



Proposed List of Regulated Occupations for CY 2023 Periodic Review

*The Office of Professional Licensure Review within the Department of Commerce submits this list in compliance with **Title 13-1b-303** of the Utah Code.*

Introduction

Created by SB 16 (2022 General Session), the Office of Professional Licensure Review (OPLR), Department of Commerce is directed to provide the Utah Legislature with objective review and recommendations related to occupational licenses, both new and existing. To ensure that OPLR's periodic reviews of existing occupational licenses are aligned with legislative priorities, Title 13-1b requires that the office submit by October 1st each year "a list of each periodic review that the office proposes to conduct during the upcoming year." This list is reviewed by the Business and Labor Interim Committee and approved, with or without modification, then submitted to the Legislative Management Committee for approval, with or without modification.

The Office also proposes below a framework for prioritizing for review the many occupational licenses within the State of Utah. We share this framework in hopes of creating a multi-year approach—jointly with the legislature—for addressing those areas where occupational licensing reform can have the greatest impact on public well-being.

The next sections present the prioritized list of occupations proposed for review during CY 2023 with notes related to the rationale and scope of the review. The proposed review methodology is available in Appendix I.

Prioritization of Reviews

In proposing a list of occupations for periodic review each year, OPLR will prioritize reviews of multiple related occupations. Reviewing a set of closely related occupations simultaneously allows for a deeper understanding of the occupations and avoids redundant effort. Beyond efficiency, OPLR will propose occupations based on:

- **Overlapping or interrelated scopes of practice.** Many occupations have overlapping scopes of practice (e.g., licensed practical nurses and advanced practice registered nurses). In these cases, addressing one occupation without reference to the scope of practice of the related occupations could result in poor policy recommendations.
- **Large impact on the Utah public.** Regulated occupations with higher numbers of licensees, and those operating in critical functions have more impact on Utah's public than occupations with fewer licensees, and those operating in less critical areas.

Future reviews, then, may include groupings of occupations like trades (e.g., contractors, plumbers, electricians, engineers/land surveyors, interior design), doctors (e.g., physician/surgeons, osteopathic physicians, dentists, chiropractors), nursing (e.g., advanced practice registered nurses, registered nurses, licensed registered nurses, midwives), real estate (e.g., brokers, sales agents, mortgage originators, appraisers), cosmetology (e.g., barbers, estheticians, nail technicians), teachers (e.g., elementary teachers, special education teachers, school psychologists), and many others.

In the absence of other legislative direction, OPLR plans to review occupations with fewer licensees or lower impact on the public later in the 10-year review cycle.

Proposed List of Occupations & Licenses for Review

For CY 2023, OPLR proposes a focus on regulated mental and behavioral health occupations (comprising ~17,900 currently active licensees in Utah). See Appendix II for the comprehensive list of occupations and licenses for CY 2023 review.

Department of Commerce

- Social Worker (9,200 active licensees) Section 58-60-204
- Clinical Mental Health Counselor (2,600) Section 58-60-404
- Psychologist (1,200) Section 58-61-703
- Marriage & Family Therapist (1,400) Section 58-60-304
- Therapeutic Recreation Specialist (700) Section 58-40-301
- Behavior Analyst (700) Section 58-61-703
- Substance Use Disorder Counselor (500) Section 58-60-504
- Vocational Rehabilitation Counselor (200) Section 58-78-301
- State Certified Music Therapist (70) Section 58-84-201

Department of Health and Human Services

- Certified Case Manager (1043) Section R523-7-4
- Certified Peer Support Specialist (109) Section R523-5-4
- Child/Family Peer Support Specialist/
Family Resource Facilitator (23) Section R523-6-2
- Certified Crisis Worker (128) Section R523-17-62
- Behavioral Emergency Services Technician (0) Section 26-8a-302
- Advanced Behavioral Emergency Services Technician (0) Section 26-8a-302

Additional regulated occupations relate to mental and behavioral health, for instance, primary care medicine, psychiatry, and school psychology. While the scopes of practice for these other occupations will inform the reviews undertaken in CY 2023, they will be reviewed separately (e.g., with physicians or educators in an upcoming review) and not during the current periodic review.

Rationale

The rationale for addressing licensure for mental and behavioral health occupations in CY 2023 rests on three elements:

- First, **mental health needs** are surging within Utah.
- Second, Utah has a **shortage of mental health professionals**.
- Third, some mental health occupations receive **higher rates of substantiated complaints**¹, indicating that there may be potential to better target licensing requirements to prevent harm to the public.

Utah is in the midst of a mental health crisis. Suicide is the leading cause of death in Utah for youth and young adults (aged 15-24), and the second- and third-leading cause of death for adults aged 25-34 and 35-44 respectively, placing Utah 9th in the nation for highest rate of suicide per capita.² Utah has consistently higher rates of self-reported lifetime depression than the U.S. rate (23.1% vs. 18.8% in 2020).³ The organization Mental Health America ranks Utah 47th among states (51st being the worst) for prevalence of mental illness in 2022.⁴

Mental health professionals are essential to confronting this crisis. However, according to the federal Health Resources and Services Administration (HRSA), Utah has a shortage of mental health professionals in all 29 counties.⁵ This shortage of mental health professionals existed pre-COVID-19 and has grown worse since March 2020.⁶

Utahns experience this shortage in several ways. Utah's Division of Child and Family Services (DCFS) struggles to fill its roughly 500 caseworker spots with licensed social service workers—a bachelor's level license—and thus must underfill those spots with non-licensed employees.⁷ Similarly, the new Youth Behavioral Health Receiving Center in Provo is currently short 35 clinicians.⁸ For families with children, waitlists to see a child psychiatrist are several weeks to months long throughout the state.⁹ Average wait times for veterans' mental health care appointments at Utah VA facilities can range from 25-70 days.¹⁰

¹ Compared to all DOPL licenses, based on data retrieved from the MLO database in July 2022.

² Utah State Facts, American Foundation for Suicide Prevention. <https://afsp.org/facts/utah>

³ *Health Indicator Report of Depression: Adult Prevalence*. (2022, January). Utah Department of Health. <https://ibis.health.utah.gov/ibisph-view/indicator/view/Dep.html>

⁴ *Ranking the States 2022*. Mental Health America. <https://mhanational.org/issues/2022/ranking-states>

⁵ Health Professional Shortage Areas (HPSAs) are determined by the Office of Primary Care and Rural Health and approved by HRSA. <https://ruralhealth.health.utah.gov/workforce-development/primary-care-office-pco/shortage-designations/>

⁶ *TrendWatch: The Impacts of the COVID-19 Pandemic on Behavioral Health*. American Hospital Association. <https://www.aha.org/system/files/media/file/2022/05/trendwatch-the-impacts-of-the-covid-19-pandemic-on-behavioral-health.pdf>

⁷ Email correspondence between DOPL and the Director of DCFS, December 2020.

⁸ Communication with Steve Hunter, Utah Association of Counties, September 2022.

⁹ Utah Hospital Association. (2019, July). *Utah's Mental Health System*. Kem C. Gardner Policy Institute. <https://gardner.utah.edu/wp-content/uploads/MentalHealthReportAug2019.pdf>

¹⁰ *VA Overall | Veterans Affairs*. U.S Department of Veteran Affairs. <https://www.accesstopwt.va.gov/Healthcare/Overall>

Utah's shortage of mental health professionals leaves significant gaps in treatment such that 62% of Utah adults with mild mental illness did not receive treatment in 2020, while one quarter of those with severe mental illness reported unmet need. Perhaps most concerning, almost half of Utah's youth aged 12–17 who have depression did not receive any care in 2020. While the causes of mental health disorders are complex, a shortage of mental health professionals has been shown to contribute to poor health outcomes (mental and physical) and system utilization (e.g., substance use, homelessness, criminal justice).¹¹

Leaving mental health issues untreated has not only the many human consequences presented above, but also fiscal consequences. A recent analysis determined that every \$1 investment in prevention and early intervention for mental illness and addiction yields between \$2 and \$10 in savings in healthcare costs, criminal justice costs, and improved productivity.¹² Put another way, the shortage of mental health professionals today will likely lead to higher costs to the state in coming years.

DOPL data also highlights a relatively high number of substantiated complaints against licensed individuals in mental and behavioral health occupations. DOPL's internal data shows that licensees in several of the major mental health occupations receive negative dispositions (e.g., sanctions, referrals, letters of concern, suspensions, revocations) at higher rates than average within the DOPL database (see Figure 1 below). A complete review may surface ways to better target public safety concerns for occupations with higher rates of substantiated complaints.

OPLR is cautious not to give undue weight to these complaint data until further research is done. Each occupation has different patterns of complaints, investigations, and dispositions, meaning that no conclusions should be drawn without the full review.

While licensing policy is not the only determinant of Utahns' access to quality mental health care, it does set the requirements in terms of education, exams, training, and experience required for new entrants into these occupations. Thus, licensing may be an effective lever for influencing the supply of mental health professionals, and thereby the availability of mental health services for Utahns.

In sum, OPLR believes that a review of licensing for mental health occupations can increase availability of services for consumers and improve safety and well-being of the public. Additional information on OPLR's selection process for CY 2023 review is available in Appendix III.

¹¹ *Adults with Mental Illness in Past Year Who Did Not Receive Treatment*. (2021, March 10). KFF. <https://www.kff.org/other/state-indicator/adults-with-mental-illness-in-past-year-who-did-not-receive-treatment/?currentTimeframe=0&sortModel>

¹² *Fact Sheet: The cost benefits of early intervention in mental illness – Steinberg Institute*. www.SteinbergInstitute.Org. <https://steinberginstitute.org/fact-sheet-cost-benefits-early-intervention-mental-illness/>

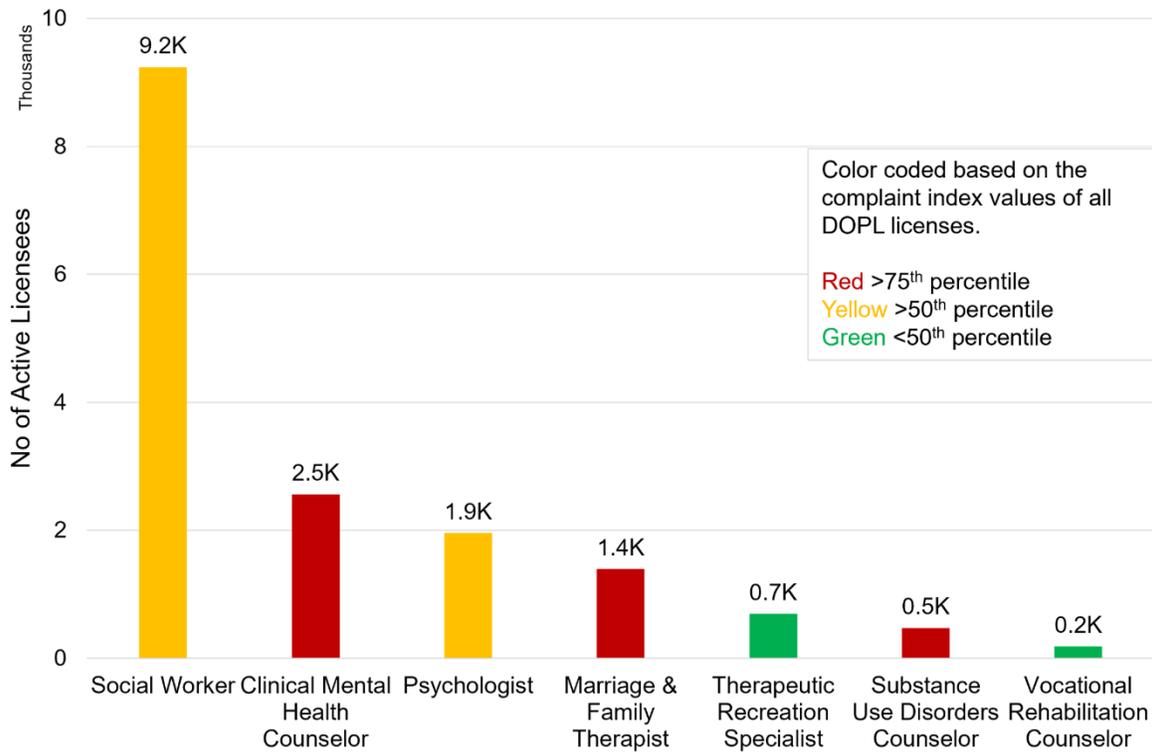


Figure 1. Bar graph showing active licensees by mental & behavioral health profession, color-coded by complaint index.

Scope of Review

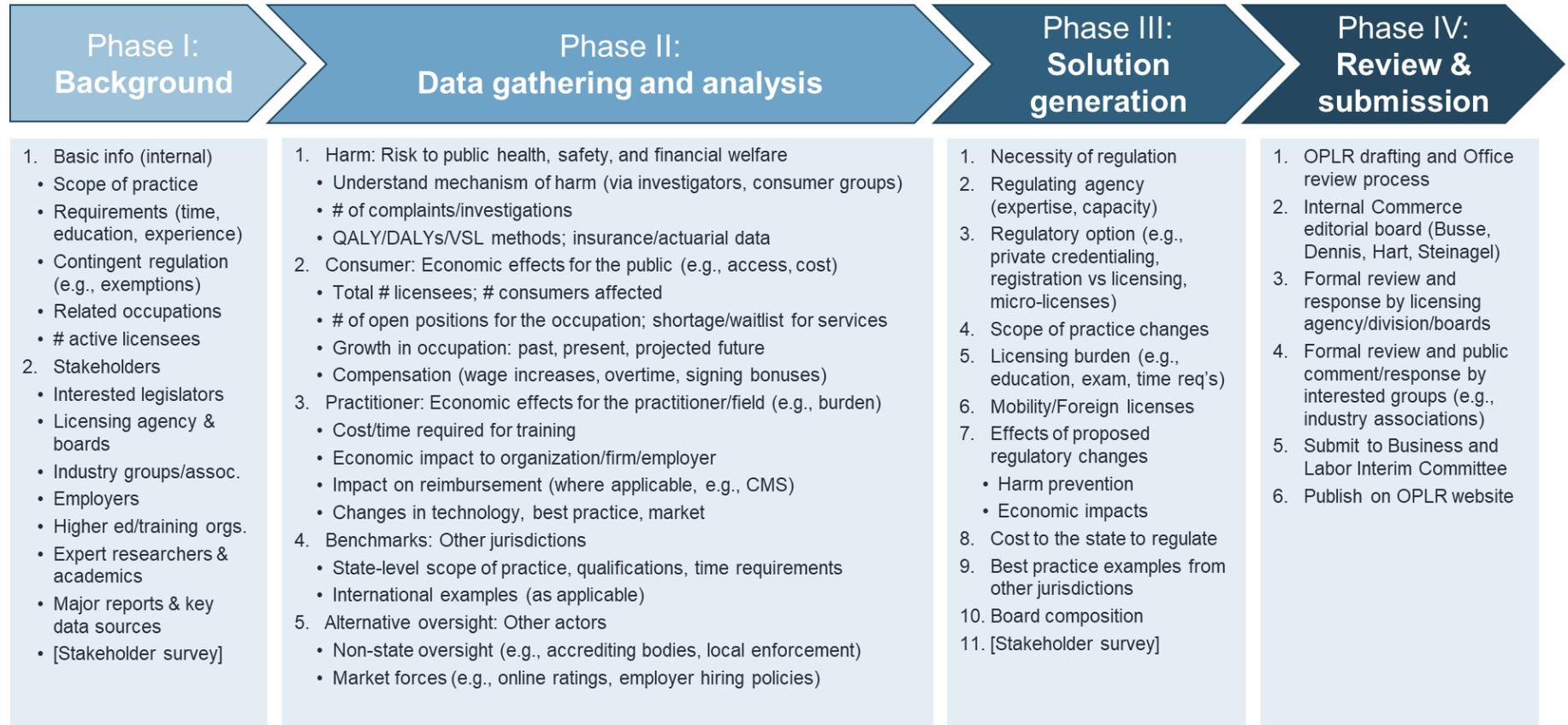
As presented above, the proposed review will include multiple related occupations that can have a large impact on Utahns. The review will therefore consider a variety of options related to licensing for the occupations named above. The scope of review thus may include the type of occupational regulation (e.g., registration, certification, licensing), initial qualifications for licensure, continuing education requirements, exemptions from licensing, and scope of practice. The review may also include recommendations for changes to statute, administrative rule, and/or policies of licensing agencies. In all cases, the reviews will be conducted in accordance with Title 13-1b-302.

The comprehensive nature of the review should not, however, be confused with comprehensive recommendations for change. The office may do a comprehensive review whose findings point to modest or no changes to licensing law or practices. The final report for each periodic review will be informed by the proposed review methodology presented in Appendix I.

APPENDIX

- I. Proposed methodology for periodic review
- II. Table of proposed occupations, licenses, active licensees, and complaint index
- III. Selection process for the proposed list of occupations for CY 2023 periodic review
- IV. List of meetings and interviews since July 1, 2022

I. Proposed methodology for periodic review



II. Table of proposed occupations, licenses, active licensees, and complaint index

Occupation	Licenses	Active Licensees (As of July 2022)	Complaint Index* (Justified complaints per 100 active licensees)
<i>Division of Professional Licensure</i>			
Social Worker	Licensed Clinical Social Worker	5,389	3.0
	Social Service Worker	1,896	
	Certified Social Worker	1,814	
	Certified Social Worker Intern	138	
Clinical Mental Health Counselor	Clinical Mental Health Counselor	2,048	7.0
	Associate Clinical Mental Health Counselor	499	
	Associate Clinical Mental Health Counselor Extern	13	
	Volunteer Clinical Mental Health Counselor	1	
Psychologist	Psychologist	1,215	3.9
	Certified Psychology Resident	38	
	Behavior Analyst	642	
	Assistant Behavior Analyst	42	
	Behavior Specialist	11	
	Assistant Behavior Specialist	5	
Marriage and Family Therapist	Marriage & Family Therapist	1,127	5.8
	Associate Marriage & Family Therapist	265	
	Associate MFT Extern	2	

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Substance Use Disorder Counselor	Licensed SUDC	252	8.1
	Licensed Advanced SUDC	135	
	Certified Advanced SUDC	54	
	Certified SUDC	27	
	Certified SUDC Intern	3	
	Certified Advanced SUDC Intern	1	
Vocational Rehabilitation Counselor	Licensed Vocational Rehabilitation Counselor	183	1.6
Recreational Therapy	Therapeutic Recreation Specialist	360	1.6
	Therapeutic Recreation Technician	291	
	Master Therapeutic Recreation Specialist	42	
State Certified Music Therapist	State Certified Music Therapist	71	0.0
<i>Department of Health and Human Services</i>			
	Case Manager	1,043	0.0
	Certified Peer Support Specialist	109	0.6
	Child/Family Peer Support Specialist and Family Resource Facilitator	23	0.0
	Certified Crisis Worker	128	0.0
	Behavioral Emergency Services Technician	0*	No data**
	Advanced Behavioral Emergency Services Technician	0*	No data**

* DOPL median complaint per 100 active licensees is 2.1

** Title 26-8a-302, effective 7/1/2022, directs DHHS to develop training and testing procedures and to issue these licenses, but as of the writing of this report, development and approval of the training has not been finalized and no licenses have been issued.

III. Selection process for the proposed list of occupations for CY 2023 periodic review

OPLR considered potential occupations for this initial review in two avenues: a quantitative exercise using the data and indicators laid out below, and conversations with a broad range of stakeholders to understand the context of licensing and potential reform for each. The goal was to find the set of occupations that will most benefit the Utah public if licensing laws, rules, policies, and processes could be improved.

In proposing mental and behavioral health occupations for the initial periodic review, OPLR has been guided by the criteria set out in Title 13-1b-302. These include (broadly speaking) harm to the public, economic effects for consumers and practitioners, and benchmarks in other jurisdictions.

Specifically, OPLR focused its initial analysis and selection of occupations for review in CY 2023 using the following four quantitative indicators for each regulated occupation:

- **Harm to the public:** substantiated complaints and enforcement action by the licensing agency per 100 active licensees
 - In the case of DOPL, these complaints are those where some action was taken, including fines, citations, letters of concern or warning, suspension or revocation of license, and referral for criminal prosecution

- **Demand:** projected job openings over 2018-2028 from the Department of Workforce Services (DWS)
 - These projections are based on the Federal Bureau of Labor Statistics SOC (Standard Occupational Classification) codes
 - For a limited number of occupations where Utah's licensing scope was different from the SOC definition; OPLR analysts used the number of active licensees and other data to create a 'crosswalk' between the Utah licensed occupations and the BLS/DWS projections

- **Regulation in other jurisdictions:** alignment of Utah's scope of practice with other states
 - Based on the review performed for licensure by endorsement (SB 23, enacted in 58-1-302). See [this map](#) for LCSWs as an example.
 - Note that these maps, created by DOPL, are based solely on equivalency of scope of practice, not licensing requirements
 - States that are shown as yellow on these maps may be so because Utah requires applicants to provide additional documentation, and those that are gray may indicate that Utah is licensing an occupation that is unlicensed in those states (e.g., court reporters).

- After aggregating the equivalency information available from DOPL endorsement maps, OPLR analysts sorted and color-coded each occupation by relative level of equivalency with other states. Occupations with equivalent licenses in many other states are coded green, while occupations that are licensed less frequently or have significant differences in licensing requirements or scope may be coded yellow, orange, or red.
- **Scale:** number of active licensees
 - The number of active licensees approximates the importance of the occupation in Utah's communities and the economy, but not perfectly
 - OPLR considered using average wage multiplied by the number of active licensees to better estimate the impact on the economy, but decided against, so as to avoid conflating earnings with value to Utah's communities

None of these indicators is a perfect proxy for the criteria it represents. For instance, we know that the harm done by one incompetent professional (e.g., plumber) is very different from the harm that might be done by another (e.g., physician). Also, DWS projections for job openings do not include the self-employed, nor are they able to project job openings for current openings that go unfilled—the projections are based only on currently filled positions.

In addition, not every indicator was available for every occupation. OPLR was able to access the Commerce databases for complaint data for many occupations; other agencies have different enforcement regimes, making comparison difficult. Similarly, not every occupation has a clear equivalency finding due to differences in license scope and name.

Despite the limitations, the data clearly indicated a limited set of occupational groupings with a large number of active licensees. These are the areas like trades, cosmetology, nursing, physicians, mental health, real estate, securities, and teaching. Looking at the complaint index, alignment with other states, and projected job openings in this case did not point towards any one of these groups of occupations over another for review. These other data elements did, however, provide contextual information about how we might approach the review for one set of occupations (trades, with very high complaints, high projected openings) versus another (cosmetology with very low complaints, but a high number of projected openings).

After assessing occupations against these criteria, OPLR sought input and information from a broad range of stakeholders (see Appendix IV). These conversations surfaced relevant information: the recent review and change to the licensing pathways for teachers by the Utah State Board of Education (USBE); the relative equivalency of Utah's requirements for physicians and nurses; the expressed need for more mental health professionals in many parts of the state.

The clear response from many stakeholders (legislators, executive branch agencies, others) was that mental health is a serious issue in Utah, and that mental health professionals are in short supply.

While we are proposing mental health occupations for this initial review, OPLR expects to propose a set of such occupational groupings for each calendar year. This focuses OPLR on a related set of occupations where we can become relatively well-informed quickly and work with the same set of stakeholders throughout the year. OPLR will also seek to address those occupations (like mental health and nursing) where shortages may exist, thereby helping to address the most important areas for Utahns as quickly as possible.

IV. List of meetings and interviews since July 1, 2022

Utah Executive Branch

<i>Department of Agriculture and Food</i>	Craig Buttars , Commissioner
<i>Department of Environmental Quality</i>	Kim Shelley , Executive Director Ty Howard , Deputy Director
<i>Department of Health and Human Services</i>	Tracy Gruber , Executive Director Nate Checketts , Deputy Director Brent Kelsey , Director, Division of Substance Abuse and Mental Health Simon Bolivar , Director, Office of Licensing
<i>Department of Insurance</i>	Jon Pike , Commissioner
<i>Labor Commission</i>	Jaceson Maughan , Commissioner
<i>Department of Public Safety</i>	Kristy Rigby , Deputy Commissioner
<i>Department of Workforce Services</i>	Mark Knold , Chief Economist Michael Jeanfreau , Regional Economist
<i>The Office of the Governor</i>	Brittney Cummins , Senior Advisor of Education
<i>Governor's Office of Economic Opportunity</i>	Dane Ishihara , Director, Office of Regulatory Relief Natalie El-Deiry , Director of Immigration and New American Integration
<i>State Board of Education</i>	Sydnee Dickson , Superintendent Malia Hite , Executive Educator Licensing Coordinator
<i>State Tax Commission</i>	Scott Smith , Executive Director Deanna Herring , Deputy Executive Director Alan Shinney , Director, Motor Vehicle Enforcement Division
<i>Utah Substance Use and Mental Health Advisory Council (USAAV+)</i>	Elizabeth Klc , Council Director Santiago Cortez , Workforce Subcommittee Chair Patrick Fleming , Council Member
<i>Utah System of Higher Education</i>	Jeremias Solari , Senior Assistant Commissioner, Research and Data Science Vic Hockett , Senior Assistant

Commissioner for Workforce Development;
Director, Talent Ready Utah
Will Pierce, Assistant Commissioner of
Technical Education

Utah State Legislature

Senate

President Stuart Adams
Sen. Curtis Bramble
Sen. Kirk Cullimore
Sen. Luz Escamilla
Sen. Mike Kennedy
Sen. Mike McKell
Sen. Ann Millner
Sen. Evan Vickers
Sen. Todd Weiler

House of Representatives

Rep. Walt Brooks
Rep. Brady Brammer
Rep. Marsha Judkins
Rep. Mike Schultz
Rep. Norm Thurston
Rep. Raymond Ward
Speaker Brad Wilson
Rep. Chris Wilson

Office of the Legislative Auditor General

Kade Minchey, Auditor General

Academia and Research

Kem C. Gardner Policy Institute

Mallory Bateman, Director of Demographic
Research
Nate Lloyd, Deputy Director of Economic
and Public Policy Research

University of Minnesota

Dr. Morris Kleiner, AFL-CIO Chair in Labor
Policy

U.S. Census Bureau

Mark Klee, Economist

Wasatch Front Research Data Center

Ken Smith, Executive Director
Bryce Hannibal, Administrator

Industry

Holland & Hart

Kate Bradshaw, Director of Government
Affairs
Billy Hesterman, Government Affairs
Specialist

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Utah Medical Association

Michelle McOmber, CEO

Capstone Strategies

David Spatafore, President
Ashley Spatafore Mirabelli, Vice President

Advocacy

AARP Utah

Alan Ormsby, CEO

Better Business Bureau

Jane Rupp, CEO

Consumer Federation of America

Erin Witte, Director of Consumer Protection

EDCUtah

Ze Min Xiao, Director of Center for
Economic Opportunity and Belonging

International Rescue Committee Utah

Annie Healion, State Advocacy Officer

Libertas Institute

Connor Boyack, Executive Director

R Street

Shoshanna Weismann, Director, Digital
Media, Communications

Utah Association of Counties

Brandy Grace, CEO
Steve Hunter, Director of Government
Affairs

Voices for Utah Children

Maurice Hickey, Executive Director