
2454 licensure described in Section 58-41-5; and

2455 (m) a person certified under Title 53E, Public Education System -- State
2456 Administration, as a teacher of the deaf, from providing the services or performing the
2457 functions he is certified to perform.

2458 (2) No person is exempt from the requirements of this chapter who performs or

2459 provides any services as a speech-language pathologist or audiologist for which a fee, salary,
2460 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who
2461 engages any part of his professional work for a fee practicing in conjunction with, by
2462 permission of, or apart from his position of employment as speech-language pathologist or
2463 audiologist in any branch or subdivision of local, state, or federal government or as otherwise
2464 identified in this section.

2465 Section 47. Section **58-46a-305** is amended to read:

2466 **58-46a-305. Exemptions from licensure.**

2467 In addition to the exemptions from licensure in Section **58-1-307**, the following persons
2468 may engage in acts and practices included within the definition of practice as a hearing
2469 instrument specialist or hearing instrument intern, subject to their professional licensure
2470 authorization and restrictions, without being licensed under this chapter:

2471 (1) an audiologist licensed under the provisions of [~~Title 58;~~] Chapter 41,
2472 Speech-Language Pathology and Audiology Licensing Act; [~~and~~]

2473 (2) a physician and surgeon licensed under the provisions of [~~Title 58;~~] Chapter 67,
2474 Utah Medical Practice Act, or osteopathic physician licensed under the provisions of [~~Title 58;~~]
2475 Chapter 68, Utah Osteopathic Medical Practice Act[~~;~~]; and

2476 (3) a physician assistant licensed under the provisions of Chapter 70a, Utah Physician
2477 Assistant Act.

2478 Section 48. Section **58-46a-502** is amended to read:

2479 **58-46a-502. Additional requirements for practicing as a hearing instrument**
2480 **specialist.**

2481 A person engaging in the practice of a hearing instrument specialist shall:

2482 (1) have a regular place or places of business from which the person conducts business
2483 as a hearing instrument specialist and the place or places of business shall be represented to a
2484 patient and others with whom business is conducted by the street address at which the place of
2485 business is located;

2486 (2) include in all advertising or other representation the street address at which the
2487 business is located and the telephone number of the business at that street address;

2488 (3) provide as part of each transaction between a licensee and a patient related to
2489 testing for hearing loss and selling of a hearing instrument written documentation provided to
2490 the patient that includes:

2491 (a) identification of all services and products provided to the patient by the hearing
2492 instrument specialist and the charges for each service or product;

2493 (b) a statement whether any hearing instrument provided to a patient is "new," "used,"
2494 or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to
2495 each instrument; and

2496 (c) the identity and license number of each hearing instrument specialist or hearing
2497 instrument intern who provided services or products to the patient;

2498 (4) before providing services or products to a patient:

2499 (a) advise the patient regarding services and products offered to the patient, including
2500 the expected results of the services and products;

2501 (b) inform each patient who is being offered a hearing instrument about hearing
2502 instruments that work with assistive listening systems that are compliant with the ADA
2503 Standards for Accessible Design adopted by the United States Department of Justice in
2504 accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

2505 (c) obtain written informed consent from the patient regarding offered services,
2506 products, and the expected results of the services and products in a form approved by the
2507 division in collaboration with the board;

2508 (5) refer all individuals under the age of 18 who seek testing of hearing to a physician
2509 or surgeon, osteopathic physician, physician assistant, or audiologist, licensed under the
2510 provisions of [~~Title 58, Occupations and Professions~~] this title, and shall dispense a hearing aid
2511 to that individual only on prescription of a physician or surgeon, osteopathic physician,
2512 physician assistant, or audiologist;

2513 (6) obtain the patient's informed consent and agreement to purchase the hearing
2514 instrument based on that informed consent either by the hearing instrument specialist or the
2515 hearing instrument intern, before designating an appropriate hearing instrument; and

2516 (7) if a hearing instrument does not substantially enhance the patient's hearing
2517 consistent with the representations of the hearing instrument specialist at the time informed
2518 consent was given prior to the sale and fitting of the hearing instrument, provide:

2519 (a) necessary intervention to produce satisfactory hearing recovery results consistent
2520 with representations made; or

2521 (b) for the refund of fees paid by the patient for the hearing instrument to the hearing
2522 instrument specialist within a reasonable time after finding that the hearing instrument does not
2523 substantially enhance the patient's hearing.

2524 Section 49. Section **58-47b-304** is amended to read:

2525 **58-47b-304. Exemptions from licensure.**

2526 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
2527 individuals may engage in the practice of massage therapy as defined under this chapter,
2528 subject to the stated circumstances and limitations, without being licensed, but may not
2529 represent themselves as a massage therapist or massage apprentice:

2530 (a) a physician or surgeon licensed under [~~Title 58;~~] Chapter 67, Utah Medical Practice
2531 Act;

2532 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

2533 [~~(b)~~] (c) a nurse licensed under [~~Title 58;~~] Chapter 31b, Nurse Practice Act, or under
2534 [~~Title 58;~~] Chapter 44a, Nurse Midwife Practice Act;

2535 [~~(c)~~] (d) a physical therapist licensed under [~~Title 58;~~] Chapter 24b, Physical Therapy
2536 Practice Act;

2537 [~~(d)~~] (e) a physical therapist assistant licensed under [~~Title 58;~~] Chapter 24b, Physical
2538 Therapy Practice Act, while under the general supervision of a physical therapist;

2539 [~~(e)~~] (f) an osteopathic physician or surgeon licensed under [~~Title 58;~~] Chapter 68,

2540 Utah Osteopathic Medical Practice Act;

2541 ~~(f)~~ (g) a chiropractic physician licensed under ~~[Title 58,]~~ Chapter 73, Chiropractic

2542 Physician Practice Act;

2543 ~~(g)~~ (h) a hospital staff member employed by a hospital, who practices massage as part

2544 of the staff member's responsibilities;

2545 ~~(h)~~ (i) an athletic trainer licensed under ~~[Title 58,]~~ Chapter 40a, Athletic Trainer

2546 Licensing Act;

2547 ~~(i)~~ (j) a student in training enrolled in a massage therapy school approved by the

2548 division;

2549 ~~(j)~~ (k) a naturopathic physician licensed under ~~[Title 58,]~~ Chapter 71, Naturopathic

2550 Physician Practice Act;

2551 ~~(k)~~ (l) an occupational therapist licensed under ~~[Title 58,]~~ Chapter 42a, Occupational

2552 Therapy Practice Act;

2553 ~~(l)~~ (m) an individual performing gratuitous massage; and

2554 ~~(m)~~ (n) an individual:

2555 (i) certified by or through, and in good standing with, an industry organization that is

2556 recognized by the division, and that represents a profession with established standards and

2557 ethics;

2558 (ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet,

2559 and outer ears only, including the practice of reflexology and foot zone therapy; or

2560 (B) who is certified to practice ortho-bionomy and whose practice is limited to the

2561 scope of practice of ortho-bionomy;

2562 (iii) whose clients remain fully clothed from the shoulders to the knees; and

2563 (iv) whose clients do not receive gratuitous massage from the individual.

2564 (2) This chapter may not be construed to authorize any individual licensed under this

2565 chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

2566 (3) This chapter may not be construed to:

2567 (a) require insurance coverage or reimbursement for massage therapy from third party
2568 payors; or

2569 (b) prevent an insurance carrier from offering coverage for massage therapy.

2570 Section 50. Section **58-70a-101** is amended to read:

2571 **CHAPTER 70a. UTAH PHYSICIAN ASSISTANT ACT**

2572 **Part 1. General Provisions**

2573 **58-70a-101. Title.**

2574 This chapter is known as the "Utah Physician Assistant Act."

2575 Section 51. Section **58-70a-305** is amended to read:

2576 **58-70a-305. Exemptions from licensure.**

2577 In addition to the exemptions from licensure in Section **58-1-307**, the following persons
2578 may engage in acts included within the definition of practice as a physician assistant, subject to
2579 the stated circumstances and limitations, without being licensed under this chapter:

2580 (1) a student enrolled in an accredited physician assistant education program while
2581 engaged in activities as a physician assistant:

2582 (a) that are a part of the education program;

2583 (b) that are conducted at an affiliated medical facility under the direct supervision of a:

2584 (i) physician associated with the program; or

2585 (ii) licensed physician assistant~~[, at the request of the supervising physician and on a~~
2586 ~~temporary basis, as defined by rule]~~ associated with the medical faculty;

2587 (c) for which the program accepts in writing the responsibility for the student; and

2588 (2) a "medical assistant," as defined in Sections **58-67-102** and **58-68-102**, who:

2589 (a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any
2590 person; and

2591 (b) for whom the supervising physician accepts responsibility.

2592 Section 52. Section **58-75-304** is amended to read:

2593 **58-75-304. Exemptions from licensure.**

2594 In addition to the exemptions from licensure set forth in Section 58-1-307, the
2595 following persons may engage in the practice of genetic counseling subject to the stated
2596 circumstances and limitations without being licensed under this chapter:

2597 (1) an individual licensed as a physician and surgeon or osteopathic physician and
2598 surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic
2599 Medical Practice Act; ~~and~~

2600 (2) a commissioned physician or surgeon serving in the armed forces of the United
2601 States or other federal agency[-]; and

2602 (3) an individual licensed as a physician assistant under Chapter 70a, Utah Physician
2603 Assistant Act.

2604 Section 53. Section 62A-4a-406 is amended to read:

2605 **62A-4a-406. Photographs.**

2606 (1) Any physician, surgeon, physician assistant, medical examiner, peace officer, law
2607 enforcement official, or public health officer or official may take photographs of the areas of
2608 trauma visible on a child and, if medically indicated, perform radiological examinations.

2609 (2) Photographs may be taken of the premises or of objects relevant to a reported
2610 circumstance of abuse or neglect.

2611 (3) Photographs or X-rays, and all other medical records pertinent to an investigation
2612 for abuse or neglect shall be made available to the division, law enforcement officials, and the
2613 court.

2614 Section 54. Section 63G-2-202 is amended to read:

2615 **63G-2-202. Access to private, controlled, and protected documents.**

2616 (1) Except as provided in Subsection (11)(a), a governmental entity:

2617 (a) shall, upon request, disclose a private record to:

2618 (i) the subject of the record;

2619 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the
2620 record;

- 2621 (iii) the legal guardian of a legally incapacitated individual who is the subject of the
2622 record;
- 2623 (iv) any other individual who:
- 2624 (A) has a power of attorney from the subject of the record;
- 2625 (B) submits a notarized release from the subject of the record or the individual's legal
2626 representative dated no more than 90 days before the date the request is made; or
- 2627 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
2628 health care provider, as defined in Section 26-33a-102, if releasing the record or information in
2629 the record is consistent with normal professional practice and medical ethics; or
- 2630 (v) any person to whom the record must be provided pursuant to:
- 2631 (A) court order as provided in Subsection (7); or
- 2632 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
2633 Powers; and
- 2634 (b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k),
2635 without complying with Section 63G-2-206, to another governmental entity for a purpose
2636 related to:
- 2637 (i) voter registration; or
- 2638 (ii) the administration of an election.
- 2639 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
- 2640 (i) a physician, physician assistant, psychologist, certified social worker, insurance
2641 provider or producer, or a government public health agency upon submission of:
- 2642 (A) a release from the subject of the record that is dated no more than 90 days prior to
2643 the date the request is made; and
- 2644 (B) a signed acknowledgment of the terms of disclosure of controlled information as
2645 provided by Subsection (2)(b); and
- 2646 (ii) any person to whom the record must be disclosed pursuant to:
- 2647 (A) a court order as provided in Subsection (7); or

2648 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
2649 Powers.

2650 (b) A person who receives a record from a governmental entity in accordance with
2651 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
2652 including the subject of the record.

2653 (3) If there is more than one subject of a private or controlled record, the portion of the
2654 record that pertains to another subject shall be segregated from the portion that the requester is
2655 entitled to inspect.

2656 (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental
2657 entity shall disclose a protected record to:

2658 (a) the person that submitted the record;

2659 (b) any other individual who:

2660 (i) has a power of attorney from all persons, governmental entities, or political
2661 subdivisions whose interests were sought to be protected by the protected classification; or

2662 (ii) submits a notarized release from all persons, governmental entities, or political
2663 subdivisions whose interests were sought to be protected by the protected classification or from
2664 their legal representatives dated no more than 90 days prior to the date the request is made;

2665 (c) any person to whom the record must be provided pursuant to:

2666 (i) a court order as provided in Subsection (7); or

2667 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
2668 Powers; or

2669 (d) the owner of a mobile home park, subject to the conditions of Subsection
2670 [41-1a-116\(5\)](#).

2671 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a
2672 private, controlled, or protected record to another governmental entity, political subdivision,
2673 state, the United States, or a foreign government only as provided by Section [63G-2-206](#).

2674 (6) Before releasing a private, controlled, or protected record, the governmental entity

2675 shall obtain evidence of the requester's identity.

2676 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
2677 signed by a judge from a court of competent jurisdiction, provided that:

2678 (a) the record deals with a matter in controversy over which the court has jurisdiction;

2679 (b) the court has considered the merits of the request for access to the record;

2680 (c) the court has considered and, where appropriate, limited the requester's use and
2681 further disclosure of the record in order to protect:

2682 (i) privacy interests in the case of private or controlled records;

2683 (ii) business confidentiality interests in the case of records protected under Subsection
2684 [63G-2-305](#)(1), (2), (40)(a)(ii), or (40)(a)(vi); and

2685 (iii) privacy interests or the public interest in the case of other protected records;

2686 (d) to the extent the record is properly classified private, controlled, or protected, the
2687 interests favoring access, considering limitations thereon, are greater than or equal to the
2688 interests favoring restriction of access; and

2689 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
2690 [63G-2-201](#)(3)(b), the court has authority independent of this chapter to order disclosure.

2691 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
2692 authorize disclosure of private or controlled records for research purposes if the governmental
2693 entity:

2694 (i) determines that the research purpose cannot reasonably be accomplished without
2695 use or disclosure of the information to the researcher in individually identifiable form;

2696 (ii) determines that:

2697 (A) the proposed research is bona fide; and

2698 (B) the value of the research is greater than or equal to the infringement upon personal
2699 privacy;

2700 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
2701 the records; and

2702 (B) requires the removal or destruction of the individual identifiers associated with the
2703 records as soon as the purpose of the research project has been accomplished;

2704 (iv) prohibits the researcher from:

2705 (A) disclosing the record in individually identifiable form, except as provided in
2706 Subsection (8)(b); or

2707 (B) using the record for purposes other than the research approved by the governmental
2708 entity; and

2709 (v) secures from the researcher a written statement of the researcher's understanding of
2710 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
2711 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
2712 under Section 63G-2-801.

2713 (b) A researcher may disclose a record in individually identifiable form if the record is
2714 disclosed for the purpose of auditing or evaluating the research program and no subsequent use
2715 or disclosure of the record in individually identifiable form will be made by the auditor or
2716 evaluator except as provided by this section.

2717 (c) A governmental entity may require indemnification as a condition of permitting
2718 research under this Subsection (8).

2719 (d) A governmental entity may not disclose or authorize disclosure of a private record
2720 for research purposes as described in this Subsection (8) if the private record is a record
2721 described in Subsection 63G-2-302(1)(u).

2722 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
2723 may disclose to persons other than those specified in this section records that are:

2724 (i) private under Section 63G-2-302; or

2725 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
2726 business confidentiality has been made under Section 63G-2-309.

2727 (b) Under Subsection 63G-2-403(11)(b), the records committee may require the
2728 disclosure to persons other than those specified in this section of records that are:

2729 (i) private under Section 63G-2-302;
2730 (ii) controlled under Section 63G-2-304; or
2731 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for
2732 business confidentiality has been made under Section 63G-2-309.

2733 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records
2734 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected
2735 under Section 63G-2-305 to persons other than those specified in this section.

2736 (10) A record contained in the Management Information System, created in Section
2737 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be
2738 disclosed to any person except the person who is alleged in the report to be a perpetrator of
2739 abuse, neglect, or dependency.

2740 (11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be
2741 disclosed as provided in Subsection (1)(e).

2742 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed
2743 as provided in Subsection (4)(c) or Section 62A-3-312.

2744 (12) (a) A private, protected, or controlled record described in Section 62A-16-301
2745 shall be disclosed as required under:

2746 (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

2747 (ii) Subsections 62A-16-302(1) and (6).

2748 (b) A record disclosed under Subsection (12)(a) shall retain its character as private,
2749 protected, or controlled.

2750 Section 55. Section 63N-10-102 is amended to read:

2751 **63N-10-102. Definitions.**

2752 As used in this chapter:

2753 (1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

2754 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by
2755 an approved boxing glove.

2756 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is
2757 charged or not, where:

2758 (i) the rules of the contest are not approved by the commission;

2759 (ii) a licensed physician [or], osteopath, or physician assistant approved by the
2760 commission is not in attendance;

2761 (iii) a correct HIV negative test regarding each contestant has not been provided to the
2762 commission;

2763 (iv) the contest is not conducted in accordance with commission rules; or

2764 (v) the contestants are not matched by the weight standards established in accordance
2765 with Section [63N-10-316](#).

2766 (b) "Club fighting" does not include sparring if:

2767 (i) it is conducted for training purposes;

2768 (ii) no tickets are sold to spectators;

2769 (iii) no concessions are available for spectators;

2770 (iv) protective clothing, including protective headgear, a mouthguard, and a protective
2771 cup, is worn; and

2772 (v) for boxing, 16 ounce boxing gloves are worn.

2773 (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this
2774 chapter.

2775 (5) "Contest" means a live match, performance, or exhibition involving two or more
2776 persons engaged in unarmed combat.

2777 (6) "Contestant" means an individual who participates in a contest.

2778 (7) "Designated commission member" means a member of the commission designated
2779 to:

2780 (a) attend and supervise a particular contest; and

2781 (b) act on the behalf of the commission at a contest venue.

2782 (8) "Director" means the director appointed by the commission.

- 2783 (9) "Elimination unarmed combat contest" means a contest where:
2784 (a) a number of contestants participate in a tournament;
2785 (b) the duration is not more than 48 hours; and
2786 (c) the loser of each contest is eliminated from further competition.
- 2787 (10) "Exhibition" means an engagement in which the participants show or display their
2788 skills without necessarily striving to win.
- 2789 (11) "Judge" means an individual qualified by training or experience to:
2790 (a) rate the performance of contestants;
2791 (b) score a contest; and
2792 (c) determine with other judges whether there is a winner of the contest or whether the
2793 contestants performed equally, resulting in a draw.
- 2794 (12) "Licensee" means an individual licensed by the commission to act as a:
2795 (a) contestant;
2796 (b) judge;
2797 (c) manager;
2798 (d) promoter;
2799 (e) referee;
2800 (f) second; or
2801 (g) other official established by the commission by rule.
- 2802 (13) "Manager" means an individual who represents a contestant for the purpose of:
2803 (a) obtaining a contest for a contestant;
2804 (b) negotiating terms and conditions of the contract under which the contestant will
2805 engage in a contest; or
2806 (c) arranging for a second for the contestant at a contest.
- 2807 (14) "Promoter" means a person who engages in producing or staging contests and
2808 promotions.
- 2809 (15) "Promotion" means a single contest or a combination of contests that:

- 2810 (a) occur during the same time and at the same location; and
- 2811 (b) is produced or staged by a promoter.
- 2812 (16) "Purse" means any money, prize, remuneration, or any other valuable
- 2813 consideration a contestant receives or may receive for participation in a contest.
- 2814 (17) "Referee" means an individual qualified by training or experience to act as the
- 2815 official attending a contest at the point of contact between contestants for the purpose of:
- 2816 (a) enforcing the rules relating to the contest;
- 2817 (b) stopping the contest in the event the health, safety, and welfare of a contestant or
- 2818 any other person in attendance at the contest is in jeopardy; and
- 2819 (c) acting as a judge if so designated by the commission.
- 2820 (18) "Round" means one of a number of individual time periods that, taken together,
- 2821 constitute a contest during which contestants are engaged in a form of unarmed combat.
- 2822 (19) "Second" means an individual who attends a contestant at the site of the contest
- 2823 before, during, and after the contest in accordance with contest rules.
- 2824 (20) "Serious bodily injury" has the same meaning as defined in Section [76-1-601](#).
- 2825 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a
- 2826 particular contest plus any sums received as consideration for holding the contest at a particular
- 2827 location.
- 2828 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is
- 2829 charged, in which:
- 2830 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,
- 2831 hitting, punching, or other combative contact techniques;
- 2832 (b) contest rules incorporate a formalized system of combative techniques against
- 2833 which a contestant's performance is judged to determine the prevailing contestant;
- 2834 (c) contest rules divide nonchampionship contests into three equal and specified rounds
- 2835 of no more than five minutes per round with a rest period of one minute between each round;
- 2836 (d) contest rules divide championship contests into five equal and specified rounds of

2837 no more than five minutes per round with a rest period of one minute between each round; and

2838 (e) contest rules prohibit contestants from:

2839 (i) using anything that is not part of the human body, except for boxing gloves, to
2840 intentionally inflict serious bodily injury upon an opponent through direct contact or the
2841 expulsion of a projectile;

2842 (ii) striking a person who demonstrates an inability to protect himself from the
2843 advances of an opponent;

2844 (iii) biting; or

2845 (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of
2846 the neck, and the rear area of the head and neck.

2847 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a
2848 blow is usually struck which may reasonably be expected to inflict bodily injury.

2849 (b) "Unarmed combat" does not include a competition or exhibition between
2850 participants in which the participants engage in simulated combat for entertainment purposes.

2851 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest
2852 which involves contestants that are not licensed under this chapter.

2853 (25) "Unprofessional conduct" means:

2854 (a) entering into a contract for a contest in bad faith;

2855 (b) participating in any sham or fake contest;

2856 (c) participating in a contest pursuant to a collusive understanding or agreement in
2857 which the contestant competes in or terminates the contest in a manner that is not based upon
2858 honest competition or the honest exhibition of the skill of the contestant;

2859 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or
2860 unsportsmanlike conduct in connection with a contest;

2861 (e) failing to comply with any limitation, restriction, or condition placed on a license;

2862 (f) striking of a downed opponent by a contestant while the contestant remains on the
2863 contestant's feet, unless the designated commission member or director has exempted the

2864 contest and each contestant from the prohibition on striking a downed opponent before the start
2865 of the contest;

2866 (g) after entering the ring or contest area, penetrating an area within four feet of an
2867 opponent by a contestant, manager, or second before the commencement of the contest; or

2868 (h) as further defined by rules made by the commission under Title 63G, Chapter 3,
2869 Utah Administrative Rulemaking Act.

2870 (26) "White-collar contest" means a contest conducted at a training facility where no
2871 alcohol is served in which:

2872 (a) for boxing:

2873 (i) neither contestant is or has been a licensed contestant in any state or an amateur
2874 registered with USA Boxing, Inc.;

2875 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

2876 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
2877 and for a female contestant a chestguard, is worn;

2878 (iv) 16 ounce boxing gloves are worn;

2879 (v) the contest is no longer than three rounds of no longer than three minutes each;

2880 (vi) no winner or loser is declared or recorded; and

2881 (vii) the contestants do not compete in a cage; and

2882 (b) for ultimate fighting:

2883 (i) neither contestant is or has been a licensed contestant in any state or an amateur
2884 registered with USA Boxing, Inc.;

2885 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

2886 (iii) protective clothing, including a protective mouthguard and a protective cup, is
2887 worn;

2888 (iv) downward elbow strikes are not allowed;

2889 (v) a contestant is not allowed to stand and strike a downed opponent;

2890 (vi) a closed-hand blow to the head is not allowed while either contestant is on the

2891 ground;

2892 (vii) the contest is no longer than three rounds of no longer than three minutes each;

2893 and

2894 (viii) no winner or loser is declared or recorded.

2895 Section 56. Section **63N-10-301** is amended to read:

2896 **63N-10-301. Licensing.**

2897 (1) A license is required for a person to act as or to represent that the person is:

2898 (a) a promoter;

2899 (b) a manager;

2900 (c) a contestant;

2901 (d) a second;

2902 (e) a referee;

2903 (f) a judge; or

2904 (g) another official established by the commission by rule.

2905 (2) The commission shall issue to a person who qualifies under this chapter a license in
2906 the classifications of:

2907 (a) promoter;

2908 (b) manager;

2909 (c) contestant;

2910 (d) second;

2911 (e) referee;

2912 (f) judge; or

2913 (g) another official who meets the requirements established by rule under Subsection
2914 (1)(g).

2915 (3) All money collected under this section and Sections [63N-10-304](#), [63N-10-307](#),
2916 [63N-10-310](#), and [63N-10-313](#) shall be retained as dedicated credits to pay for commission
2917 expenses.

- 2918 (4) Each applicant for licensure as a promoter shall:
- 2919 (a) submit an application in a form prescribed by the commission;
- 2920 (b) pay the fee determined by the commission under Section 63J-1-504;
- 2921 (c) provide to the commission evidence of financial responsibility, which shall include
- 2922 financial statements and other information that the commission may reasonably require to
- 2923 determine that the applicant or licensee is able to competently perform as and meet the
- 2924 obligations of a promoter in this state;
- 2925 (d) make assurances that the applicant:
- 2926 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
- 2927 respect to the promotions the applicant is promoting;
- 2928 (ii) has not been found in a criminal or civil proceeding to have engaged in or
- 2929 attempted to engage in any fraud or misrepresentation in connection with a contest or any other
- 2930 sporting event; and
- 2931 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
- 2932 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
- 2933 to the regulation of contests in this state or any other jurisdiction;
- 2934 (e) acknowledge in writing to the commission receipt, understanding, and intent to
- 2935 comply with this chapter and the rules made under this chapter; and
- 2936 (f) if requested by the commission or the director, meet with the commission or the
- 2937 director to examine the applicant's qualifications for licensure.
- 2938 (5) Each applicant for licensure as a contestant shall:
- 2939 (a) be not less than 18 years of age at the time the application is submitted to the
- 2940 commission;
- 2941 (b) submit an application in a form prescribed by the commission;
- 2942 (c) pay the fee established by the commission under Section 63J-1-504;
- 2943 (d) provide a certificate of physical examination, dated not more than 60 days prior to
- 2944 the date of application for licensure, in a form provided by the commission, completed by a

2945 licensed physician and surgeon or physician assistant certifying that the applicant is free from
2946 any physical or mental condition that indicates the applicant should not engage in activity as a
2947 contestant;

2948 (e) make assurances that the applicant:

2949 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
2950 respect to a contest in which the applicant will participate;

2951 (ii) has not been found in a criminal or civil proceeding to have engaged in or
2952 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
2953 any other sporting event; and

2954 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
2955 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
2956 to the regulation of contests in this state or any other jurisdiction;

2957 (f) acknowledge in writing to the commission receipt, understanding, and intent to
2958 comply with this chapter and the rules made under this chapter; and

2959 (g) if requested by the commission or the director, meet with the commission or the
2960 director to examine the applicant's qualifications for licensure.

2961 (6) Each applicant for licensure as a manager or second shall:

2962 (a) submit an application in a form prescribed by the commission;

2963 (b) pay a fee determined by the commission under Section [63J-1-504](#);

2964 (c) make assurances that the applicant:

2965 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
2966 respect to a contest in which the applicant is participating;

2967 (ii) has not been found in a criminal or civil proceeding to have engaged in or
2968 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
2969 any other sporting event; and

2970 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
2971 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating

2972 to the regulation of contests in this state or any other jurisdiction;

2973 (d) acknowledge in writing to the commission receipt, understanding, and intent to

2974 comply with this chapter and the rules made under this chapter; and

2975 (e) if requested by the commission or director, meet with the commission or the

2976 director to examine the applicant's qualifications for licensure.

2977 (7) Each applicant for licensure as a referee or judge shall:

2978 (a) submit an application in a form prescribed by the commission;

2979 (b) pay a fee determined by the commission under Section [63J-1-504](#);

2980 (c) make assurances that the applicant:

2981 (i) is not engaging in illegal gambling with respect to sporting events or gambling with

2982 respect to a contest in which the applicant is participating;

2983 (ii) has not been found in a criminal or civil proceeding to have engaged in or

2984 attempted to have engaged in any fraud or misrepresentation in connection with a contest or

2985 any other sporting event; and

2986 (iii) has not been found in a criminal or civil proceeding to have violated or attempted

2987 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating

2988 to the regulation of contests in this state or any other jurisdiction;

2989 (d) acknowledge in writing to the commission receipt, understanding, and intent to

2990 comply with this chapter and the rules made under this chapter;

2991 (e) provide evidence satisfactory to the commission that the applicant is qualified by

2992 training and experience to competently act as a referee or judge in a contest; and

2993 (f) if requested by the commission or the director, meet with the commission or the

2994 director to examine the applicant's qualifications for licensure.

2995 (8) The commission may make rules concerning the requirements for a license under

2996 this chapter, that deny a license to an applicant for the violation of a crime that, in the

2997 commission's determination, would have a material affect on the integrity of a contest held

2998 under this chapter.

2999 (9) (a) A licensee serves at the pleasure, and under the direction, of the commission
3000 while participating in any way at a contest.

3001 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not
3002 follow the commission's direction at an event or contest.

3003 Section 57. Section **67-5b-105** is amended to read:

3004 **67-5b-105. Local advisory boards -- Membership.**

3005 (1) The cooperating public agencies and other persons shall make up each center's local
3006 advisory board, which shall be composed of the following people from the county or area:

3007 (a) the local center director or the director's designee;

3008 (b) a district attorney or county attorney having criminal jurisdiction or any designee;

3009 (c) a representative of the attorney general's office, designated by the attorney general;

3010 (d) at least one official from a local law enforcement agency or the local law
3011 enforcement agency's designee;

3012 (e) the county executive or the county executive's designee;

3013 (f) a licensed nurse practitioner, physician assistant, or physician;

3014 (g) a licensed mental health professional;

3015 (h) a criminal defense attorney;

3016 (i) at least four members of the community at large provided, however, that the
3017 Advisory Board on Children's Justice may authorize fewer members, although not less than
3018 two, if the local advisory board so requests;

3019 (j) a guardian ad litem or representative of the Office of Guardian Ad Litem,
3020 designated by the director;

3021 (k) a representative of the Division of Child and Family Services within the
3022 Department of Human Services, designated by the employee of the division who has
3023 supervisory responsibility for the county served by the center;

3024 (l) if a center serves more than one county, one representative from each county served,
3025 appointed by the county executive; and

3026 (m) additional members appointed as needed by the county executive.

3027 (2) The members on each local advisory board who serve due to public office as
3028 provided in Subsections (1)(b) through (e) shall select the remaining members. The members
3029 on each local advisory board shall select a chair of the local advisory board.

3030 (3) The local advisory board may not supersede the authority of the contracting county
3031 as designated in Section 67-5b-104.

3032 (4) Appointees and designees shall serve a term or terms as designated in the bylaws of
3033 the local advisory board.

3034 Section 58. Section 67-5b-106 is amended to read:

3035 **67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms --**
3036 **Duties -- Authority.**

3037 (1) The attorney general shall create an Advisory Board on Children's Justice to advise
3038 him about the Children's Justice Center Program.

3039 (2) The board shall be composed of:

3040 (a) the director of each Children's Justice Center;

3041 (b) the attorney general or the attorney general's designee;

3042 (c) a representative of the Utah Sheriffs Association, appointed by the attorney general;

3043 (d) a chief of police, appointed by the attorney general;

3044 (e) one juvenile court judge and one district court judge, appointed by the chief justice
3045 of the Supreme Court;

3046 (f) one representative of the Office of Guardian Ad Litem and one representative of the
3047 Court Appointed Special Advocates, appointed by the chief justice of the Supreme Court;

3048 (g) a designated representative of the Division of Child and Family Services within the
3049 Department of Human Services, appointed by the director of that division;

3050 (h) a licensed mental health professional, appointed by the attorney general;

3051 (i) a person experienced in working with children with disabilities, appointed by the
3052 attorney general;

3053 (j) one criminal defense attorney, licensed by the Utah State Bar and in good standing,
3054 appointed by the Utah Bar Commission;

3055 (k) one criminal prosecutor, licensed by the Utah State Bar and in good standing,
3056 appointed by the Utah Prosecution Council;

3057 (l) a member of the governor's staff, appointed by the governor;

3058 (m) a member from the public, appointed by the attorney general, who exhibits
3059 sensitivity to the concerns of parents;

3060 (n) a licensed nurse practitioner, physician assistant, or physician, appointed by the
3061 attorney general;

3062 (o) one senator, appointed by the president of the Senate;

3063 (p) one representative, appointed by the speaker of the House; and

3064 (q) additional members appointed as needed by the attorney general.

3065 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
3066 expire, the appointing authority shall appoint each new member or reappointed member to a
3067 four-year term.

3068 (b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority
3069 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
3070 terms of board members are staggered so that approximately half of the board is appointed
3071 every two years.

3072 (4) The Advisory Board on Children's Justice shall:

3073 (a) coordinate and support the statewide purpose of the program;

3074 (b) recommend statewide guidelines for the administration of the program;

3075 (c) recommend training and improvements in training;

3076 (d) review, evaluate, and make recommendations concerning state investigative,
3077 administrative, and judicial handling in child abuse cases;

3078 (e) recommend programs to improve the prompt and fair resolution of civil and
3079 criminal court proceedings; and

3080 (f) recommend changes to state laws and procedures to provide comprehensive
3081 protection for children from abuse, child sexual abuse, neglect, and other crimes involving
3082 children where the child is a primary victim or a critical witness, such as in drug-related child
3083 endangerment cases.

3084 (5) The Advisory Board on Children's Justice may not supersede the authority of
3085 contracting counties regarding operation of the centers, including the budget, costs, personnel,
3086 and management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports
3087 from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

3088 Section 59. Section 76-5-406 is amended to read:

3089 **76-5-406. Sexual offenses against the victim without consent of victim --**
3090 **Circumstances.**

3091 An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a
3092 child, object rape, attempted object rape, object rape of a child, attempted object rape of a
3093 child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a
3094 child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse,
3095 sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child,
3096 attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the
3097 victim under any of the following circumstances:

3098 (1) the victim expresses lack of consent through words or conduct;

3099 (2) the actor overcomes the victim through the actual application of physical force or
3100 violence;

3101 (3) the actor is able to overcome the victim through concealment or by the element of
3102 surprise;

3103 (4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the
3104 immediate future against the victim or any other person, and the victim perceives at the time
3105 that the actor has the ability to execute this threat; or

3106 (ii) the actor coerces the victim to submit by threatening to retaliate in the future

3107 against the victim or any other person, and the victim believes at the time that the actor has the
3108 ability to execute this threat;

3109 (b) as used in this Subsection (4), "to retaliate" includes threats of physical force,
3110 kidnapping, or extortion;

3111 (5) the actor knows the victim is unconscious, unaware that the act is occurring, or
3112 physically unable to resist;

3113 (6) the actor knows or reasonably should know that the victim has a mental disease or
3114 defect, which renders the victim unable to:

3115 (a) appraise the nature of the act;

3116 (b) resist the act;

3117 (c) understand the possible consequences to the victim's health or safety; or

3118 (d) appraise the nature of the relationship between the actor and the victim.

3119 (7) the actor knows that the victim submits or participates because the victim
3120 erroneously believes that the actor is the victim's spouse;

3121 (8) the actor intentionally impaired the power of the victim to appraise or control his or
3122 her conduct by administering any substance without the victim's knowledge;

3123 (9) the victim is younger than 14 years of age;

3124 (10) the victim is younger than 18 years of age and at the time of the offense the actor
3125 was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of
3126 special trust in relation to the victim as defined in Section [76-5-404.1](#);

3127 (11) the victim is 14 years of age or older, but younger than 18 years of age, and the
3128 actor is more than three years older than the victim and entices or coerces the victim to submit
3129 or participate, under circumstances not amounting to the force or threat required under
3130 Subsection (2) or (4); or

3131 (12) the actor is a health professional or religious counselor, as those terms are defined
3132 in this Subsection (12), the act is committed under the guise of providing professional
3133 diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed

3134 that the act was for medically or professionally appropriate diagnosis, counseling, or treatment
3135 to the extent that resistance by the victim could not reasonably be expected to have been
3136 manifested; for purposes of this Subsection (12):

3137 (a) "health professional" means an individual who is licensed or who holds himself or
3138 herself out to be licensed, or who otherwise provides professional physical or mental health
3139 services, diagnosis, treatment, or counseling including, but not limited to, a physician,
3140 osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor,
3141 mental health therapist, social service worker, clinical social worker, certified social worker,
3142 marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric
3143 mental health nurse specialist, or substance abuse counselor; and

3144 (b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized
3145 member of the clergy.

3146 Section 60. Section **77-23-213** is amended to read:

3147 **77-23-213. Blood testing.**

3148 (1) As used in this section:

3149 (a) "Law enforcement purpose" means duties that consist primarily of the prevention
3150 and detection of crime and the enforcement of criminal statutes or ordinances of this state or
3151 any of this state's political subdivisions.

3152 (b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
3153 Officer Classification.

3154 (2) A peace officer may require an individual to submit to a blood test for a law
3155 enforcement purpose only if:

3156 (a) the individual or legal representative of the individual with authority to give
3157 consent gives oral or written consent to the blood test;

3158 (b) the peace officer obtains a warrant to administer the blood test; or

3159 (c) a judicially recognized exception to obtaining a warrant exists as established by the
3160 Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the

3161 Supreme Court of the United States.

3162 (3) (a) Only the following, acting at the request of a peace officer, may draw blood to
3163 determine the blood's alcohol or drug content:

3164 (i) a physician;

3165 (ii) a physician assistant;

3166 [~~(ii)~~] (iii) a registered nurse;

3167 [~~(iii)~~] (iv) a licensed practical nurse;

3168 [~~(iv)~~] (v) a paramedic;

3169 [~~(v)~~] (vi) as provided in Subsection (3)(b), emergency medical service personnel other
3170 than a paramedic; or

3171 [~~(vi)~~] (vii) a person with a valid permit issued by the Department of Health under
3172 Section [26-1-30](#).

3173 (b) The Department of Health may designate by rule, in accordance with Title 63G,
3174 Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel,
3175 as defined in Section [26-8a-102](#), are authorized to draw blood under Subsection [~~(3)(a)(v)~~]
3176 (3)(a)(vi), based on the type of license under Section [26-8a-302](#).

3177 (c) The following are immune from civil or criminal liability arising from drawing a
3178 blood sample from a person who a peace officer requests, for law enforcement purposes, if the
3179 sample is drawn in accordance with standard medical practice:

3180 (i) a person authorized to draw blood under Subsection (3)(a); and

3181 (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

3182 Section 61. Section **78B-1-137** is amended to read:

3183 **78B-1-137. Witnesses -- Privileged communications.**

3184 There are particular relations in which it is the policy of the law to encourage
3185 confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in
3186 the following cases:

3187 (1) (a) Neither a wife nor a husband may either during the marriage or afterwards be,

3188 without the consent of the other, examined as to any communication made by one to the other
3189 during the marriage.

3190 (b) This exception does not apply:

3191 (i) to a civil action or proceeding by one spouse against the other;

3192 (ii) to a criminal action or proceeding for a crime committed by one spouse against the
3193 other;

3194 (iii) to the crime of deserting or neglecting to support a spouse or child;

3195 (iv) to any civil or criminal proceeding for abuse or neglect committed against the child
3196 of either spouse; or

3197 (v) if otherwise specifically provided by law.

3198 (2) An attorney cannot, without the consent of the client, be examined as to any
3199 communication made by the client to the attorney or any advice given regarding the
3200 communication in the course of the professional employment. An attorney's secretary,
3201 stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any
3202 fact, the knowledge of which has been acquired as an employee.

3203 (3) A member of the clergy or priest cannot, without the consent of the person making
3204 the confession, be examined as to any confession made to either of them in their professional
3205 character in the course of discipline enjoined by the church to which they belong.

3206 (4) A physician [or], surgeon, or physician assistant cannot, without the consent of the
3207 patient, be examined in a civil action as to any information acquired in attending the patient
3208 which was necessary to enable the physician [or], surgeon, or physician assistant to prescribe or
3209 act for the patient. However, this privilege shall be waived by the patient in an action in which
3210 the patient places the patient's medical condition at issue as an element or factor of the claim or
3211 defense. Under those circumstances, a physician [or], surgeon, or physician assistant who has
3212 prescribed for or treated that patient for the medical condition at issue may provide
3213 information, interviews, reports, records, statements, memoranda, or other data relating to the
3214 patient's medical condition and treatment which are placed at issue.

3215 (5) A public officer cannot be examined as to communications made in official
3216 confidence when the public interests would suffer by the disclosure.

3217 (6) A sexual assault counselor as defined in Section 77-38-203 cannot, without the
3218 consent of the victim, be examined in a civil or criminal proceeding as to any confidential
3219 communication as defined in Section 77-38-203 made by the victim.

3220 Section 62. Section 78B-2-114 is amended to read:

3221 **78B-2-114. Separate trial of statute of limitations issue in malpractice actions.**

3222 (1) An issue raised by the defense regarding the statute of limitations in a case may be
3223 tried separately if the action is for professional negligence or for rendering professional
3224 services without consent, and against:

3225 (a) a physician;

3226 (b) a surgeon;

3227 (c) a physician assistant;

3228 [~~(c)~~] (d) a dentist;

3229 [~~(d)~~] (e) an osteopathic physician;

3230 [~~(e)~~] (f) a chiropractor;

3231 [~~(f)~~] (g) a physical therapist;

3232 [~~(g)~~] (h) a registered nurse;

3233 [~~(h)~~] (i) a clinical laboratory bioanalyst;

3234 [~~(i)~~] (j) a clinical laboratory technologist; or

3235 [~~(j)~~] (k) a licensed hospital, person, firm, or corporation as the employer of any of the
3236 persons in Subsection (1)(a) through [~~(j)~~] (j).

3237 (2) The issue raised may be tried before any other issues in the case are tried. If the
3238 issue raised by the defense of the statute of limitations is finally determined in favor of the
3239 plaintiff, the remaining issues shall then be tried.

3240 Section 63. Section 78B-3-403 is amended to read:

3241 **78B-3-403. Definitions.**

3242 As used in this part:

3243 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
3244 Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

3245 (2) "Certified social worker" means a person licensed to practice as a certified social
3246 worker under Section 58-60-205.

3247 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
3248 Title 58, Chapter 73, Chiropractic Physician Practice Act.

3249 (4) "Clinical social worker" means a person licensed to practice as a clinical social
3250 worker under Section 58-60-205.

3251 (5) "Commissioner" means the commissioner of insurance as provided in Section
3252 31A-2-102.

3253 (6) "Dental hygienist" means a person licensed to engage in the practice of dental
3254 hygiene as defined in Section 58-69-102.

3255 (7) "Dentist" means a person licensed to engage in the practice of dentistry as defined
3256 in Section 58-69-102.

3257 (8) "Division" means the Division of Occupational and Professional Licensing created
3258 in Section 58-1-103.

3259 (9) "Future damages" includes a judgment creditor's damages for future medical
3260 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
3261 suffering.

3262 (10) "Health care" means any act or treatment performed or furnished, or which should
3263 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
3264 during the patient's medical care, treatment, or confinement.

3265 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
3266 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
3267 ambulatory surgical facilities, small health care facilities, health care facilities owned or
3268 operated by health maintenance organizations, and end stage renal disease facilities.

3269 (12) "Health care provider" includes any person, partnership, association, corporation,
3270 or other facility or institution who causes to be rendered or who renders health care or
3271 professional services as a hospital, health care facility, physician, physician assistant, registered
3272 nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental
3273 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical
3274 therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic
3275 physician, osteopathic physician, osteopathic physician and surgeon, audiologist,
3276 speech-language pathologist, clinical social worker, certified social worker, social service
3277 worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or
3278 others rendering similar care and services relating to or arising out of the health needs of
3279 persons or groups of persons and officers, employees, or agents of any of the above acting in
3280 the course and scope of their employment.

3281 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
3282 21, Health Care Facility Licensing and Inspection Act.

3283 (14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a,
3284 Athletic Trainer Licensing Act.

3285 (15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry
3286 Midwife Act to engage in the practice of direct-entry midwifery as defined in Section
3287 [58-77-102](#).

3288 (16) "Licensed practical nurse" means a person licensed to practice as a licensed
3289 practical nurse as provided in Section [58-31b-301](#).

3290 (17) "Malpractice action against a health care provider" means any action against a
3291 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
3292 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
3293 or which should have been rendered by the health care provider.

3294 (18) "Marriage and family therapist" means a person licensed to practice as a marriage
3295 therapist or family therapist under Sections [58-60-305](#) and [58-60-405](#).

3296 (19) "Naturopathic physician" means a person licensed to engage in the practice of
3297 naturopathic medicine as defined in Section 58-71-102.

3298 (20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
3299 under Section 58-44a-301.

3300 (21) "Optometrist" means a person licensed to practice optometry under Title 58,
3301 Chapter 16a, Utah Optometry Practice Act.

3302 (22) "Osteopathic physician" means a person licensed to practice osteopathy under
3303 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

3304 (23) "Patient" means a person who is under the care of a health care provider, under a
3305 contract, express or implied.

3306 (24) "Periodic payments" means the payment of money or delivery of other property to
3307 a judgment creditor at intervals ordered by the court.

3308 (25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section
3309 58-17b-301.

3310 (26) "Physical therapist" means a person licensed to practice physical therapy under
3311 Title 58, Chapter 24b, Physical Therapy Practice Act.

3312 (27) "Physical therapist assistant" means a person licensed to practice physical therapy,
3313 within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical
3314 Therapy Practice Act.

3315 (28) "Physician" means a person licensed to practice medicine and surgery under Title
3316 58, Chapter 67, Utah Medical Practice Act.

3317 (29) "Physician assistant" means a person licensed to practice as a physician assistant
3318 under Title 58, Chapter 70a, Utah Physician Assistant Act.

3319 [~~29~~] (30) "Podiatric physician" means a person licensed to practice podiatry under
3320 Title 58, Chapter 5a, Podiatric Physician Licensing Act.

3321 [~~30~~] (31) "Practitioner of obstetrics" means a person licensed to practice as a
3322 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58,

3323 Chapter 68, Utah Osteopathic Medical Practice Act.

3324 ~~[(31)]~~ (32) "Psychologist" means a person licensed under Title 58, Chapter 61,
3325 Psychologist Licensing Act, to engage in the practice of psychology as defined in Section
3326 58-61-102.

3327 ~~[(32)]~~ (33) "Registered nurse" means a person licensed to practice professional nursing
3328 as provided in Section 58-31b-301.

3329 ~~[(33)]~~ (34) "Relative" means a patient's spouse, parent, grandparent, stepfather,
3330 stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The
3331 term includes relationships that are created as a result of adoption.

3332 ~~[(34)]~~ (35) "Representative" means the spouse, parent, guardian, trustee,
3333 attorney-in-fact, person designated to make decisions on behalf of a patient under a medical
3334 power of attorney, or other legal agent of the patient.

3335 ~~[(35)]~~ (36) "Social service worker" means a person licensed to practice as a social
3336 service worker under Section 58-60-205.

3337 ~~[(36)]~~ (37) "Speech-language pathologist" means a person licensed to practice
3338 speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and
3339 Audiology Licensing Act.

3340 ~~[(37)]~~ (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act
3341 or omission proximately causing injury or damage to another.

3342 ~~[(38)]~~ (39) "Unanticipated outcome" means the outcome of a medical treatment or
3343 procedure that differs from an expected result.