

R156. Commerce, Professional Licensing.

R156-1. General Rule of the Division of Professional Licensing.

R156-1-101. Title - Authority - Organization of Rules.

- (1) This rule is known as the "General Rule of the Division of Professional Licensing."
- (2) The Division adopts this rule under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Occupations and Professions.
- (3)(a) The rules and sections in Title R156 shall, to the extent practicable, follow the numbering and organization of the chapters in Title 58, Occupations and Professions.
- (b) This Rule R156-1 has general provisions for the administration and enforcement of professions regulated in Title 58, Occupations and Professions.
- (c) Rule R156-46b is the Division's Utah Administrative Procedures Act Rule for Division adjudicative proceedings.
- (d) The other rules in Title R156 have specific or unique provisions for specific Division professions or programs, which may supplement or alter Rule R156-1 unless expressly provided otherwise in Rule R156-1.

R156-1-102. Definitions.

- Terms used in this rule are defined in Title 58, Chapter 1, Division of Professional Licensing Act. In addition:
- (1)(a) "Active and in good standing" means a licensure status that allows the licensee full privileges to engage in the practice of the profession subject to the scope of the licensee's license classification.
 - (b) A license that has been placed on probation subject to terms and conditions is not active and in good standing.
 - (2)(a) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee.
 - (b) "Aggravating circumstances" include the following:
 - (i) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;
 - (ii) dishonest or selfish motive;
 - (iii) pattern of misconduct;
 - (iv) multiple offenses;
 - (v) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;
 - (vi) submission of false evidence, false statements, or engaging in other deceptive practices, including creating, destroying, or altering records;
 - (vii) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;
 - (viii) vulnerability of the victim;
 - (ix) lack of good faith to make restitution or to rectify the consequences of the misconduct;
 - (x) illegal conduct, including the use of controlled substances; or
 - (xi) intimidation or threats of withholding client records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.
 - (3) "Cancel" or "cancellation" means nondisciplinary action by the Division to rescind, repeal, annul, or void a license:
 - (a) issued to a licensee in error, such as where a license is issued to an applicant:
 - (i) whose payment of the required application fee is dishonored when presented for payment;
 - (ii) who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards; or
 - (iii) who has been issued the wrong classification of licensure; or
 - (b) not issued in error, but the licensee fails to maintain the ongoing qualifications for licensure and the failure is not defined as unprofessional conduct or unlawful conduct.
 - (4) "Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, that serve as the basis to consider a licensee for inclusion in the Utah Professionals Health Program authorized in Title 58, Chapter 4a, Utah Professionals Health Program.
 - (5)(a) "Cheating" means the use of any means or instrumentality by or for the benefit of a candidate to alter exam results to inaccurately represent the competency of a candidate with respect to the knowledge or skills about which the candidate is examined.
 - (b) "Cheating" includes:
 - (i) for a candidate during an exam:
 - (A) communication about the exam with another candidate inside the exam room or facility;
 - (B) communication about the exam with anyone outside of the exam room or facility;
 - (C) copying or looking at another candidate's answers;
 - (D) allowing another candidate to copy or look at the candidate's answers;
 - (E) use of any item, material, or device that is not specifically authorized for use in the exam; or
 - (F) unauthorized tampering with exam equipment or materials;
 - (ii) allowing access to exam questions or answers if not authorized by the Division;
 - (iii) taking or attempting to take an exam for another individual;
 - (iv) obtaining, using, disclosing, buying, selling, possessing, or having access to any part of a Division exam without written authorization from the Division or its contracted vendor;
 - (v) violating an exam confidentiality agreement; or

(vi) attesting that the candidate meets the qualifications to sit for an exam if the candidate knows or reasonable should know that the candidate does not meet the qualifications.

(c) "Cheating" is unlawful conduct under Subsection 58-1-501(1)(c) and unprofessional conduct under Subsection 58-1-501(2)(a)(viii).

(6) "Conditional licensure" means an interim non-adverse licensure action, in which a license is issued to an applicant for initial, renewal, or reinstatement of licensure on a conditional basis in accordance with Section R156-1-308f, while an investigation, inspection, or audit is pending.

(7) "Denial of licensure" means action by the Division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure, or relicensure.

(8)(a) "Disciplinary action" means adverse licensure action by the Division under the authority of Subsection 58-1-401(2)(a) or (b).

(b) "Disciplinary action" as used in Subsection 58-1-401(6):

(i) means an adverse licensure action initiated by the Division; and

(ii) does not mean an adverse licensure action taken by the Division in response to an application for licensure.

(9) "Duplicate license" means a license reissued to replace a license that has been lost, stolen, or mutilated.

(10) "Emergency review committee" means an emergency adjudicative proceedings review committee created by the Division under the authority of Subsection 58-1-108(2).

(11) "Expire" or "expiration" means the automatic termination of a license that occurs:

(a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or
(b) before the expiration date shown on the license:

(i) upon the death of a licensee who is a natural person;

(ii) upon the dissolution of a licensee that is a business structure such as a partnership, corporation, or other business entity; or

(iii) upon the issuance of a new license that supersedes an old license, including a license that:

(A) replaces a temporary license;

(B) replaces a student or other interim license that is limited to one or more renewals or other renewal limitation; or

(C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

(12) "Home telephone number" in Section 58-1-106 or R156-1-106 includes a licensee's personal cell phone number.

(13) "Home address" in Section 58-1-106 or R156-1-106 may include a licensee's mailing address or email address.

(14) "Inactive" or "inactivation" means action by the Division to place a license on inactive status in accordance with Section 58-1-305 and Section R156-1-305.

(15) "Investigative subpoena authority" means the Division assistant director or legal analyst, or an alternate designated by the director in writing.

(16) "License" means a right or privilege to engage in the practice of a regulated profession as a licensee.

(17) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions, or both upon a license:

(a) issued to an applicant for initial licensure, renewal, or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(18) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.

(a) Mitigating circumstances include:

(i) absence of prior record of disciplinary action, unlawful conduct or unprofessional conduct;

(ii) personal, mental, or emotional problems if the problems have not posed a risk to the health, safety, or welfare of the public or clients served, such as drug or alcohol abuse while working or similar situations where the licensee or applicant should know that they should refrain from engaging in activities that may pose such a risk;

(iii) timely and good faith effort to make restitution or rectify the consequences of the misconduct involved;

(iv) full and free disclosure to the client or Division before the discovery of any misconduct;

(v) inexperience in the practice of the profession, that is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain before beginning work on a particular matter;

(vi) imposition of other penalties or sanctions if the other penalties and sanctions have alleviated threats to the public health, safety, and welfare; and

(vii) remorse.

(b) The following factors may not be considered as mitigating circumstances:

(i) forced or compelled restitution;

(ii) withdrawal of complaint by client or other affected persons;

(iii) resignation before disciplinary proceedings;

(iv) failure of injured client to complain;

(v) complainant's recommendation as to sanction; or

(vi) in an informal disciplinary proceeding brought pursuant to Subsection 58-1-501(2)(a)(iii), or 58-1-501(2)(a)(iv), or Section R156-1-501:

(A) argument that a prior proceeding was conducted unfairly, contrary to law, or in violation of due process or any other procedural safeguard;

(B) argument that a prior finding or sanction was contrary to the evidence or entered without due consideration of relevant evidence;

(C) argument that a respondent was not adequately represented by counsel in a prior proceeding; and

(D) argument or evidence that former statements of a respondent made in conjunction with a plea or settlement agreement are not true.

(19) "Nondisciplinary action" means adverse licensure action by the Division under the authority of Subsection 58-1-401(1) or 58-1-401(2)(c) or (d).

(20) "Peer committee" means an advisory peer committee to a board that is created by the Legislature in Title 58, Occupations and Professions, or created by the Division under the authority of Subsection 58-1-203(1)(f).

(21) "Probation" means disciplinary action placing terms and conditions upon a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(22) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.

(23) "Regulatory authority" as used in Subsection 58-1-501(2)(a)(iv) and this rule means any governmental entity that licenses, certifies, registers, or otherwise regulates persons subject to its jurisdiction, or grants the right to practice before or otherwise do business with the governmental entity.

(24) "Reinstate" or "reinstatement" means to:

(a) activate an expired license; or

(b) restore a license that is restricted as defined in Subsection (26)(b), suspended, or on probation, to a less restrictive license or an active in good standing license.

(25) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(26) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

(a) issued to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-304; or

(b) issued to a licensee in place of the licensee's current license or disciplinary status.

(27) "Revoke" or "revocation" means disciplinary action by the Division extinguishing a license.

(28) "Suspend" or "suspension" means disciplinary action by the Division removing the right to use a license for a period or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(29) "Surrender" means voluntary action by a licensee giving back or returning to the Division in accordance with Section 58-1-306, the rights and privileges associated with a license issued to the licensee.

(30) "Temporary license" or "temporary licensure" means a license issued by the Division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

(31) "Unprofessional conduct" as defined in Title 58, Occupations and Professions is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-501.

(32) A "warning or final disposition letter that does not constitute disciplinary action" as used in Subsection 58-1-108(3) means a letter that does not contain findings of fact or conclusions of law and does not constitute a reprimand, but that may address one or more of the following:

(a) Division concerns;

(b) allegations upon which those concerns are based;

(c) potential for administrative or judicial action; or

(d) disposition of Division concerns.

R156-1-102a. Global Definitions of Levels of Supervision.

(1) Under Subsection 58-1-106(1)(a), except as otherwise provided by statute or rule, the following global definitions of levels of supervision apply to supervision terminology in Title 58, Occupations and Professions and Title R156, and shall be referenced and used to the extent practicable in those statutes and rules to promote uniformity and consistency:

(a) "Direct supervision" and "immediate supervision" means the supervising licensee is present and available for face-to-face communication with the person being supervised when and where professional services are being provided;

(b) "Indirect supervision" means the supervising licensee:

(i) has given either written or oral instructions to the person being supervised;

(ii) is present in the facility or located on the same premises where the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by electronic or other means, without regard to whether the supervising licensee is present in the facility or located on the same premises where the person being supervised is providing services;

(iii) can provide any necessary consultation within a reasonable time; and

(iv) personal contact is routine.

(d) "Supervising licensee" means a licensee who under statute or rule has satisfied the requirements to act as a supervisor and has agreed to supervise an unlicensed individual or a licensee in a classification or licensure status that requires supervision.

(2) Except as otherwise provided by statute or rule:

(a) unlicensed personnel allowed to practice a regulated profession shall practice under an appropriate level of supervision as defined in this section, as specified by the profession's licensing act or rule; and

(b) a license classification required to practice under supervision shall practice under an appropriate level of supervision as defined in this section, as specified by the profession's licensing act or rule.

R156-1-102b. Definitions Include Words Formed by Derivation.

A word formed by derivation from a word defined in Title 58, Occupations and Professions, or Title R156 is subject to the same applicable requirements, conditions, and restrictions on use. For example, an unlicensed person may not use the word architecture in a business name to avoid the prohibition against the use of the title architect under Section 58-3a-501.

R156-1-106. Division - Licensee Lists.

(1) Each person requesting a licensee list pursuant to Section 58-1-106 and this section shall apply to the Division upon a form provided by the Division in which the requester:

(a) submits for Division approval a copy of the requester's proposed communications to the licensees, with a description of the proposed frequency and method of communication;

(b) acknowledges that the information received is a Division record under Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA), and that a violation of Section 58-1-106 or this section may subject the requester to criminal penalties and other remedies under GRAMA; and

(c) agrees to:

(i) comply with the restrictions of this section;

(ii) use the information received only for the purposes for which the requester is authorized;

(iii) not disclose or disseminate the information received to another person who is not the requester's agent or employee;

(iv) not use the information received for advertising or solicitation except as allowed in this section;

(v) only distribute to the licensees the Division-approved communications and informational material at the approved frequency and method;

(vi)(A) include with each communication a clear and conspicuous explanation of how the licensee can opt out of receiving future communications; and

(B) honor opt-out requests within five business days; and

(vii) if notified by the Division:

(A) immediately stop use of the information received and stop communications and distribution of informational material to licensees; and

(B) within 15 days, destroy the information received, and certify in writing to the Division its destruction.

(2) Under Subsections 58-1-106(1)(k) and 58-1-106(2), the Division may provide the following requesters a list of multiple licensees, and include licensee home telephone numbers, home addresses, or email addresses:

(a) a governmental entity, including another state or territory or its regulatory agency;

(b) a government-managed corporation;

(c) a political subdivision;

(d) the federal government;

(e) a party to a prelitigation proceeding convened by the Division under Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act;

(f) a medical reserve corps, public safety authority, host entity, unified command, or other person concurrently engaged with a person described in Subsections (2)(a) through (d), for preparing for, participating in, or responding to an emergency described in Section 58-1-307;

(g) a research university or regional university in the Utah System of Higher Education, for conducting research;

(h) a Utah nonprofit voluntary professional membership association of individuals licensed by the Division, for purposes that, notwithstanding Subsection (1)(c), may include advertising or soliciting association membership;

(i) a local health department created under Title 26A, Chapter 1, Local Health Departments or the Utah Association of Local Health Departments, for contacting health care providers who reside or work within a local health department boundary about a public health emergency or public health concern within that local health department boundary;

(j) a Division contracted vendor for accomplishing that contract, such as the Division's exams vendor for surveying licensees regarding a job analysis; or

(k) the following persons, for the sole purpose of providing licensees continuing education that meets the requirements of Title 58, Occupations and Professions, and Title R156:

- (i) a professional association not described in Subsection (2)(h);
- (ii) a nonprofit regulatory association in which the Division holds membership;
- (iii) a private continuing education organization;
- (iv) a trade union; or
- (v) a school of higher education and training such as a university, college, technical college, or career and technical school.

(3) As used in Subsection (2)(k), providing licensees continuing education does not mean providing general information, learning opportunities, marketing, or outreach, including the following:

- (a) volunteer opportunities, even if the volunteer would receive training and practical education;
- (b) involvement in advocating for legislation;
- (c) involvement in labor organizing issues;
- (d) solicitations or recruitment for membership; or
- (e) continuing education advertisements in a newsletter or other communication issued by the requester that also

contains non-continuing education advertisements or other information, unless:

- (i) the newsletter is issued by a Utah nonprofit professional association or trade union; and
- (ii) the Division determines the newsletter's primary focus is communicating educational articles and information about continuing education, and only incidentally contains advertisements and solicitations for membership.

(4) Under Subsection 58-1-106(3)(c), proper identification of an individual who requests the address or telephone number of a licensee under Subsection 58-1-106(3)(a) shall consist of the individual's:

- (a) full legal name;
- (b) mailing address;
- (c) email address;
- (d) daytime phone number; and
- (e)(i) one of the following current photo identifications issued by a foreign or domestic government:
 - (A) driver's license;
 - (B) non-driver identification card;
 - (C) passport;
 - (D) military identification; or
 - (E) concealed weapons permit; or

(ii) if the individual does not have government-issued identification, alternative evidence of the individual's identity as determined appropriate by the Division, if the Division documents on the requester's application how the individual was positively identified.

(5) The Division may deny a request under Section 58-1-106 for a licensee list or for a home address, email address, or home telephone number of a licensee if the Division determines:

- (a) the request is an unwarranted invasion of privacy or a threat to the public health, safety, and welfare; or
- (b) the requester, or any affiliate of the requester, failed to comply with the terms and conditions of a previous application or otherwise violated this section.

R156-1-109. Presiding Officers.

(1) This section establishes the presiding officers for the Division under Subsection 63G-4-103(1)(h) and Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise designated in writing by the Director, or by the Construction Services Commission under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(2) The Division or Department employee designated in writing by the Director is the presiding officer for issuance of:

- (a) notices of agency action; and
- (b) notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action.

(3) Under Subsections 58-1-109(2) and 58-1-109(4) a Department administrative law judge is the presiding officer for entering an order of default against a party and conducting further proceedings to complete the adjudicative proceeding, including issuing a recommended order to the Director or Construction Services Commission determining the discipline to be imposed, licensure action to be taken, relief to be granted, or other appropriate matters.

(4) Except as provided in Subsection (9), the presiding officers for adjudicative proceedings before the Division are as follows:

(a) the Director is the presiding officer for the following adjudicative proceedings, however resolved, including stipulated settlements and hearings:

(i) formal adjudicative proceedings under:

- (A) Subsection R156-46b-201(1)(b), request for declaratory order conducted as a formal adjudicative proceeding;
- (B) Subsection R156-46b-201(2)(a), formal disciplinary proceeding for revocation, suspension, restricted licensure, probationary licensure, cease and desist order or administrative fine not through citation, or public reprimand;
- (C) Subsection R156-46b-201(2)(b), unilateral modification of disciplinary order; and

(D) Subsection R156-46b-201(2)(c), termination of diversion agreement or program contract under Section 58-4a-107;
and

(ii) informal adjudicative proceedings under:

(A) Subsection R156-46b-202(1)(d), payment of approved claim against the Residence Lien Recovery Fund;

(B) Subsection R156-46b-202(1)(e)(iii), approval or denial of request for modification of a disciplinary order;

(C) Subsection R156-46b-202(1)(e)(v), approval or denial of request for correction of other than procedural or clerical mistakes;

(D) Subsection R156-46b-202(1)(h), request for declaratory order conducted as an informal adjudicative proceeding;

(E) Subsection R156-46b-202(1)(i), disciplinary sanction imposed in a stipulation or memorandum of understanding with a licensure applicant;

(F) Subsection R156-46b-202(1)(j), other requests for agency action not designated as a formal adjudicative proceeding;

(G) Subsection R156-46b-202(2)(a), nondisciplinary proceeding that results in cancellation of licensure;

(H) Subsection R156-46b-202(2)(b)(ii), disciplinary proceeding against a controlled substance licensee;

(I) Subsection R156-46b-202(2)(c), disciplinary proceeding for violation of an order governing a license; and

(J) Subsection R156-46b-202(2)(d), disciplinary proceeding limited to Subsection 58-1-501(2)(a)(iii) or (iv) or Section R156-1-501.

(b) the bureau manager or program coordinator over the profession or program involved is the presiding officer for:

(i) formal adjudicative proceedings under Subsection R156-46b-201(1)(c), for determining if a request for a board of appeal is properly filed under Subsections R156-15A-210(1) through (4); and

(ii) informal adjudicative proceedings under:

(A) Subsection R156-46b-202(1)(a), approval or denial of an application for initial licensure, renewal, reinstatement, inactive or emeritus status, tax credit certificate, or criminal history determination;

(B) Subsection R156-46b-202(1)(b), favorable or unfavorable criminal history determination;

(C) Subsection R156-46b-202(1)(e)(i), approval or denial of request to surrender licensure;

(D) Subsection R156-46b-202(1)(e)(iv), approval or denial of request for correction of procedural or clerical mistakes;

(E) Subsection R156-46b-202(2)(b)(iii), disciplinary proceeding against a contract security company or armored car company for failure to replace a qualifier;

(F) Subsection R156-46b-202(2)(b)(iv), disciplinary proceeding against a hunting guide or outfitter for unprofessional conduct under Subsection R156-79-502(12) or R156-79-502(14); and

(G) Subsection R156-46b-202(2)(e), disciplinary proceeding regarding renewal requirements.

(5) A Department administrative law judge licensed in good standing with the Utah State Bar is the presiding officer for informal citation hearings under Subsection R156-46b-202(1)(g).

(6)(a) The Uniform Building Code Commission is the presiding officer for formal adjudicative proceedings under Subsection R156-46b-201(1)(c) for convening a board of appeal under Subsection 15A-1-207(3), serving as fact finder at the evidentiary hearing, and entering the final order.

(b) A Department administrative law judge shall conduct the hearing as specified in Subsection 58-1-109(2).

(7) The Residence Lien Recovery Fund manager, bureau manager, or program coordinator designated in writing by the Director is the presiding officer for informal adjudicative proceedings under Subsection R156-46b-202(1)(c), for approval or denial of claims against the Residence Lien Recovery Fund.

(8)(a) The Utah Professionals Health Program manager or an alternate Department employee designated in writing by the Director is the presiding officer for informal adjudicative proceedings under Title 58, Chapter 4a, Utah Professionals Health Program, including:

(i) Subsection R156-46b-202(1)(e)(ii), request for entry into and participation in the Utah Professionals Health Program; and

(ii) Subsection R156-46b-202(1)(f), matters relating to the Utah Professionals Health Program that do not involve termination under Section 58-4a-107.

(b) Each program contract for entry into and participation in the Utah Professionals Health Program shall require the written concurrence of the Division director.

(9)(a)(i)(A) The Construction Services Commission is the presiding officer for adjudicative proceedings under Title 58, Chapter 55, Utah Construction Trades Licensing Act, however resolved including stipulated settlements and hearings, except as otherwise specified in this rule.

(B) Orders adopted by the Commission as presiding officer require the concurrence of the Director.

(ii) The Construction Services Commission is the presiding officer:

(A) for informal adjudicative proceedings under:

(I) Subsection R156-46b-202(1)(e)(iii), approval or denial of request for modification of a disciplinary order;

(II) Subsection R156-46b-202(1)(e)(v), approval or denial of request for correction of other than procedural or clerical mistakes;

(III) Subsection R156-46b-202(1)(h), request for declaratory order conducted as an informal adjudicative proceeding;

(IV) Subsection R156-46b-202(1)(i), disciplinary sanctions imposed in a stipulation or memorandum of understanding with a licensure applicant;

(V) Subsection R156-46b-202(1)(j), other requests for agency action not designated as a formal adjudicative proceeding;

(VI) except for dismissals under Subsection (9)(d)(vi), Subsection R156-46b-202(2)(b)(i) disciplinary proceedings against a contractor, plumber, electrician, or alarm company;

(VII) Subsection R156-46b-202(2)(c), disciplinary proceedings concerning violations of an order governing a license; and

(VIII) Subsection R156-46b-202(2)(d), disciplinary proceeding limited to Subsection 58-1-501(2)(a)(iii) or (iv) or Section R156-1-501;

(B) to serve as fact finder and adopt orders in formal evidentiary hearings for adjudicative proceedings involving persons licensed or required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(C)(I) to review recommended orders of a board, an administrative law judge, or other presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, and to adopt an order of its own; and

(II) in adopting its order, the Construction Services Commission may accept, modify, or reject the recommended order.

(iii)(A) Orders of the Construction Services Commission shall address the issues before the Construction Services Commission and shall be based upon the record developed in an adjudicative proceeding conducted by the Construction Services Commission.

(B) If the Commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the Construction Services Commission shall consist of the findings of fact, conclusions of law, and recommended order submitted by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(iv)(A) The Construction Services Commission or its designee shall submit an adopted order to the Director for the Director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier.

(B) An adopted order is issued and becomes a final order upon the concurrence of the Director.

(v)(A) Under Subsection 58-55-103(10), if the Director refuses to concur in an adopted order, the Director shall return the adopted order to the Construction Services Commission or its designee with the reasons in writing.

(B) The Construction Services Commission or its designee shall reconsider the returned adopted order and resubmit an adopted order to the Director, whether or not modified, within 30 days of the date of the initial or subsequent return.

(C) The Director shall consider the resubmitted adopted order and either concur rendering the order final, or refuse to concur and issue a final order, within 90 days of the date of the initial recommended order.

(D) If the time frames in this subsection are followed, this subsection may not preclude an informal resolution such as an executive session of the Construction Services Commission or its designee with the Director to resolve the reasons for the Director's refusal to concur in an adopted order.

(vi) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.

(vii) The final order issued by the Construction Services Commission and concurred in by the Director, or not concurred in by the Director and issued by the Director, may be appealed by filing a request for agency review with the Executive Director.

(viii) The content of orders shall comply with Subsection 63G-4-203(1) and Sections 63G-4-208 and 63G-4-209.

(b) The Director is the presiding officer for the concurrence role in disciplinary proceedings under Subsections R156-46b-202(2)(b)(i), R156-46b-202(2)(c), and R156-46b-202(2)(d) as required by Subsection 58-55-103(1)(b)(iv).

(c) A Department administrative law judge is the presiding officer to conduct formal adjudicative proceedings before the Construction Services Commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) The bureau manager is the presiding officer to conduct informal adjudicative proceedings under:

(i) Subsections R156-46b-202(1)(a)(i) through (1)(a)(iv), approval or denial of an application for initial licensure, renewal, reinstatement, inactive or emeritus status;

(ii) Subsection R156-46b-202(1)(a)(vi), approval or denial of an application for criminal history determination;

(iii) Subsection R156-46b-202(1)(b), favorable or unfavorable criminal history determination;

(iv) Subsection R156-46b-202(1)(e)(i), approval or denial of request to surrender licensure;

(v) Subsection R156-46b-202(1)(e)(iv), approval or denial of request for correction of procedural or clerical mistakes;

(vi) dismissal of a Subsection R156-46b-202(2)(b)(i) disciplinary proceeding based upon the respondent's documented compliance, such as by the respondent replacing a qualifier, providing a required bond, or obtaining necessary insurance; and

(vii) Subsection R156-46b-202(2)(e), disciplinary proceeding regarding renewal requirements.

(e) The Plumbers Licensing Board is the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings for adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

(f) The Electricians Licensing Board is the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings for adjudicative proceedings involving persons licensed as or required to be licensed as electricians.

(g) The Alarm System Security and Licensing Board is the presiding officer to serve as the fact finder and to issue recommended orders to the Construction Services Commission in formal evidentiary hearings for adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

(10) At the direction of a manager or program coordinator, a licensing technician or program technician may sign an informal order in the technician's name if:

- (a) the manager or program coordinator approves the wording in advance; and
- (b) the caption "FOR THE MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the technician's signature.

R156-1-109a. Designation of Board Panel - Petition for Review of Panel Decision.

(1)(a) Under Subsection 58-1-109(3)(b) the Director may designate any odd number of board members on a case-by-case or period-of-time basis to represent a licensing board as the presiding officer.

(b) If the Director has not designated board members under Subsection (1)(a) or insufficient board members are able to serve, the bureau manager or licensing board chair may designate the board members to serve.

(2)(a) Under Subsection 58-1-109(4)(b) and Section R151-4-401, to petition the licensing board to review a recommended order issued by the designated board members, the aggrieved person shall file with the Division the petition form available from the Division within ten calendar days after the day on which the recommended order is issued.

(b) The petition shall:

- (i) be signed by the aggrieved person seeking review;
- (ii) state the grounds for review and the relief requested;
- (iii) state the date upon which the petition was filed with the Division; and
- (iv) be concurrently served on each party and any administrative law judge who is assigned to the case.

(3) If the aggrieved person does not file a petition in accordance with Subsection (2), the designated board members' recommended order becomes the final recommended order of the licensing board.

(4)(a) As determined by the Division, a licensing board may review a properly filed petition together with the designated board members' recommended order at the licensing board's next regularly scheduled board meeting, or at a specially noticed board meeting.

(b) Under Subsection 58-1-109(4)(c), after review a licensing board may issue its recommended order by affirming the designated board members' recommended order, or modifying or rejecting all or any part of that recommended order and entering new findings of fact, conclusions of law, statement of reasons, and order.

R156-1-110. Issuance of Investigative Subpoenas.

(1)(a) A request for a subpoena in a Division investigation pursuant to Subsection 58-1-106(1)(c) shall be made in writing to the investigative subpoena authority and accompanied by a draft of the proposed subpoena.

(b) Each request shall contain adequate information to enable the investigative subpoena authority to make a finding of sufficient need, including:

- (i) the factual basis for the request;
- (ii) the relevance and necessity of the particular person and evidence to the investigation; and
- (iii) an explanation of why the subpoena is directed to the person upon whom it is to be served.

(c) A request for a subpoena and each finding by the investigative subpoena authority is part of the investigative case file and is evidence obtained as a part of an investigation before that evidence is presented in an administrative action or criminal action.

(2) An approved subpoena shall be issued under the seal of the Division and the signature of the investigative subpoena authority.

(3) The person who requests an investigative subpoena is responsible for service of the subpoena.

(4)(a) Service may be made:

- (i) on a person upon whom a summons may be served pursuant to the Utah Rules of Civil Procedure; and
- (ii) personally or on the agent of the person being served.

(b) If a party is represented by an attorney, service shall be made on the attorney.

(5)(a) Service may be accomplished by hand delivery or by mail to the last known address of the intended recipient.

(b) Service by mail is complete upon mailing.

(c) Service may be accomplished by electronic means.

(d) Service by electronic means is complete on transmission if transmission is completed during normal business hours at the place receiving the service, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays; otherwise, service is complete on the next business day.

(6)(a) Each investigative subpoena shall have a certificate of service.

(b) The certificate of service may be a separate form or may be on the subpoena.

(c) The person serving the subpoena shall complete the certificate of service for both the served copy and the copy kept for the Division files.

(7) Each investigative subpoena shall have a form provided by the Division for the recipient's custodian of records to complete, sign, and return with the requested information to establish the authenticity of the information.

(8)(a) The investigative subpoena authority may quash or modify an investigative subpoena if the recipient shows the investigative subpoena is unreasonable or oppressive.

(b) A recipient shall file and serve a motion to quash or modify an investigative subpoena upon the investigative subpoena authority no later than ten days after service of the investigative subpoena.

(c) The Division shall file and serve its response to a motion to quash or modify an investigative subpoena upon the investigative subpoena authority and the recipient no later than five business days after receipt of the motion.

(d) The recipient may not file a reply to the Division's response.

R156-1-111. Qualifications for Tax Certificate - Definitions - Application Requirements.

(1)(a) "Psychiatrist" under Subsection 58-1-111(1)(d), includes a licensed physician who is board eligible or board certified for a psychiatry specialization recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (BOS); and

(b) "previously or currently board certified in psychiatry" in Subsection 58-1-111(1)(f)(ii)(B) means board certified for a psychiatry specialization recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association's Bureau of Osteopathic Specialists (BOS).

(2) An applicant for a tax credit certificate under Section 58-1-111 shall provide to the Division:

(a) the original application made available on the Division's website, containing the signed attestation of compliance; and

(b) additional documentation that may be required by the Division to verify the applicant's representations made in the application.

R156-1-205. Peer or Advisory Committees - Executive Director to Appoint - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act and Utah Administrative Procedures Act - No Per Diem and Expenses.

(1) The executive director shall appoint the members of peer or advisory committees established under Title 58, Occupations and Professions, or Title R156.

(2)(a) Except for ad hoc committees whose members shall be appointed on a case-by-case basis, the term of office of peer or advisory committee members is four years.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that they are staggered so that about half of the peer or advisory committee is appointed on two-year cycles.

(3) A peer or advisory committee member may not serve more than two full consecutive terms, and a member who ceases to serve may not serve again until after the expiration of two years from the date of cessation of service.

(4)(a) If a vacancy on a peer or advisory committee occurs, the executive director shall appoint a replacement to fill the unexpired term.

(b) After filling the unexpired term, the replacement may be appointed for only one additional full term.

(5)(a) If a peer or advisory committee member fails or refuses to fulfill the responsibilities and duties of a peer or advisory committee member, including attendance at meetings, the executive director may remove the peer or advisory committee member and replace the member in accordance with this section.

(b) After filling the unexpired term, the replacement may be appointed for only one additional full term.

(6) Committee meetings may only be convened with the approval of the appropriate board and the concurrence of the Division.

(7) Unless otherwise approved by the Division, peer or advisory committee meetings shall be held in the building occupied by the Division.

(8) A majority of the peer or advisory committee members shall constitute a quorum and may act on behalf of the peer or advisory committee.

(9)(a) Peer or advisory committees shall annually designate one of their members to serve as chair.

(b) The Division shall provide a Division employee to act as committee secretary to take minutes of committee meetings and to prepare committee correspondence.

(10) Peer or advisory committees shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

(11) Peer or advisory committees shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

(12) Peer or advisory committee members shall perform their duties and responsibilities as public service and may not receive a per diem allowance, or traveling or accommodations expenses incurred in peer or advisory committees business, except as otherwise provided in Title 58, Occupations and Professions, or Title R156.

R156-1-206. Emergency Review Committees - Appointment - Terms - Vacancies - Removal - Quorum - Chair and Secretary - Open and Public Meetings Act and Utah Administrative Procedures Act - Per Diem and Expenses.

(1) The board chair for the profession of the person against whom an emergency adjudicative proceeding is proposed under Sections 63G-4-502 and 58-1-108 may appoint the members of the emergency review committee on a case-by-case or period-of-time basis.

(2) With the exception of the appointment and removal of members and filling of vacancies by the board chair, emergency review committees shall serve in accordance with Subsections R156-1-205(7), and (9) through (12).

R156-1-301. License Application - Filing Date - Applicable Requirements for Licensure - Issuance Date.

(1) The filing date for an application for licensure is the postmark date of the application or the date the application is received and date stamped by the Division, whichever is earlier.

(2) Except as otherwise provided by statute, rule, or order, the requirements for licensure are the requirements in effect on the filing date of the application.

(3) The issuance date for a license is the date the approval is input into the Division's electronic licensure database.

(4) Under Subsection 58-1-301(1)(b)(ii)(B), other satisfactory evidence of an applicant's identity is:

(a) an Individual Taxpayer Identification Number (ITIN);

(b) an Alien Registration Number (A-number); or

(c) for an applicant who has never been issued a social security number, Individual Taxpayer Identification Number (ITIN), or Alien Registration Number (A-number):

(i) an unexpired government-issued passport from the applicant's country of residence; and

(ii) an intent-to-hire letter from a Utah-based employer.

R156-1-301.7. Change of Information - Notification.

(1) Notification sent by email under Section 58-1-301.7 is complete on transmission if transmission is completed during normal business hours, 8 a.m. to 5 p.m. on days other than Saturdays, Sundays, and state and federal holidays, at the place receiving the notice; otherwise, notice is complete on the next business day.

(2) Notification by email may be accomplished by attachment to the email or in the body of the email, or both.

R156-1-302. Licensure by Endorsement.

(1) This section is adopted by the Division under the authority of Subsection 58-1-302(6) to enable the Division to administer Section 58-1-302.

(2) An applicant for licensure by endorsement who has the required experience practicing under a license issued in the other state, district, territory, or jurisdiction is not required to have the license currently active.

(3) Under Subsection 58-1-302(4), the Division may consider in its evaluation of an applicant for licensure by endorsement's experience or other qualifications the time that has elapsed since the applicant's licensed or lawful practice.

(4) The Division may require an applicant for licensure by endorsement to pass one or more of the exams required to obtain licensure in the profession, such as a business and law exam, jurisprudence exam, or professional exam, except if expressly provided otherwise in statute or rule.

R156-1-303. Temporary Licenses in Declared Disaster or Emergency.

(1) Under Section 53-2a-1203, a person who provides services under this exemption from licensure, shall within 30 days of entry file a notice with the Division under Subsection 53-2a-1205(1) using forms available from the Division.

(2) Under Section 53-2a-1205 and Subsection 58-1-303(1), a person who provides services under the exemption from licensure in Section 53-2a-1203 for a declared disaster or emergency shall, after the disaster period ends and before continuing to provide services, meet the normal requirements for licensure under Title 58, Occupations and Professions, unless:

(a) before practicing after the declared disaster the person is issued a temporary license under Subsection 58-1-303(1)(c); or

(b) the person qualifies under another exemption from licensure.

R156-1-305. Inactive Licensure.

(1) Under Section 58-1-305, the following licenses issued under Title 58, Occupations and Professions that are active in good standing may be placed on inactive licensure status:

(a) advanced practice registered nurse (APRN);

(b) anesthesiologist assistant;

(c) architect;

(d) audiologist;

(e) certified public accountant emeritus;

(f) certified prescribing psychologist;

(g) certified nurse midwife;

(h) state certified court reporter;

(i) certified social worker;

(j) chiropractic physician;

(k) clinical mental health counselor;

(l) clinical social worker;

(m) contractor;

(n) deception detection examiner;

(o) deception detection intern;

(p) dental hygienist;

(q) dentist;

(r) dispensing medical practitioner - advanced practice registered nurse;

(s) dispensing medical practitioner - physician and surgeon;

(t) dispensing medical practitioner - physician assistant;

(u) dispensing medical practitioner - osteopathic physician and surgeon;

- (v) dispensing medical practitioner - optometrist;
- (w) dispensing medical practitioner - clinic pharmacy;
- (x) genetic counselor;
- (y) health facility administrator;
- (z) hearing instrument specialist;
- (aa) landscape architect;
- (bb) licensed advanced substance use disorder counselor;
- (cc) licensed physical therapist;
- (dd) marriage and family therapist;
- (ee) master addiction counselor;
- (ff) naturopath-naturopathic physician;
- (gg) optometrist;
- (hh) osteopathic physician and surgeon;
- (ii) pharmacist;
- (jj) pharmacy technician;
- (kk) physician assistant;
- (ll) physician and surgeon;
- (mm) podiatric physician;
- (nn) private probation provider;
- (oo) professional engineer;
- (pp) professional land surveyor;
- (qq) professional structural engineer;
- (rr) psychologist;
- (ss) radiology practical technician;
- (tt) school psychological practitioner;
- (uu) radiologic technologist;
- (vv) security personnel;
- (ww) speech-language pathologist;
- (xx) substance use disorder counselor;
- (yy) veterinarian; and
- (zz) state certified veterinary technician.

(2)(a) A licensee requesting inactive licensure shall submit a verified application in a form prescribed by the Division together with:

- (i) documentation that the applicant meets the requirements for inactive licensure; and
 - (ii) the appropriate fee.
- (b) If the licensee meets the requirements for inactive licensure, the Division shall place the license on inactive status.
- (3) A license may remain on inactive status indefinitely except as otherwise provided in Title 58, Occupations or Professions or Title R156.

(4) An inactive licensee may activate their license by submitting a verified application for activation in a form prescribed by the Division together with:

- (a) the appropriate fee; and
- (b) except as otherwise provided in Title 58, Occupations and Professions or Title R156, documentation that the inactive licensee meets current renewal requirements.

(5) An inactive licensee whose license is activated during the last 12 months of a renewal cycle shall, upon payment of the appropriate fees, be licensed for a full renewal cycle plus the period remaining until the impending renewal date, rather than being required to immediately renew their activated license.

(6) A Controlled Substance license may be placed on inactive status if it is attached to a primary license placed on inactive status.

R156-1-308a. Renewal Dates.

(1) The following standard two-year renewal cycle renewal dates are established by license classification in accordance with Subsection 58-1-308(1):

TABLE 1 Renewal Dates	
Acupuncturist	May 1 even years
Advanced Practice Registered Nurse	January 31 even years
Advanced Practice Registered Nurse - CRNA	January 31 even years
Anesthesiologist Assistant	January 31 even years
Architect	May 31 even years
Associate Clinical Mental Health Counselor	September 30 even years
Associate Marriage and Family Therapist	September 30 even years

Associate Master Addiction Counselor	May 31 odd years
Athlete Agent	September 30 even years
Athletic Trainer	May 31 odd years
Audiologist	May 31 odd years
Barber	September 30 odd years
Barber Apprentice	September 30 odd years
Barber School	September 30 odd years
Behavior Analyst Assistant Behavior Analyst	September 30 even years
Behavior Specialist Assistant Behavior Specialist	September 30 even years
Building Inspector	November 30 odd years
Burglar Alarm Security	March 31 odd years
C.P.A. Firm	December 31 even years
Certified Dietitian	September 30 even years
Certified Nurse Midwife	January 31 even years
Certified Prescribing Psychologist	September 30 even years
Certified Public Accountant	December 31 even years
Certified Social Worker	September 30 even years
Chiropractic Physician	May 31 even years
Clinical Mental Health Counselor	September 30 even years
Clinical Social Worker	September 30 even years
Contractor	November 30 odd years
Controlled Substance License	primary license renewal
Controlled Substance Precursor	May 31 odd years
Controlled Substance Handler	September 30 odd years
Cosmetologist/Barber	September 30 odd years
Cosmetologist/Barber Apprentice	September 30 odd years
Cosmetology/Barber School	September 30 odd years
Deception Detection Examiner Deception Detection Examination Administrator Deception Detection Intern	November 30 even years
Dental Hygienist	May 31 even years
Dentist	May 31 even years
Direct-entry Midwife	September 30 odd years
Dispensing Medical Practitioner - Advanced Practice Registered Nurse Optometrist Osteopathic Physician and Surgeon Physician and Surgeon Physician Assistant	September 30 odd years
Dispensing Medical Practitioner Clinic Pharmacy	September 30 odd years
Dispensing Practitioner (LDP)	primary license renewal
Electrician - Apprentice Journeyman, Master Residential Journeyman, Residential Master	November 30 even years
Electrologist	September 30 odd years
Electrology School	September 30 odd years
Elevator Mechanic	November 30 even years
Environmental Health Scientist	May 31 odd years
Esthetician	September 30 odd years
Esthetician Apprentice	September 30 odd years
Esthetics School	September 30 odd years
Eyelash and Eyebrow Technician	September 30 odd years
Eyelash and Eyebrow Technology School	September 30 odd years
Factory Built Housing Dealer	September 30 even years
Funeral Service Director	May 31 even years

Funeral Service Establishment	May 31 even years
Genetic Counselor	September 30 even years
Hair Designer	September 30 odd years
Hair Designer School	September 30 odd years
Health Facility Administrator	May 31 odd years
Hearing Instrument Specialist	September 30 even years
Landscape Architect	May 31 even years
Licensed Advanced Substance Use Disorder Counselor	May 31 odd years
Licensed Behavioral Health Coach	September 30 even years
Licensed Practical Nurse	January 31 even years
Licensed School Psychological Practitioner	September 30 even years
Licensed Substance Use Disorder Counselor	May 31 odd years
Marriage and Family Therapist	September 30 even years
Massage Apprentice	May 31 odd years
Massage Therapist	May 31 odd years
Massage Assistant	May 31 odd years
Master Addiction Counselor	May 31 odd years
Master Esthetician	September 30 odd years
Master Esthetician Apprentice	September 30 odd years
Medication Aide Certified	March 31 odd years
Nail Technologist	September 30 odd years
Nail Technologist Apprentice	September 30 odd years
Nail Technology School	September 30 odd years
Naturopath - Naturopathic Physician	May 31 even years
Occupational Therapist	May 31 odd years
Occupational Therapy Assistant	May 31 odd years
Optometrist	September 30 even years
Osteopathic Physician and Surgeon Restricted Associate Osteopathic Physician	May 31 even years
Outfitter and Hunting Guide	May 31 even years
Pharmacy - Class A, B, C, D, E, or Online Contract Pharmacy	September 30 odd years
Pharmacist	September 30 odd years
Pharmacy Technician	September 30 odd years
Physical Therapist	May 31 odd years
Physical Therapist Assistant	May 31 odd years
Physician Assistant	May 31 even years
Physician and Surgeon, Restricted Associate Physician	January 31 even years
Plumber -- Apprentice, Journeyman, Master Residential Master, Residential Journeyman	November 30 even years
Podiatric Physician	September 30 even years
Preneed Funeral Arrangement Sales Agent	May 31 even years
Private Probation Provider	May 31 odd years
Professional Engineer	March 31 odd years
Professional Geologist	March 31 odd years
Professional Land Surveyor	March 31 odd years
Professional Structural Engineer	March 31 odd years
Provisional Prescribing Psychologist	September 30 even years
Psychologist	September 30 even years
Radiologic Technologist Radiology Practical Technician Radiologist Assistant	May 31 odd years
Recreational Therapy - Therapeutic Recreation Technician Therapeutic Recreation Specialist Master Therapeutic Recreation Specialist	May 31 odd years

Registered Nurse	January 31 odd years
Respiratory Care Practitioner	September 30 even years
Security Personnel	November 30 even years
Social Service Worker	September 30 even years
Speech-Language Pathologist	May 31 odd years
State Certified Behavioral Health Technician	September 30 even years
State Certified Commercial Interior Designer	March 31 odd years
State Certified Court Reporter	May 31 even years
State Certified Music Therapist	March 31 odd years
State Certified Veterinary Technician	September 30 even years
Veterinarian	September 30 even years
Vocational Rehabilitation Counselor	March 31 odd years

(2) The following non-standard license terms and renewal or extension cycles are established in accordance with Subsection 58-1-308(1) and specific requirements of the license:

TABLE 2 Non-Standard License Terms	
PROFESSION	TERM
Certified Medical Language Interpreter Tier 1 or 2 (Section 58-80a-304)	3-year term, renews March 31 - may renew.
Funeral Service Intern (Subsection 58-9-303(2))	2-year term, and one additional 2-year term* - then may extend only for hardship.**
Hearing Instrument Intern (Subsection 58-46a-303(2))	3-year term - may extend.*, **
Massage Assistant In-Training (Sections 58-47b-303, R156-47b-303)	6-month term - may extend only for hardship.*, **
Pharmacy technician trainee (Section 58-17b-305.1, Subsection R156-17b-303a(4))	2-year term - may extend for exceptional circumstances.*
Psychology Resident (Subsection 58-61-304(3)(b))	2-year term - may extend for a period not to exceed two years past the date of completion of the minimum supervised experience requirement.*
Type I Foreign Trained Physician-Educator (Section 58-67-302.7)	Initial 1-year term - may renew on 2-year cycles if satisfies Subsection 58-67-302.7(2) requirements, and completes Section 58-37-303 CE.
Type II Foreign Trained Physician-Educator (Section 58-67-302.7)	Initial 1-year term -- may renew annually up to four times if satisfies Subsection 58-67-302.7(3) requirements, and completes Section 58-67-303 CE.
*Extension allowed only if the licensee presents evidence satisfactory to the Division and board that the licensee is on a course reasonably expected to lead to licensure, such as making reasonable progress toward passing any qualifying examinations or completing required supervision hours.	
**Extension allowed only if a circumstance of hardship arose beyond the licensee's control to prevent the completion of the licensure process, and extension is for a period proportionate to hardship.	

R156-1-308b. Renewal Periods - Adjustment of Renewal Fees for an Extended or Shortened Renewal Period.

(1) Except as otherwise provided by statute or as required to establish or reestablish a renewal period, each renewal period shall be two years.

(2) The renewal fee for a renewal period that is extended or shortened by more than one month to establish or reestablish a renewal period may be increased or decreased proportionately.

R156-1-308c. Renewal of Licensure Procedures.

(1) Under Subsection 58-1-308(3) this section establishes the procedures for renewal of licensure.

(2) The Division shall send a renewal notice to each licensee at least 60 days before the expiration date of the licensee's license.

(3)(a) The Division shall send each renewal notice by email to the most recent email address provided to the Division by the licensee.

(b) The Division may send a renewal notice by mail deposited in the post office postage prepaid, addressed to the most recent mailing provided to the Division by the licensee.

(4) Under Subsection 58-1-301.7(2), a notification sent to the most recent mailing address or email address provided to the Division by the licensee constitutes legal notice.

(5) Each renewal notice shall:

(a) include directions for the licensee to renew the license on the Division's website;

(b) notify the licensee that the renewal requirements are outlined in the online renewal process, and that each licensee shall document or certify that the licensee meets the renewal requirements before renewal; and

(c) notify the licensee that:

(i) a license that is not renewed before the license expiration date automatically expires; and

(ii) continued practice without a license is a criminal offense under Subsection 58-1-501(1)(a).

(6) A licensee who is licensed during the last 12 months of a renewal cycle shall be licensed for a full renewal cycle plus the time remaining until the impending renewal date, and is not required to immediately renew the license.

R156-1-308d. Waiver of Continuing Education Requirements - Credit for Volunteer Service.

(1)(a) Under Subsection 58-1-203(1)(g), a licensee may request a waiver of a continuing education requirement under this title, or an extension of time to complete a requirement, if the licensee will be unable or was unable to complete the requirement due to a medical or related condition, humanitarian or ecclesiastical services, extended presence in a geographical area where continuing education is not available, or other reasonable cause.

(b) A licensee shall submit the request no later than the deadline for completing the continuing education requirement, except as allowed by the Division for good cause shown.

(c) A licensee submitting a request has the burden of proof and shall document the reason for the request to the satisfaction of the Division.

(d) A request shall include the beginning and ending dates during which the licensee is unable, or was unable, to complete the continuing education requirement and a detailed explanation of the reason that includes:

(i) the extent and duration of the impediment;

(ii) the extent to which the licensee will continue to be, or continued to be, engaged in practice of the licensee's profession;

(iii) the nature of the medical condition;

(iv) the location and nature of the humanitarian services;

(v) the geographical area where continuing education is not available; and

(vi) other relevant information.

(e) The Division may require a licensee to obtain a specified number of continuing education hours, courses, or both, before reentering the practice of the profession or within a specified period after reentering the practice of the profession, as recommended by the appropriate board, to assure competent practice.

(f)(i) A licensee who receives a waiver from meeting the minimum continuing education requirements is not exempt from Subsection 58-1-501(2)(a)(ix), which requires that the licensee provide services within the competency, abilities, and education of the licensee.

(ii) If a licensee cannot competently provide services, the waiver of meeting the continuing education requirements may be conditioned upon the licensee limiting practice to areas in which the licensee has the required competency, abilities, and education.

(2)(a) Under Subsections 58-1-203(1)(g) and 58-55-302.5(2)(e)(i), the Division may grant continuing education credit to a licensee for volunteering as a subject-matter expert in the review and development of licensing exams for the licensee's profession.

(b) Subject to specific limitations established by rule by the Division in collaboration with a licensing board or the Construction Services Commission, this volunteer continuing education credit shall:

(i) apply to the license period or periods during which the volunteer service was provided;

(ii) be granted on a 1:1 ratio, meaning that for each hour of attendance, the licensee may receive one hour of credit;

(iii) be core, classroom, or live credit, regardless of whether the licensee attended meetings in person or electronically; and

(iv) at the licensee's discretion, the whole or part of the credit hours may be counted toward law or ethics continuing education requirements.

(c) The licensee shall maintain information with respect to the licensee's volunteer services to demonstrate the services meet the requirements of this subsection.

(3) Under Section 58-13-3, a health care professional licensee may fulfill up to 15% of the licensee's continuing education requirements by providing volunteer services at a qualified location within the scope of the licensee's license, earning one hour of continuing education credit for every four documented hours of volunteer health care treatment.

R156-1-308e. Automatic Expiration of Licensure Upon Dissolution of Licensee.

Under Subsection 58-1-308(2), if a dissolved entity's existence has been reinstated before the expiration date shown upon the entity's expired license, and the entity meets the qualifications for licensure:

(1) if the entity submits its application for reinstatement before the expiration date shown on the license, the license shall be retroactively reinstated to the date of expiration of licensure; and

(2) if the entity submits its application for reinstatement after the expiration date shown on the license, the license shall be reinstated on the effective date of the approval of the application for reinstatement.

R156-1-308f. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal of Licensure During Adjudicative Proceedings - Conditional Initial, Renewal, or Reinstatement Licensure During Audit or Investigation.

(1) If an initial, renewal, or reinstatement applicant under Section 58-1-301 or 58-1-308 is selected for audit, under investigation, or pending inspection, the Division may conditionally issue the initial license or conditionally renew or reinstate the license pending the completion of the audit, investigation, or inspection.

(2) The undetermined completion of a referenced audit, investigation, or inspection, rather than the established expiration date, shall be indicated as the expiration date of a conditionally issued, renewed, or reinstated license.

(3) A conditional issuance, renewal, or reinstatement is not an adverse licensure action.

(4) Upon completion of the audit, investigation, or inspection, the Division shall notify the applicant if the applicant's license is unconditionally issued, renewed, reinstated, denied, or partially denied or reinstated.

(5) A notice of unconditional denial or partial denial of licensure shall include:

(a) the basis for action;

(b) the Division's file or other reference number of the audit or investigation; and

(c) notice that the action is subject to agency review, and how and when the applicant may request agency review.

R156-1-308g. Reinstatement of Licensure that was Active and in Good Standing at the Time of Expiration of Licensure - Requirements.

The following requirements apply to reinstatement of licensure that was active and in good standing at the time of expiration of licensure:

(1) under Subsection 58-1-308(5), if the filing date of an application for reinstatement is between the date of the expiration of the license and 30 days after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form furnished by the Division demonstrating compliance with requirements and conditions of license renewal; and

(b) pay the license renewal fee and a late fee.

(2) under Subsection 58-1-308(5), if the filing date of an application for reinstatement is between 31 days after the expiration of the license and two years after the date of the expiration of the license, the applicant shall:

(a) submit a completed renewal form provided by the Division demonstrating compliance with requirements and conditions of license renewal; and

(b) pay the license renewal fee and reinstatement fee.

(3) under Subsection 58-1-308(6), if the filing date of an application for reinstatement is more than two years after the date the license expired:

(a) if the applicant has not been active in the licensed profession as described in Subsection 58-1-308(6)(b), the applicant shall:

(i) submit an application for licensure complete with supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets current qualifications for licensure; and

(ii) pay the license fee for a new applicant for licensure; or

(b) if the applicant has been active in the licensed profession as described in Subsection 58-1-308(6)(b), the applicant shall:

(i) provide documentation that the applicant has continuously, since the expiration of the applicant's license in Utah, been active in the licensed profession while in the full-time employ of the United States government or under license to practice that profession in any other state or territory of the United States;

(ii) provide documentation that the applicant has completed or is in compliance with any renewal qualifications;

(iii) provide documentation that the applicant's application was submitted within six months after reestablishing domicile within Utah or terminating full-time government service; and

(iv) pay the license renewal fee and the reinstatement fee.

R156-1-308h. Reinstatement of Restricted, Suspended, or Probationary Licensure During Term of Restriction, Suspension, or Probation - Requirements.

(1) Reinstatement of restricted, suspended, or probationary licensure during the term of limitation, suspension, or probation shall be in accordance with the disciplinary order that imposed the discipline.

(2) Unless otherwise specified in a disciplinary order imposing restriction, suspension, or probation of licensure, the disciplined licensee may, at reasonable intervals during the term of the disciplinary order, petition for reinstatement of licensure.

(3) A petition for reinstatement of licensure during the term of a disciplinary order imposing restriction, suspension, or probation, shall be treated as a request to modify the terms of the disciplinary order, not as an application for licensure.

R156-1-308i. Reinstatement of Restricted, Suspended, or Probationary Licensure After the Specified Term of Suspension of the License or After the Expiration of Licensure in a Restricted, Suspended or Probationary Status - Requirements.

Unless otherwise provided by a disciplinary order, an applicant who applies for reinstatement of a license after the specified term of suspension of the license or after the expiration of the license in a restricted, suspended, or probationary status shall:

(1) submit an application for licensure complete with supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets current qualifications for licensure and compliance with requirements and conditions of license reinstatement;

(2) pay the license renewal fee and the reinstatement fee;

- (3) provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to be reinstated to engage in the profession; and
- (4) pay any fines or citations owed to the Division.

R156-1-308j. Relicensure Following Revocation of Licensure - Requirements.

An applicant for relicensure following revocation of licensure shall:

- (1) submit an application for licensure complete with supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets current qualifications for licensure and compliance with requirements and conditions of license reinstatement;
- (2) pay the license fee for a new applicant for licensure; and
- (3) provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the profession.

R156-1-308k. Relicensure Following Surrender of Licensure - Requirements.

- (1) An applicant who surrendered a license that was active and in good standing when it was surrendered shall meet the requirements for licensure in Sections R156-1-308a through R156-1-308l.
- (2) An applicant who surrendered a license while the license was active but not in good standing as evidenced by the written agreement supporting the surrender of license shall:
 - (a) submit an application for licensure complete with supporting documents as is required of an individual making an initial application for license demonstrating the applicant meets the current qualifications for licensure and compliance with requirements and conditions of license reinstatement;
 - (b) pay the license fee for a new applicant for licensure;
 - (c) provide information requested by the Division and board to clearly demonstrate the applicant is currently competent to be relicensed to engage in the profession; and
 - (d) pay any fines or citations owed to the Division.

R156-1-308l. Reinstatement of Licensure and Relicensure - Term of Licensure.

Except as otherwise governed by the terms of an order issued by the Division, a license issued to an applicant for reinstatement or relicensure during the last 12 months of a renewal cycle shall, upon payment of the appropriate fees, be issued for the rest of the current renewal cycle plus the next full renewal cycle.

R156-1-309. Division Exams.

- (1) This section establishes standards for the administration of Division exams in accordance with Sections 58-1-106, 58-1-203, and 58-1-309.
- (2) Upon evidence that a person has engaged in cheating:
 - (a) the exam administrator shall notify the Division of the circumstances in detail and the identity of each person involved; and
 - (b) the Division shall make an appropriate inquiry and may open an investigation to determine the facts concerning the alleged cheating.
- (3) If evidence of cheating by a candidate is detected before an exam, the Division may:
 - (a) deny the candidate the privilege of taking the exam; or
 - (b)(i) before the candidate takes the exam, notify the candidate of the evidence of cheating and that the Division may determine the candidate to have failed the exam if it finds the candidate has cheated.
- (4) If evidence of cheating by a candidate is detected during an exam, the exam administrator may:
 - (a) end the exam, request the candidate to leave the exam facility, and notify the candidate of the evidence of cheating and that the Division may determine the candidate to have failed the exam if it finds that the candidate has cheated; or
 - (b)(i) determine that the alleged cheating has not yet compromised the integrity of the exam, take any necessary steps to prevent cheating, and permit the candidate to continue taking the exam; and
 - (ii) after the exam, notify the candidate of the evidence of cheating, and that the Division may determine the candidate to have failed the exam if the Division finds that the candidate has cheated.
- (5) If the Division determines that an individual has engaged in cheating or has otherwise engaged in unprofessional conduct regarding an exam, the Division may take appropriate action including one or more of the following:
 - (a) if the individual is an exam candidate, deny the individual the privilege of taking or retaking the exam for a period;
 - (b) refuse to issue the individual a license or otherwise act upon a license issued to the individual pursuant to Section 58-1-401; or
 - (c) establish the conditions that the individual shall meet to qualify for a license, such as meeting with the board.
- (6) An exam administrator may end a candidate's exam session, or the Division may invalidate a candidate's exam results if the candidate:
 - (a) is engaging or appears to be engaging in cheating;
 - (b) reports late to the candidate's appointed exam session;
 - (c) fails to present required identification at the time of the exam session;
 - (d) creates a disturbance of any kind, including for example:

- (i) engaging in behavior that the exam administrator determines is disruptive to another candidate taking the exam;
- (ii) using language that might generally be considered inappropriate or offensive; or
- (iii) engaging in oral or physical altercations with the exam administrator or another individual;
- (e) fails to comply with the directions of the exam administrator; or
- (f) reports to the exam under the influence of alcohol, drugs, or other intoxicant, to the extent that the exam administrator determines that it does, or might reasonably be considered to, impair the ability of the candidate to safely engage in the exam.

- (7) Each exam subject-matter expert and each exam administrator:
 - (a) shall be a Utah resident;
 - (b) shall be 18 years of age or older;
 - (c) if the exam requires specific knowledge of the profession to grade or administer the exam, shall hold an active license in good standing in that profession or have satisfactory experience or an active license in good standing in a related industry as approved by the Division;

- (d) shall adhere to professional ethics and codes of conduct for the profession, including this section and Subsection R156-1-501(9);

- (e) shall agree in writing to not participate in any exam coaching or preparation activities for the exam for five years following their review or administration of the exam; and

- (f) may not be affiliated with a person that may profit from or materially benefit from knowledge of exam content, such as an educational institution or training program.

- (8)(a) The Division may invalidate exam results if it determines that there is a basis to question the validity of the exam results for any reason, notwithstanding the absence of any evidence of a candidate's personal involvement in cheating or other unprofessional conduct.

- (b) Evidence of invalid results may include, for example, unusual answer patterns or score increases, or equipment failure.

R156-1-310. Application for Division Determination Regarding Criminal Conviction.

- (1) This section establishes the application procedures for a Division determination under Section 58-1-310.
- (2) An individual applying for a determination shall:
 - (a) submit the Application for Criminal History Determination form available on the Division's website, containing a signed attestation and release;
 - (b) submit a separate application with processing fee for each license that the individual is interested in seeking; and
 - (c) under Subsection 58-1-310(2)(e), provide any additional documentation that may be required by the Division to verify or evaluate the individual's representations made in the application.
- (3) Under Subsection 58-1-310(2), the individual's complete criminal conviction history shall include:
 - (a) criminal convictions, pleas of nolo contendere, and pleas of guilty or nolo contendere that are held in abeyance pending the successful completion of probation; and
 - (b) current restrictions from possession, purchase, transfer, or ownership of a firearm or ammunition.
- (4) The Division shall make a determination based solely on the information in the individual's application and supporting documents.
- (5) Agency review is not available for a Division order or determination under Section 58-1-310.

R156-1-401. Consideration of Unlawful Conduct, Unprofessional Conduct, or Other Mental or Physical Condition.

- (1) Under Section 58-1-401, this section applies in circumstances where an applicant or licensee:
 - (a) is not automatically disqualified from licensure pursuant to statute or rule; and
 - (b)(i) has past unlawful or unprofessional conduct; or
 - (ii) as described in Subsection 58-1-401(2)(d), may be unable to practice the profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, substance use disorder, or a mental or physical condition that, when considered with the duties and responsibilities of the license held or to be held, demonstrates a threat or potential threat to the public health, safety, or welfare.
- (2) In a circumstance described in Subsection (1), the following factors are relevant to a licensing decision:
 - (a) aggravating circumstances, as defined in Subsection R156-1-102(2);
 - (b) mitigating circumstances, as defined in Subsection R156-1-102(17);
 - (c) the degree of risk to the public health, safety, or welfare;
 - (d) the degree of risk that a conduct will be repeated;
 - (e) the degree of risk that a condition will continue;
 - (f) the magnitude of the conduct or condition as it relates to the harm or potential harm;
 - (g) the length of time since the last conduct or condition has occurred;
 - (h) the current criminal probationary or parole status of the applicant or licensee;
 - (i) the current administrative status of the applicant or licensee, for any regulated profession;
 - (j) results of previously submitted applications, for any regulated profession;
 - (k) results from any action, taken by any professional licensing agency, criminal, or administrative agency, employer, practice monitoring group, entity, or association, for any regulated profession;

- (l) evidence presented indicating that restricting or monitoring the individual's practice, conditions, or conduct can protect the public health, safety, or welfare;
- (m) psychological evaluations; or
- (n) any other information the Division and the applicable board reasonably believe may assist in evaluating the degree of threat or potential threat to the public health, safety, or welfare.

R156-1-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any regulated profession while an investigation or inquiry into allegations of unprofessional conduct or unlawful conduct is in progress, or after a charging document has been filed against the applicant or licensee alleging unprofessional conduct or unlawful conduct;
- (2) practicing a regulated profession in, through, or with a business structure or name that:
 - (a) has not been properly registered with the Division of Corporations and Commercial Code; or
 - (b) has not been properly licensed with the Division;
- (3) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in any profession, if the conduct:
 - (a) when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely to competently practice the profession; or
 - (b) would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;
- (4) prohibiting or inhibiting the ability of a licensee's customer, patient, or other consumer of the licensee's goods or services from making a complaint to a licensing or regulatory authority, including through the use of a contract provision;
- (5) engaging in cheating or otherwise violating Section R156-1-309 regarding Division exams;
- (6) failing, as a prescribing practitioner, to follow the Guidelines for the Chronic Use of Opioid Analgesics, adopted as policy April 2017 by the Federation of State Medical Boards, which is incorporated by reference;
- (7) failing to comply with an investigative subpoena or an order regarding an investigative subpoena;
- (8) failing, as a health care provider, to follow the health care claims practices of Section 31A-26-313, in violation of Subsection 58-1-508(2); or
- (9) as an exam candidate or as an exam proctor, grader, or administrator, failing to comply with the Division of Professional Licensing Exam Policies and Procedures, dated December 29, 2023, which is incorporated by reference.

R156-1-502. Administrative Penalties.

- (1) Under Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under Title 58, Occupations and Professions or Title R156, the Division shall issue a notice of agency action instead of a citation for a third or subsequent offense, except in extraordinary circumstances approved by the bureau manager or chief investigator.
- (2) Multiple offenses may be cited on the same citation, if the citation clearly indicates each offense and the fine allocated to each offense.
- (3) The bureau manager, investigative team leader, or chief investigator may authorize a deviation from the fine in a citation based upon the aggravating or mitigating circumstances.
- (4) The presiding officer for a contested citation shall have the discretion, after a review of the evidence and any aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator.

R156-1-503. Reporting Disciplinary Action.

The Division may report disciplinary action to other state or federal governmental entities, state and federal data banks, the media, or other person who is entitled to the information under the Government Records Access and Management Act.

R156-1-506. Supervision of Cosmetic Medical Procedures.

The 80 hours of documented education and experience required under Subsection 58-1-506(2)(f)(iii) to maintain competence to perform nonablative cosmetic medical procedures includes the following:

- (1) the appropriate standards of care for performing nonablative cosmetic medical procedures;
- (2) physiology of the skin;
- (3) skin typing and analysis;
- (4) skin conditions, disorders, and diseases;
- (5) pre and post procedure care;
- (6) infection control;
- (7) laser and light physics training;
- (8) laser technologies and applications;
- (9) safety and maintenance of lasers;
- (10) cosmetic medical procedures an individual is permitted to perform under this title;
- (11) recognition and appropriate management of complications from a procedure; and

(12) current cardio-pulmonary resuscitation (CPR) certification for health care providers from one of the following organizations:

- (a) American Heart Association;
- (b) American Red Cross or its affiliates; or
- (c) American Safety and Health Institute.

R156-1-601. Suicide Prevention Video - Primary Care Providers.

(1)(a) Under Subsection 58-1-601(3), the Division shall produce the suicide prevention videos described in Subsection 58-1-601(2) by meeting at least annually with the Division of Integrated Healthcare to review information on existing videos and plan new videos, including:

(i) establishing goals, specifications, and standards for the videos;

(ii) identifying approved vendors from Utah's Best Value Cooperative Contracts list or otherwise planning requests for proposals;

- (iii) awarding contracts for creation of the videos; and
- (iv) producing the videos and providing them in effective formats.

(b) The Division shall collaborate with the Department of Government Operations to allow primary care providers access to view the suicide prevention videos described in Subsection 58-1-601(2) on the Division's website, at no cost to the providers.

(c) A primary care provider may fulfill up to ten of their CPE hours by viewing the Division-created suicide prevention videos, as follows:

- (i) for a video 25 minutes or less in length, a provider may recognize one-half CPE credit hour; and
- (ii) for a video 26 minutes or longer, a provider may recognize CPE credit in 50-minute hour blocks of time.

(d) The Division's production of the suicide prevention videos may include posting Division-approved substitutes for the videos on its website, such as Counseling on Access to Lethal Means (CALM) training, or more robust in-person training CME hours from a Suicide Prevention Summit provided by the Department of Health and Human Services.

(2)(a) Under Subsection 58-1-601(2)(b), the Division-approved educational materials or courses related to suicide prevention shall include those identified on the Division's website.

(b) The number and type of CPE credit hours allowed for completion of each educational material or course shall be stated on the Division's website or in the educational materials or course.

(3)(a) The Division or other provider of suicide prevention educational materials, courses, or videos may track or confirm a primary care provider's completion of the educational materials, course, or video.

(b) A primary care provider shall maintain documentation sufficient to prove compliance with Section 58-1-601 and this section, for two years after the end of the licensure cycle for which the CPE is due, including:

- (i) title of the educational materials, course, or video;
- (ii) date completed;
- (iii) number of CE hours claimed; and
- (iv) type of CE.

R156-1-602. Telehealth.

(1) Terms used in this rule are defined in Section 26B-4-704. In addition:

(a) "Patient Encounter" means any encounter where medical treatment and evaluation and management services are provided. The entire course of an inpatient stay in a healthcare facility or treatment in an emergency department is a single patient encounter.

(b) "Provider" means the same as defined in Subsection 26-60-102(6)(b), an individual licensed under Title 58, Occupations and Professions to provide health care services, and:

(i) shall include an individual exempt from licensure as defined in Section 58-1-307 who provides health care services within the individual's scope of practice under Title 58, Occupations and Professions; and

(ii) may include multiple providers obtaining informed consent and providing care as a team, consistent with the standards of practice applicable to a broader practice model found in traditional health care settings.

(2) Under Subsection 26B-4-704(2)(b), a provider offering telehealth services shall, before each patient encounter:

(i) verify the patient's identity and originating site;

(ii) allow the patient an opportunity to select their provider rather than being assigned a provider at random, to the extent possible; and

(iii) ensure that the online site does not restrict the patient's choice to select a specific pharmacy for pharmacy services; and

(b) before each initial patient encounter, obtain informed consent to the use of telehealth services by clear disclosure of:

- (i) additional fees for telehealth services, if any, and how payment is to be made for those additional fees if they are charged separately;
- (ii) to whom patient health information may be disclosed and for what purpose, including clear reference to any patient consent governing release of patient-identifiable information to a third-party;
- (iii) the rights of the patient with respect to patient health information;

- (iv) appropriate uses and limitations of the site, including emergency health situations;
 - (v) information affirming that the telehealth services meet industry security and privacy standards in Subsection 26B-4-704(1)(i)(ii), and warning of potential risks to privacy regardless of the security measures;
 - (vi) a warning that information may be lost due to technical failures, and clearly referencing any patient consent to hold the provider harmless for such loss; and
 - (vii) information disclosing the website owner-operator, location, and contact information.
- (3) Under Subsection 26B-4-704(2)(d), a provider offering telehealth services shall be available to the patient for subsequent care related to the initial telemedicine services as follows:
- (a) providing the patient with a clear mechanism to:
 - (i) access, supplement, and amend patient-provided personal health information;
 - (ii) contact the provider for subsequent care;
 - (iii) obtain upon request the patient's medical record or other report containing an explanation of the treatment provided to the patient and the provider's evaluation, analysis, or diagnosis of the patient's condition, including the informed consent provided; and
 - (iv) request a transfer to another provider of the patient's medical record documenting the telemedicine services; and
 - (b) if the provider recommends that the patient be seen in person, such as if diagnosis requires a physical examination, lab work, or imaging studies:
 - (i) arranging to see the patient in person, or referring the patient to the patient's designated health care provider, or if none, to an appropriate health care provider; and
 - (ii) documenting the referral in the patient's medical record; and
 - (c) if the patient does not have a designated health care provider, consult with the patient and send a medical record or other report to the referred health care provider in the manner provided under Subsection 26B-4-704(2)(g), except the medical record or report shall be provided within a reasonable time frame allowing for timely care of the patient by that provider.
- (4) Nothing in this section shall prohibit electronic communications consistent with standards of practice applicable in traditional health care settings, including the following:
- (a) between a provider and a patient with a preexisting provider-patient relationship;
 - (b) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
 - (c) in on-call or cross coverage situations when the provider has access to patient records;
 - (d) in broader practice models when multiple providers provide care as a team, including, for example:
 - (i) within an existing organization; or
 - (ii) within an emergency department; or
 - (e) in an emergency, which as used in this section means a situation when there is an occurrence posing an imminent threat of a life-threatening condition or severe bodily harm.

KEY: licensing, supervision, evidentiary restrictions

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