

Agenda

SECURITY SERVICES LICENSING BOARD

February 26, 2015-9:00 a.m.

Room 474 - 4th Floor

Heber M. Wells Building

160 E. 300 S. Salt Lake City, Utah

This agenda is subject to change up to 24 hours prior to the meeting.

ADMINISTRATIVE BUSINESS:

1. Call Meeting to Order
2. Sign Travel Form
3. Approve Minutes for December 11, 2014

DISCUSSION ITEMS

4. Tracy Naff, Compliance
5. Licensing Fines/Citation Authority
6. Rule Discussion
7. HB 235, Occupational Licensing Amendment

APPOINTMENTS

- 9:10 Alofameni Togiai, Probation Review
9:15 Jacob Penrod, Probation Review
9:20 Derek Evans, QA for CBI Security Services Application Review
9:25 Hannah Houston, Application Review, Armed Guard
9:30 Eric Catmull, Application Review, Unarmed Guard

NEXT SCHEDULED MEETING:

April 9, 2015

Note: In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Carol Inglesby, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675.

MINUTES

**UTAH
Security Services Licensing Board
MEETING**

12/11/2014

**Room 402 – 4th Floor – 9:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 A.M.

ADJOURNED: 12:21 P.M.

Bureau Manager:

Kristina Bean

Board Secretary:

Yvonne King

Board Members Present:

John Tinsley, Chair
Keith Conley
Sheriff Todd Richardson
Jack Gardner
Deborah Smith
Perry Rose
Chief Gary Giles

Guests:

Jim Cross, Whelan Security
Robert Anderton, PACSCO
Jacob Penrod, Peak
Siamak Darvish, Probationer
Wayne Wright, US Security
Alofameni Togiai, Applicant
Paul Nelson, Bedrock
Newel Cutler, Applicant
Vanessa Garcia, Probationer
Colbie Keslar, Applicant
Bob Steirig
Olger Conejo, Applicant

DOPL Staff Present:

Tracy Naff, Compliance
Gordon Summers, Investigations

ADMINISTRATIVE BUSINESS:

Approval of the October 9, 2014 Board Meeting Minutes:

Mr. Gardner seconded by Ms. Smith made a motion to approve the October 9, 2014 Board Meeting Minutes as written. The motion carried unanimously.

Gary Giles (Oath of Office)

Ms. Bean administered the Oath of Office to Chief Giles as the new Board member.

DISCUSSION ITEMS:

Tracy Naff, Compliance

Ms. Naff presented the compliance report which included two new probationers Vanessa Garcia and Kenneth Kiter.

Notice of Agency Action:

Ms. Bean presented two Notices of Agency Actions for Jeffrey Rahter and Total Security Solutions of Utah which had gone into default:

Jeffrey Rahter

Mr. Rose seconded by Sheriff Richardson made a motion to revoke Mr. Rahter's license as an Armed Security Officer and Qualifying Agent. The motion carried unanimously.

Total Security Solutions of Utah

Sheriff Richardson seconded by Chief Giles made a motion to revoke licensure to Total Security Solutions as a Security company. The motion carried unanimously.

APPOINTMENTS:

Siamak Darvish

Mr. Darvish appeared before the Board for his scheduled appointment with regards to his probationary review.

Due to the character, professional competence, and physical or mental health of an individual the meeting was closed.

9:16: Mr. Rose seconded by Ms. Smith made a motion to close the meeting. The motion carried unanimously.

9:35: Mr. Gardner seconded by Mr. Conley made a motion to reopen the meeting. The motion carried unanimously.

The Board concluded that there was no need for Mr. Darvish to attend the Board meetings until he was employed by a security company. The Board reminded Mr. Darvish to stay in contact with Ms. Naff.

Kenneth Kiter

Mr. Kiter did not appear before the Board for his scheduled appointment with regards to his probation. Ms. Naff stated that she has not been able to make

contact with Mr. Kiter and concluded that he was non-complaint with his probation.

Mr. Gardner seconded by Sheriff Richardson made a motion to revoke licensure to Mr. Kiter as an unarmed security officer. The motion carried unanimously.

Alofameni Togiai

Mr. Togiai appeared before the Board for his scheduled appointment. Ms. Bean reviewed his application for renewal which included a recent criminal conviction.

Mr. Gardner seconded by Mr. Rose made a motion to approve Mr. Togiai's renewal as an unarmed security officer on a probationary status for one year to include quarterly employer reports. The motion carried unanimously.

Konner Zoellner

Mr. Zoellner did not appear before the Board for his scheduled appointment, however Ms. Bean reviewed his application which included criminal convictions.

Chief Giles seconded by Mr. Conley made a motion to deny licensure to Mr. Zoellner as an unarmed security officer. The motion carried unanimously.

Vanessa Garcia

Ms. Garcia appeared before the Board for her scheduled appointment with regards to her probationary review. Ms. Naff stated that Ms. Garcia was complaint with her probation.

Mr. Rose seconded by Sheriff Richardson made a motion to have Ms. Garcia appear at the next scheduled Board meeting. The motion carried unanimously.

Newel Cutler

Mr. Cutler appeared before the Board for his scheduled appointment. Ms. Bean reviewed his application for renewal of his unarmed security license which included criminal history.

Mr. Rose seconded by Mr. Conley made a motion to grant a probationary license to Mr. Cutler as an unarmed security officer for a period of three years to include monthly employer reports, satisfaction of restitution, completion of any classes order by the court and to have no dealings with money within his job performance. The motion carried unanimously.

The Board also suggested Mr. Cutler notify his

employer before he receives his Memorandum of Understanding and attend the next scheduled Board meeting with his employer or obtain a letter from his employer.

Olger Conejo

Mr. Conejo appeared before the Board for his scheduled appointment. Ms. Bean reviewed his application for the renewal of his license which included criminal history.

Sheriff Richardson seconded by Chief Giles made a motion to approve a probationary license for one year as an unarmed security officer to include: compliance with the courts, to prohibit the driving of any company vehicles, random drug testing, monthly employee reports, and have the probation to drive a vehicle correlate with the court order and Driver's License Division. The motion carried unanimously.

Jacob Penrod

Mr. Penrod appeared before the Board for his scheduled appointment. Ms. Bean reviewed his application for renewal which included criminal convictions.

Due to the character, professional competence, and physical or mental health of an individual the meeting was closed.

11:39: Mr. Tinsley seconded by Chief Giles made a motion to close the meeting.

11:48: Mr. Rose seconded by Mr. Gardner made a motion to reopen the meeting.

Mr. Rose seconded by Chief Giles made a motion to approve the renewal of Mr. Penrod's license as an unarmed security officer on a probationary status for 18 months to include monthly employer reports for the first six months then quarterly, a letter from his doctor stating he is fit for duty, and to appear before the next three scheduled Board meetings. The motion carried unanimously.

Colbie Keslar

Mr. Keslar appeared before the Board for his scheduled appointment. Ms. Bean reviewed the application which included criminal convictions.

Mr. Rose seconded by Sheriff Richardson made a motion to allow Mr. Keslar to renew as an unarmed security officer but to deny his application as an armed security officer. The motion carried unanimously.

Agenda Items

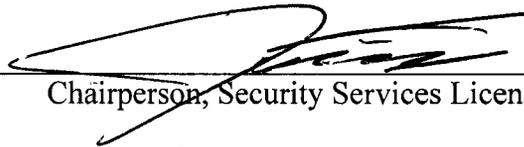
The Board would like to discuss fines for licensees that fail to report criminal history for the next scheduled Board meeting.

Next Scheduled Meeting

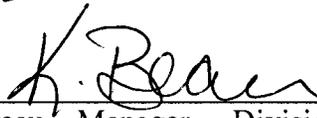
February 12, 2015

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

2/26/15
Date Approved


Chairperson, Security Services Licensing Board

2/26/15
Date Approved


Bureau Manager, Division of Occupational &
Professional Licensing

Representative Norman K Thurston proposes the following substitute bill:

OCCUPATIONAL LICENSING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Division of Occupational and Professional Licensing Act.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Occupational and Professional Licensing (DOPL) and the board of each profession that has a time-based licensing requirement to report to the division director about the feasibility of creating a process to waive the time-based requirement for an applicant that has obtained the skill and knowledge equivalent to having completed the requirement; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301, as last amended by Laws of Utah 2013, Chapter 426

1st Sub. H.B. 235



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

27 Section 1. Section **58-1-301** is amended to read:

28 **58-1-301. License application -- Licensing procedure.**

29 (1) (a) Each license applicant shall apply to the division in writing upon forms
30 available from the division.

31 (b) Each completed application shall:

32 (i) contain documentation of the particular qualifications required of the applicant[
33 ~~shall~~];

34 (ii) include the applicant's Social Security number[~~, shall~~];

35 (iii) be verified by the applicant[~~;~~]; and [~~shall~~]

36 (iv) be accompanied by the appropriate fees.

37 [~~(b)~~] (c) An applicant's Social Security number is a private record under Subsection
38 63G-2-302(1)(i).

39 (2) (a) [~~A license shall be issued~~] The division shall issue a license to an applicant who
40 submits a complete application if the division determines that the applicant meets the
41 qualifications of licensure.

42 (b) [~~A written notice of additional proceedings shall be provided~~] The division shall
43 provide a written notice of additional proceedings to an applicant who submits a complete
44 application, but who has been, is, or will be placed under investigation by the division for
45 conduct directly bearing upon the applicant's qualifications for licensure, if the outcome of
46 additional proceedings is required to determine the division's response to the application.

47 (c) [~~A written notice of denial of licensure shall be provided~~] The division shall
48 provide a written notice of denial of licensure to an applicant who submits a complete
49 application if the division determines that the applicant does not meet the qualifications of
50 licensure.

51 (d) [~~A written notice of incomplete application and conditional denial of licensure shall~~
52 ~~be provided~~] The division shall provide a written notice of incomplete application and
53 conditional denial of licensure to an applicant who submits an incomplete application[~~- This~~],
54 which notice shall advise the applicant that the application is incomplete and that the
55 application is denied, unless the applicant corrects the deficiencies within the time period
56 specified in the notice and otherwise meets all qualifications for licensure.

57 (3) Before ~~[any person is issued]~~ the division issues a license to a person under this
58 title, ~~[a]]~~ the requirements for that license as established under this title and by rule shall be
59 met.

60 (4) If an applicant meets all requirements ~~[are met]~~ for ~~[the]~~ a specific license, the
61 division shall issue the license to the applicant.

62 (5) (a) As used in this Subsection (5), "time-based licensing requirement" means a
63 specific number of hours, weeks, months, or years of education, training, supervised training,
64 or other experience that an applicant for licensure is required to complete before receiving a
65 license under this title.

66 (b) For each occupation regulated by this title that has a time-based licensing
67 requirement, the division shall consult with the appropriate board and the board shall report to
68 the director:

69 (i) whether there is an existing process to allow an applicant who has obtained the skill
70 and knowledge equivalent to having met the time-based requirement to obtain a license without
71 meeting the time-based requirement and if that process could be made more reasonable and fair
72 to the applicant;

73 (ii) whether it is feasible to establish a process to allow an applicant who has obtained
74 the skill and knowledge equivalent to having met the time-based requirement to obtain a
75 license without meeting the time-based requirement and what steps would need to be taken to
76 provide such a process, if there is not such a process currently available for the applicant; and

77 (iii) if it is not feasible to establish a process to allow an applicant who has obtained
78 the skill and knowledge equivalent to having met the time-based requirement to obtain a
79 license without meeting the time-based requirement, the specific reasons that prevent such a
80 process from being feasible.



Kristina Bean <kbean@utah.gov>

(no subject)

1 message

Yvonne King <yking@utah.gov>

Tue, Feb 24, 2015 at 3:26 PM

To: Chrystal Mancuso-Smith <cmancuso@padrm.com>, Kelvin Williams <kelvinwillie@hotmail.com>, Marty Simon <mwsimon417@comcast.net>, Scott Barnett <s.m.barnett@hotmail.com>, Steve Gamvroulas <sgamvrou@utah.gov>, Tana Stone <tanastone1@gmail.com>, Chad Dalton <chaddalton@gmail.com>, Charles Heaton <charlie@svlac.com>, Jason Pozzuoli <jpozzuoli@yahoo.com>, Michael Walburger <mtwalburger@digis.net>, Adam Bronson <adambronsonhunting@gmail.com>, "Jed S. Wayment" <jwayment@allwest.net>, John Glen Bair <bairauctions@yahoo.com>, Paul Niemeyer <paul.niemeyer@hotmail.com>, Troy Justensen <xtremeoutfitter@msn.com>, "Blake G. Woodring" <bwoodring@utah.gov>, Larry Chatterton <lchatterton@ppsinfo.net>, Perry Rose <perry@prideinvestigationsllc.com>, "Wendell L. Roberts" <wendellr@email.utcourts.gov>, "Deborah D. Smith" <deborah.smith4@va.gov>, Gary Giles <gkgiles@orem.org>, "Jack W. Gardner" <jack.gardner@brinksinc.com>, John Tinsley <admin@securityutah.com>, "Keith E. Conley" <kconley@alpinedistrict.org>, Sheriff Todd Richardson <trichard@co.davis.ut.us>, Catherine Kennedy <ckreportinginc@gmail.com>, Diana Kent <diana@citicourt.com>, Diane Flanagan <dianewf@email.utcourts.gov>, Joseph Liddell <joe.liddell@gmail.com>, "L. Joleen Van Bibber" <joleen105@msn.com>, "Alexis S. Nieves" <Alex.Nieves@hsc.utah.edu>, Dalta Quan <dalta.quan@gmail.com>, Heather Parker <catscan4u@aol.com>, "Judy A. Nielson" <morgan47@frontiernet.net>, "Patrick R. Luers, MD" <pluers@mtnmedical.com>, Rex T Christensen <rextc67@gmail.com>, "Stephen D. Brown, MD" <radshooter@yahoo.com>, "Talmage L. Shill, MD" <talmage.shill@mtnmedical.com>, Larry Gillett <lgillett@msn.com>, Michael Jeffrey Howe <mjh@peakalarm.com>, Sandi Henderson <gene_henderson2004@yahoo.com>, Troy Iverson <tiverson@agmonitoring.com>, William LaRochelle <milehifrog@q.com>, Aleesa Ann Burgess <hapiduks@msn.com>, Kelly Spensko <kelly.spensko@canyonsdistrict.org>, Leanne Norman <leanne.norman@comcast.net>, "Sheryl Y. Spriet" <sheryl.spriet@gmail.com>, "Brinton, Jennifer" <jgbrinton@gmail.com>, Carrie Winberg <carrie.winberg@imail.org>, "Earl H. Fulcher Jr." <earl.fulcher@hsc.utah.edu>, "Lambden, Beverly" <nelady@comcast.net>, "Nylander, Michelle" <michelle.nylander@imail.org>

Cc: Kristina Bean <kbean@utah.gov>

Dear Board Members,

Thank you for your input to Representative Thurston regarding House Bill 235, "Occupational Licensing Amendments." When visiting with him, he told me that he had "heard from every profession that DOPL regulates." I appreciate your willingness to become engaged in the legislative process.

Representative Thurston has prepared this substitute, after hearing concerns from everyone: <http://le.utah.gov/~2015/bills/hbillint/HB0235S01.pdf>

The new language is different from the version we forwarded to you earlier. While the first version required an alternative pathway be established to time based licensing requirements, this version requires each board to review and report back the Legislature on the time-based requirements included in each licensing law. Boards and DOPL will have to determine whether it is feasible to create a process that bypasses the time-based requirement.

We recommend again that you review the language and provide your input to Representative Thurston. He is a legislator who is interested in hearing your ideas. His legislative webpage can be found at <http://le.utah.gov/house2/detail.jsp?i=THURSNK>

Thank you for your dedicated service to the citizens of Utah.

Mark Steinagel
Director
DOPL

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R156. Commerce, Occupational and Professional Licensing. R156-63a. Security Personnel Licensing Act Contract Security Rule.

R156-63a-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) making any statement that would reasonably cause another person to believe that a private security officer functions as a law enforcement officer or other official of this state or any of its political subdivisions or any agency of the federal government;

~~————(2) employing an unarmed or armed private security officer, as an on-the-job trainee exempted from licensure pursuant to Section R156-63a-307, who has been convicted of:~~

~~(a) a felony;~~

~~(b) a misdemeanor crime of moral turpitude; or~~

~~(c) a crime that when considered with the duties and functions of an unarmed or armed private security officer by the Division and Board indicates that the best interests of the public are not served;~~

~~————(3) employing an unarmed or armed private security officer who fails to meet the requirements of Section R156-63a-307;~~

(42) utilizing a vehicle whose markings, lighting, and/or signal devices imply or suggest that the vehicle is an authorized emergency vehicle as defined in Subsection 41-6a-102(3) and Section 41-6a-310 and in Title R722, Chapter 340;

(53) utilizing a vehicle with an emergency lighting system which violates the requirements of Section 41-6a-1616 of the Utah Motor Vehicle Code;

(64) wearing a uniform, insignia, or badge that would lead a reasonable person to believe that the unarmed or armed private security officer is connected with a federal, state, or municipal law enforcement agency;

(75) being incompetent or negligent as an unarmed private security officer, an armed private security officer or by a contract security company that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(86) failing as a contract security company or its officers, directors, partners, proprietors or responsible management personnel to adequately supervise employees to the extent that the public health and safety are at risk;

(97) failing to immediately notify the Division of the cancellation of the contract security company's insurance policy;

(408) failing as a contract security company or an armed or unarmed private security officer to report a criminal offense pursuant to Section R156-63a-613; and

(449) wearing an uniform, insignia, badge or displaying a license that would lead a reasonable person to believe that an individual is connected with a contract security company, when not employed as an armed or unarmed private security officer by a contract security company.

R156-63a-609. Operating Standards - Proper Identification of Private Security Officers.

All armed and unarmed private security officers shall carry a valid security license together with a ~~[government issued]Utah~~ identification card ~~issued by the Division of Driver License~~ or a current ~~[state issued]Utah~~ driver's license whenever performing the duties of an armed or unarmed private security officer and shall exhibit said license and identification upon request.

R156. Commerce, Occupational and Professional Licensing. R156-63b. Security Personnel Licensing Act Armored Car Rule

R156-63b-502. Unprofessional Conduct.

"Unprofessional conduct" includes the following:

(1) making any statement that would reasonably cause another person to believe that an armored car security officer functions as a law enforcement officer or other official of this state or any of its political subdivisions or any agency of the federal government;

~~— (2) employing an armored car security officer by an armored car company, as an on-the-job trainee pursuant to Section R156-63b-307, who has been convicted of:~~

~~— (a) a felony;~~

~~— (b) a misdemeanor crime of moral turpitude; or~~

~~— (c) a crime that when considered with the duties and functions of an armored car security officer by the Division and the Board indicates that the best interests of the public are not served;~~

~~— (3) employing an armored car security officer by an armored car company who fails to meet the requirements of Section R156-63b-307;~~

(42) utilizing a vehicle whose markings, lighting, and/or signal devices imply or suggest that the vehicle is an authorized emergency vehicle as defined in Subsection 41-6a-102(3) and Section 41-6a-310 and in Title R722, Chapter 340;

(53) utilizing a vehicle with an emergency lighting system which violates the requirements of Section 41-6a-1616 of the Utah Motor Vehicle Code; 5

(64) wearing a uniform, insignia, or badge that would lead a reasonable person to believe that the armored car security officer is connected with a federal, state, or municipal law enforcement agency;

(75) being incompetent or negligent as an armored car security officer or by an armored car company that results in injury to a person or that creates an unreasonable risk that a person may be harmed;

(86) failing as an armored car company or its officers, directors, partners, proprietors or responsible management personnel to adequately supervise employees to the extent that the public health and safety are at risk;

(97) failing to immediately notify the Division of the cancellation of the armored car company's insurance policy;

(108) failing as an armored car company or an armored car security officer to report a criminal offense pursuant to Section R156-63b-612; and

(119) wearing an uniform, insignia, badge or displaying a license that would lead a reasonable person to believe that an individual is connected with an armored car company, when not employed as an armored car security officer by an armored car company.

R156-63b-609. Operating Standards - Proper Identification of Armored Car Security Officers.

All armored car security officers shall carry a valid security license together with a ~~[government issued]Utah~~ identification card ~~issued by the Division of Driver License~~ or a current ~~[state issued]Utah~~ driver's license whenever performing the duties of an armored car security officer and shall exhibit said license and identification upon request.

- (6) It is unprofessional conduct if a health care provider violates this section.
- (7) It is unlawful conduct if an individual:
 - (a) wears identification in a patient encounter that suggests that the individual is practicing or engaging in an occupation or profession that the individual may not lawfully practice or engage in under this title; or
 - (b) engages in deceptive or misleading conduct.
- (8) An individual who violates this section is subject to Section 58-1-502.

Enacted by Chapter 99, 2014 General Session

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

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

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

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

(ii) attempt to negotiate a stipulated settlement; or

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

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

(A) an uncontested citation;

(B) a stipulated settlement; or

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

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

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

(d) A citation shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.

- (e) The division may issue a notice in lieu of a citation.
- (f) (i) If within 20 calendar days from the service of the citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.
 - (ii) The period to contest a citation may be extended by the division for cause.
- (g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.
- (h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
- (i) The division may not issue a citation under this section after the expiration of six months following the occurrence of a violation.
- (j) The director or the director's designee shall assess fines according to the following:
 - (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;
 - (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000; and
 - (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000 for each day of continued offense.
- (3) (a) An action for a first or second offense that has not yet resulted in a final order of the division may not preclude initiation of a subsequent action for a second or subsequent offense during the pendency of a preceding action.
 - (b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.
- (4) (a) The director may collect a penalty that is not paid by:
 - (i) either referring the matter to a collection agency; or
 - (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.
 - (b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect the penalty.
 - (c) A court may award reasonable attorney fees and costs to the division in an action brought by the division to enforce the provisions of this section.

Amended by Chapter 262, 2013 General Session

58-1-503. Maximum civil penalty for violation of court order.

(1) If any written order issued under this title or if an injunction or temporary restraining order issued by a court of competent jurisdiction relating to this title is violated, the court may impose a civil penalty of not more than \$2,000 for each day the written order, injunction, or temporary restraining order is violated, if the person in violation has received notice of the written order, injunction, or temporary restraining

Subsection (15)(b) is entitled, upon request, to a posttermination hearing to challenge the termination of the diversion agreement.

(ii) The request shall be considered a request for agency action and shall comply with the requirements of Subsection 63G-4-201(3).

(iii) The division shall uphold the termination of the diversion agreement if it finds that:

(A) the licensee violated the diversion agreement; and

(B) it is in the best interest of the public to terminate the diversion agreement.

(16) The administrative statute of limitations for taking disciplinary action described in Subsection 58-1-401(6) shall be tolled during a diversion program.

Amended by Chapter 262, 2013 General Session

58-1-405. Provisions of volunteer health or veterinary services -- Division authority.

In accordance with Section 26-49-205, the division may pursue actions against a volunteer health practitioner operating under Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

Enacted by Chapter 242, 2008 General Session

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or

omission; or

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession;

(d) 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 the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false,

misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

Amended by Chapter 408, 2014 General Session

58-1-501.3. Health professional prescribing exceptions for expedited partner therapy for sexually transmitted diseases.

(1) For purposes of this section:

(a) "Drug to treat a sexually transmitted disease" means a drug:

(i) as defined in Section 58-17b-102; and

(ii) that is:

(A) an antibiotic; and

(B) prescribed in accordance with guidelines from the Centers for Disease Control and Prevention for patient delivered expedited partner therapy in the management of sexually transmitted disease.

(b) "Partner" means a person:

(i) with whom a practitioner does not have a bonafide practitioner-patient relationship; and

(ii) who is identified as, or claims to be a sexual partner of a patient.

(c) "Patient" means a person who:

(i) has a sexually transmitted disease; and

(ii) has a bonafide practitioner-patient relationship with a practitioner.

(d) "Sexually transmitted disease" means:

(i) gonorrhea; or

(ii) chlamydia.