UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at https://rules.utah.gov/. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit https://rules.utah.gov/ for additional information.

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

PROCLAMATION
2022-01

Suspending New Appropriations of Surplus and Unappropriated Waters in the Great Salt Lake Basin Pursuant to Utah Code § 73-6-1

WHEREAS, recently, the Governor and Legislature have taken actions, including a significant financial investment, to address declining water levels of the Great Salt Lake as set forth in the State Water Policy, Utah Code § 73-1-21;

WHEREAS, the state has invested significant resources to investigate and determine the extent of the available supply and any surplus or unappropriated water in the Great Salt Lake Basin;

WHEREAS, the state has committed to a significant increase in conservation efforts;

WHEREAS, the State Engineer has recommended that the right of the public to appropriate surplus or unappropriated waters in the Great Salt Lake Basin be suspended; and

WHEREAS, the welfare of the State demands such suspension from the sources and to the extent hereinafter specifically set out;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, upon recommendation of the State Engineer and pursuant to and by virtue of the authority vested in me by Utah Code § 73-6-1, hereby suspend the right of the public to appropriate the surplus and unappropriated water of the following sources, both surface and underground:

Within the surveyed meander line of the Great Salt Lake; Bear River and its tributaries; Bear Lake and its tributaries; Weber River and its tributaries; Jordan River and its tributaries; Utah Lake and its tributaries; and all other sources tributary to Bear River Bay, Farmington Bay, and Gilbert Bay of the Great Salt Lake located in Box Elder County, Weber County, Davis County, and Salt Lake County.

PROVIDED, HOWEVER, that there is excepted from the effect of this proclamation:

1) applications for non-consumptive uses,
2) applications that include a mitigation plan to offset depletion, and
3) applications for small amounts of water, as defined in Utah Code § 73-3-5.6, that comply with State Engineer basin policies.

All such applications remain subject to all applicable requirements of state law.

IT IS FURTHER PROCLAIMED that:

1) Nothing in this proclamation impairs water rights or appropriations that existed prior to this proclamation.

2) No later than November 1, 2023, the State Engineer shall evaluate the circumstances leading to the State Engineer's recommendation and this proclamation and shall submit a report to the Governor, the Legislative Management Committee, the Natural Resources, Agriculture, and Environment Interim Committee, and the Legislative Water Development Commission indicating the State Engineer's opinion as to whether the proclamation should remain in effect and stating the reasons for that opinion.

THIS PROCLAMATION is effective immediately and shall remain in full force and effect until the right of public appropriation of such water is restored by proclamation of the Governor as provided by Utah Code § 73-6-2.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 3rd day of November, 2022.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

End of the Executive Documents Section

NOTICES OF
PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between October 15, 2022, 12:00 a.m., and November 01, 2022, 11:59 p.m. are included in this, the November 15, 2022, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them ([~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (**. . . . . .**) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least December 15, 2022. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 15, 2023, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the* **RULE ANALYSIS** *for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	**R23-32**	**Filing ID: 54998**

Agency Information

1. Department:	Government Operations	
Agency:	Facilities Construction and Management	
Room number:	3626	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W, 3rd Floor	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	4315 S 2700 W, 3rd Floor	
City, state and zip:	Taylorsville, UT 84129	
Contact persons:		
Name:	**Phone:**	**Email:**
Mike Kelley	801-957-7239	mkelley@agutah.gov
Michelle Adams	801-957-7240	michelledadams@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R23-32. Rules of Procedure for Conduct of Utah State Building Board Meetings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

S.B. 82, passed in the Utah Legislature in the 2022 General Session and signed into law by the Governor on 03/24/2022, eliminates the State Building Board. Because there is no longer a State Building Board, there is no longer a need for a rule of procedure for the conduct of Utah State Building Board Meetings.

Executive Order No. 21-12, Establishing Effective Oversight Over State Agency Rulemaking, Section 5(c)(i) requires each agency head to repeal rules that are no longer necessary. Rule R23-32, which establishes a rule of procedure for the conduct of Utah State Building Board Meetings, is no longer necessary because there is no longer a Utah State Building Board.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Repeals Rule R23-32 in its entirety to conform to S.B. 82 (2022).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

None--Any aggregate anticipated cost or savings to the state budget are a result of a change in statute, not a change in the rule.

B) Local governments:

None--Any aggregate anticipated cost or savings to the local governments are a result of a change in statute, not a change in the rule.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

None--Any aggregate anticipated cost or savings to small businesses are a result of a change in statute, not a change in the rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

None--Any aggregate anticipated cost or savings to non-small businesses are a result of a change in statute, not a change in the rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

None--Any aggregate anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities are a result of a change in statute, not a change in the rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

None--Any compliance costs for affected persons are a result of a change in statute, not a change in the rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	$0	$0	$0

Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Government Operations, Jenny Rees, has no comments and has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 63A-5b-305(2)(c)

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	James R. Russell, Director	**Date:**	10/20/2022

R23. Government Operations, Facilities Construction and Management.

[~~R23-32. Rules of Procedure for Conduct of Utah State Building Board Meetings.~~

~~R23-32-1. Purpose.~~

~~The purpose of this Rule R23-32 is to establish procedures for the conduct of Utah State Building Board meetings and to assist the public and anyone wishing to address the Building Board, whether in person or by other established means.~~

~~R23-32-2. Authority.~~

~~This Rule R23-32 is authorized under Subsection 63A-5-102(2) which directs that the Building Board "adopt rules of procedure for the conduct of its meetings." The Building Board has administrative rulemaking authority under Subsection 63A-5-103(1)(e).~~

~~R23-32-3. Definitions.~~

~~(1) "Attendance" means that person attending a Board meeting, either in person or through electronic means as authorized by this Rule.~~

~~(2) "Board" means the Utah State Building Board established under Title 63A, Chapter 5, Utah Code.~~

~~(3) "Chair" means the person appointed as Chair of the Board by the Governor pursuant to Title 63A, Chapter 5, Utah Code.~~

~~(4) "Director" means the Director of the Division of Facilities Construction and Management or duly authorized designee.~~

~~(5) "Division" means the Division of Facilities Construction and Management.~~

~~(6) "Electronic meeting" is as defined in Section 52-4-103.~~

~~(7) "GOPB Official" means the Director of the Governor's Office of Planning and Budget or duly authorized designee.~~

~~(8) "Open and Public Meetings Laws" means those laws provided by Title 52, Chapter 4, Utah Code.~~

~~(9) "Presiding Officer" means the Chair. The Chair may choose, either because of unavailability or other reason, an alternate Presiding Officer.~~

~~R23-32-4. Composition of Board.~~

~~(1) The Board consists of eight members, seven of whom are voting members appointed by the Governor for terms of four years.~~

~~(2) The GOPB Official is a nonvoting member of the Board. As a nonvoting member, the GOPB official shall not be considered as part of the quorum requirement for Board determinations. The GOPB Official shall advise the Presiding Officer of any designee appointed prior to any meeting that the designee will be attending.~~

~~R23-32-5. Calling for Meetings.~~

~~The Chair or any three voting members may call meetings of the Board. The Executive Director of the Department of Government Operations, Director or GOPB Official may also call for a meeting upon consent of the Chair.~~

~~R23-32-6. Compliance with Open and Public Meeting Laws.~~

~~All meetings of the Board shall be conducted in accordance with the Open and Public Meetings Laws. All meetings are open to the public unless closed in whole or in part pursuant to the requirements of the Open and Public Meeting Laws.~~

~~R23-32-7. Presiding Officer and Basic Responsibilities.~~

~~(1) The Chair shall be the Presiding Officer at all Board meetings when present in person or through electronic means.~~

~~(2) The Chair may choose, either because of unavailability or other reason, an alternate Presiding Officer.~~

~~(3) The Presiding Officer shall be able to make motions and have a vote on each matter before the Board. The Presiding Officer may second motions.~~

~~(4) Unless otherwise directed by vote of the Board, the Presiding Officer shall be responsible for the operation of the meeting, shall have control over the items on the agenda, the order of the agenda, time limits that are needed, and other matters that relate to the orderly running of the meeting.~~

~~R23-32-8. Administrative and Staff Services.~~

~~The Department of Government Operations shall provide administrative and staff services to enable the Board to exercise its powers and discharge its duties, and shall provide necessary space and equipment for the Board.~~

~~R23-32-9. Meetings.~~

~~Meetings shall generally be held on the first Wednesday of the month at 9:00 a.m. at the Utah State Capitol in Salt Lake City, Utah. During Legislative Sessions, the Chair and Director may determine another location. The date, time and location may also be modified by the Chair and Director at any time when it is in the interest of the Board and the public.~~

~~R23-32-10. Notice and Agenda.~~

~~(1) Notice shall be given of all meetings in accordance with the Open and Public Meeting Laws.~~

~~(2) The Director and Presiding Officer shall confer a reasonable time prior to any Board meeting as to the items to be on the agenda. The Presiding Officer shall ultimately determine the matters to be on the agenda, unless a vote of the Board has been undertaken to direct an item to be placed on the agenda. Board members may also contact the Chair about any request for agenda items.~~

~~(3) The order of business shall be in the order placed on the agenda, unless the Presiding Officer or vote of the Board alters the order of business and there is no prejudice to interested persons that may have intended to attend the meeting.~~

~~(4) Members of the Board, the Division, governmental agencies and the public may submit a request to the Secretary to the Board that an item be placed on the agenda subject to review and approval by the Presiding Officer.~~

~~(5) Each agenda shall have an item on it regarding whether there are any matters to be placed on a future agenda.~~

~~R23-32-11. Attendance, Quorum and Voting.~~

~~(1) The quorum requirement for the Board is set forth in Utah Code Annotated Title 63A, Chapter 5.~~

~~(2) For any determination of the Board, it must be approved by a majority vote of those voting members present and it must receive an affirmative vote from at least three members.~~

~~(3) Voting shall be expressed publicly when called for by the Presiding Officer. An affirmative vote shall be recorded for all Board members present that neither vote negatively nor specifically abstain. The number of affirmative, negative and abstaining votes shall be announced by the Presiding Officer, and the specific members of such votes shall be recorded by the Secretary.~~

~~(4) Members must be in attendance, including by electronic means in accordance with this Rule, in order to vote.~~

~~R23-32-12. Motions, Second to a Motion, Discussion, Continuances and Resolutions.~~

~~(1) The GOPB Official may make and second motions, but shall not vote on any motion.~~

~~(2) Items may be continued to any subsequent meeting by vote of the Board.~~

~~(3) A second to a motion is required prior to discussion by Board members.~~

~~(4) After a motion is seconded, the Presiding Officer shall ask for discussion of the matter. The Presiding Officer shall call upon those that request to discuss the matter. The Presiding Officer retains the authority to place reasonable restrictions on the discussion that assure that the discussion is orderly and relevant to the motion. After the discussion, or if no Board member desires to discuss the matter, the Board shall proceed to vote on the matter without the need for a formal call to question.~~

~~(5) The Board may enact resolutions as are appropriate under their authority.~~

~~R23-32-13. Committees.~~

~~The Board may appoint committees to investigate or report on any matter which is of concern to the Board.~~

~~R23-32-14. Order at Meetings.~~

~~(1) The Presiding Officer shall preserve order and decorum at all meetings of the Board and shall determine questions of order, which may be subject to a vote of the Board.~~

~~(2) A person or persons creating a disturbance or otherwise obstructing the orderly process of a Board meeting may be ordered to be ejected from the meeting.~~

~~R23-32-15. Robert's Rules of Order.~~

~~All matters not covered by this Rule R23-32 shall be determined by either Robert's Rules of Order, latest published edition, an abbreviated edition of Robert's Rules of Order as determined by the Presiding Officer; or with abbreviated procedures as determined by the Presiding Officer.~~

~~R23-32-16. Electronic Meetings.~~

~~(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule R23-32-15 establishes procedures for conducting Board meetings by electronic means.~~

~~(2) Procedure. The following provisions govern any meeting at which one or more Board members appear electronically pursuant to Section 52-4-207:~~

~~(a) If one or more members of the Board desire to participate electronically, such member(s) shall contact the Director. The Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Presiding Officer shall determine whether~~

~~to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the Board not participating electronically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.~~

~~(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Laws.~~

~~(c) Notice of the possibility of an electronic meeting shall be given to the Board members at least 24 hours before the meeting. In addition, the notice shall describe how a Board member may participate in the meeting electronically.~~

~~(d) When notice is given of the possibility of a Board member appearing electronically, any Board member may do so and any voting Board member, whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any Board member initially appears electronically, the Presiding Officer shall identify for the record all those who are appearing electronically. Votes by members of the Board who are not at the anchor location of the meeting shall be confirmed by the Presiding Officer.~~

~~(e) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. The anchor location shall be identified in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the Utah State Capitol Hill Complex where the Board would normally meet if the Board was not holding an electronic meeting.~~

~~(f) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.~~

~~**R23-32-17. Suspension of the Rules.**~~

~~By a vote of the Board, and to the extent allowed by law, any requirement of this Rule R23-32 may be suspended when necessary to better serve the public in the conduct of a Board meeting.~~

~~**KEY: Building Board, conduct, meeting procedures**~~
~~**Date of Last Change: December 11, 2015**~~
~~**Notice of Continuation: August 16, 2021**~~
~~**Authorizing, and Implemented or Interpreted Law: 63A-5-102(2); 63A-5-103(1)(e)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Rule or Section Number:	**R25-8**	**Filing ID: 55005**

Agency Information

1. Department:	Government Operations
Agency:	Finance
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO BOX 141031
City, state and zip:	Salt Lake City, UT 84114

Contact persons:		
Name:	**Phone:**	**Email:**
Janica Gines	801-957-7727	jmgines@utah.gov
Jennifer Hardy	801-957-7732	jrhardy@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R25-8. Overtime Meal Allowance

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Overtime meal allowance guidelines and requirements are listed in Division of Finance (Division) Policy FIACCT 05-03.05 - Taxable Overtime Meal Allowance. As the information in the Taxable Overtime Meal Allowance policy is the same as the information in Rule R25-8, the Division has determined this rule is redundant. The Taxable Overtime Meal Allowance can be found at http://apps.finance.utah.gov/nxt/gateway.dll?f=templates&fn=default.htm&vid=nxtpub:app1

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This rule, as current filed, allows state agencies to provide a $10 meal allowance for employees working overtime. This allowance is taxable and is not considered an employee right. It is subject to agency budgets. The Division also has a policy with the same information. Since the information in this rule (R25-8) is redundant of the Division Policy FIACC 05-03.05 – Taxable Overtime Meal Allowance, since it only applies to state agencies, since it is optional and not mandatory, and since the statutory authority used to create this rule is general authority, not specific to this particular allowance, the Division is repealing this rule in its entirety.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be no fiscal impact due to this repeal as all information and requirements will remain in effect in the Division FIACCT 05-03.05 - Taxable Overtime Meal Allowance policy:

http://apps.finance.utah.gov/nxt/gateway.dll?f=templates&fn=default.htm&vid=nxtpub:app1
B) Local governments:
None--this is a policy for state agencies and state employees only.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
None--this is a policy for state agencies and state employees only.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
None--this is a policy for state agencies and state employees only.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
None--the Division has an existing policy (FIACCT05-03.05 – Taxable Overtime Meal Allowances) that is substantively the same as Rule R25-8, thus, there is no impact to eligible state employees from repealing this rule. Eligible state employees are the only individuals to whom this rule applies.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
None--elimination of this rule has no resulting costs.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**

Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Executive Director of the Department of Government Operations, Jenney Reese has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 63A-3-103	Subsection 63A-3-103(1)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jenney Reese, Executive Director	**Date:**	10/25/2022

R25. Government Operations, Finance.

[~~R25-8. Overtime Meal Allowance.~~

~~R25-8-1. Purpose.~~

~~The purpose of this rule is to establish procedures to be followed by departments to pay meal allowances to state employees~~

~~required to work in excess of regularly scheduled hours during a 24-hour period.~~

~~**R25-8-2. Authority.**~~

~~This rule is established pursuant to Subsection 63A-3-103(1), which authorizes the Division of Finance to define fiscal procedures relating to approval and allocation of funds.~~

~~**R25-8-3. Definitions.**~~

~~(1) "Overtime Meal allowance" means a sum of money given to state employees to pay for meals which may be authorized when work hours are in excess of regularly scheduled hours during a 24-hour period.~~

~~(2) "Department" means all executive departments of state government.~~

~~(3) "State employee" means any person who is paid on the state payroll system.~~

~~**R25-8-4. Allowance.**~~

~~A state employee required to work overtime may be authorized by their department to receive a taxable meal allowance up to $10 during a 24-hour period if:~~

~~(1) The state employee is not on travel status.~~

~~(2) The total hours worked during the 24-hour period shall be three hours or more in excess of the regularly scheduled hours.~~

~~(3) The allowance is not considered an absolute right of the state employee, and is authorized at the discretion of the department director or designee.~~

~~(4) The allowance may not be given in addition to any other meal allowance or per diem.~~

~~(5) The Employee Reimbursement/Earnings Request, form FI 48, should be completed and approved for the payment of the meal allowance. These overtime meal allowances must be paid through the payroll system to calculate and withhold the appropriate taxes.~~

~~**KEY: finance, rates, state employees, allowance**~~
~~**Date of Last Change: April 29, 2022**~~
~~**Notice of Continuation: February 8, 2018**~~
~~**Authorizing, and Implemented or Interpreted Law: 63A-3-103**~~**]**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Rule or Section Number:	**R152-15**	**Filing ID: 55019**

Agency Information

1. Department:	Commerce
Agency:	Consumer Protection
Building:	Heber Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111

Contact persons:		
Name:	**Phone:**	**Email:**
Daniel Larsen	801-530-6145	dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R152-15. Business Opportunity Disclosure Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule repeal and reenactment is being submitted as a result of S.B. 26, passed in the 2022 General Session. This rule is being repealed and reenacted to reflect the significant changes made to Title 13, Chapter 15, Business Opportunity Disclosure Act (BODA) by S.B. 26, and to satisfy Executive Order No. 2021-12.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The differences between the repealed rule and the reenacted rule include: conforming to current rulewriting standards; the changing terminology and requirements for filings submitted to the Division of Consumer Protection (Division), including filings for a proof of disclosure receipt or proof of notice receipt; defining the word "principal" in accordance with BODA; no longer restricting the definition of "sales program" and "marketing program"; requiring a seller to inform the Division within 30 days if information provided in a filing materially changes; and describing when the Division may reject a filing.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule is not expected to have any fiscal impact on state government revenues or expenditures. Any fiscal impact on state government was addressed in the Fiscal Note to S.B. 26 (2022).

B) Local governments:

This rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it does not create any new requirement local governments must follow, nor does it otherwise constrain local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule is not expected to have any fiscal impact on small businesses because it does not impose requirements upon small businesses beyond what is required by Title 13, Chapter 15, BODA. Any fiscal impact on small businesses was addressed by the Fiscal Note to S.B. 26 (2022).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

This rule is not expected to have any fiscal impact on non-small businesses because it does not impose requirements upon non-small businesses beyond what is required by Title 13, Chapter 15, BODA. Any fiscal impact on small businesses was addressed by the Fiscal Note to S.B. 26 (2022).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because it does not impose requirements upon them beyond what is required by Title 13, Chapter 15, BODA.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

This rule does not impose compliance costs upon affected persons beyond what is required by Title 13, Chapter 15, BODA, and what was contemplated in the Fiscal Note to S.B. 26 (2022).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**

Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this regulatory impact analysis. The proposed rule reflects changes to the BODA, and does not impose estimable costs or foreseeable fiscal impacts beyond those contemplated by the BODA and the Fiscal Note to S.B. 26 (2022).

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 13-2-5(1)	Subsection 13-15-102(6)	Subsection 13-15-201(4)

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Daniel Larsen, Commerce Analyst	**Date:**	10/28/2022

R152. Commerce, Consumer Protection.

[~~R152-15. Business Opportunity Disclosure Act Rule.~~

~~R152-15-1. Authority and Purpose.~~

~~Pursuant to Section 13-15-3, these rules are intended to assist in the administration of the Business Opportunity Disclosure Act, Chapter 15, Title 13.~~

~~R152-15-2. Filing Requirements. Filing Fees.~~

~~(1) Information filed with the Division. In addition to the information required to be filed by Section 13-15-4 or 13-15-4.5 Utah Code Annotated (1953, as amended), sellers shall file with the Division, upon request, the following:~~

~~(a) the name and address of the registered agent of seller;~~

~~(b) any promotional materials used or to be used by either the seller or the purchaser, whether in writing or in any other form; and~~

~~(c) the appropriate filing fee as set in accordance with Section 63J-1-303 Utah Code Annotated (1953, as amended), which presently is set as follows:~~

~~(i) Section 13-5-4 filing: $200.00 per year; and~~

~~(ii) Section 13-15-4.5 filing: $100.00 per year.~~

~~(2) Amendment of disclosures. The disclosure document must be current as of the seller's most recent fiscal year, or no later than 90 days after the close of its most recent fiscal year. A seller must amend any information it files or filed with the Division in the event of any material change in the information. Such amendment shall be made by filing with the Division, within a reasonable time after such material change, the new or correct information.~~

~~(a) "Material change" means any change in information where there is a reasonable likelihood the decision of a prospective purchaser to purchase or not purchase the assisted marketing plan would be influenced by the change.~~

~~(b) Without limitation, example of material changes include:~~

~~(i) An increase or decrease in the initial or continuing fees charged by the seller;~~

~~(ii) The termination, cancellation, failure to renew or reacquisition of a significant number of purchasers of an assisted marketing plan since the most recent date of filing;~~

~~(iii) Any significant change in seller's management;~~

~~(iv) Any significant change in the seller's or purchaser's obligations;~~

~~(v) Significant decrease in seller's income or net worth or;~~

~~(vi) Significant change in claims about past sales or projected sales, income, gross or net profits, cash flows or costs involved in the assisted marketing plan.~~

~~R152-15-3. Compensated Employees and Independent Contractors.~~

~~(1) As used in Utah Code Section 13-15-2(1)(a)(iv), "sales program" or "marketing program" shall not include support, advice, or training that is:~~

~~(a) provided by a business to its compensated employee or independent contractor;~~

~~(b) unrelated to sales or marketing; and~~

~~(c) regarding work performed for the business providing the support, advice, or training.~~]

R152-15-1. Purpose.

The purpose of this rule is to:

(1) define terms in accordance with Subsection 13-15-102(6);

(2) establish the procedure by which a seller may obtain a proof of disclosure receipt in accordance with Subsection 13-15-201(1)(b);

(3) establish the procedure by which a seller may obtain a proof of notice receipt in accordance with Subsection 13-15-201(2)(b);

(4) carry out Section 13-15-201; and

(5) aid the division's administration and enforcement of Title 13, Chapter 15, Business Opportunity Disclosure Act.

R152-15-2. Authority.

This rule is promulgated in accordance with Subsections 13-2-5(1), 13-15-102(6), and 13-15-201(4).

R152-15-3. Definitions.

"Principal" means an individual who manages, oversees, controls, or otherwise directs the operation of a seller, or who has any ownership interest in a seller, whether directly or indirectly.

R152-15-4. Filing to Obtain a Proof of Disclosure Receipt.

A filing to obtain a proof of disclosure receipt shall:

(1) be submitted on the form and in the manner approved by the division;

(2) include:

(a) the name and contact information of a person the division can contact regarding the filing;

(b) the name and contact information of the seller's registered agent in Utah;

(c) the complete disclosure statement described in Section 13-15-202;

(d) the required filing fee; and

(3) be signed by the applicant's officer, director, trustee, or general or limited partner, under a declaration certifying that to the signatory's knowledge and belief the information in the filing and disclosure statement is true and correct.

R152-15-5. Filing to Obtain a Proof of Notice Receipt.

A filing to obtain a proof of notice receipt shall:

(1) be submitted on the form and in the manner approved by the division;

(2) include:

(a) the name and contact information of a person who the division can contact regarding the filing;

(b) a complete notice in accordance with Subsections 13-15-201(2)(b)(i)(A) through (F);

(c) the required filing fee; and

(3) be signed by the applicant's officer, director, trustee, or general or limited partner, under a declaration that certifies that to the signatory's knowledge and belief the information in the filing and notice is true and correct.

R152-15-6. Mandatory Change Reporting.

A seller shall inform the division in writing within 30 days if information provided in the proof of disclosure receipt filing or proof of notice receipt filing materially changes or becomes incorrect or incomplete.

R152-15-7. Filing Rejection.

The division may reject a filing for a proof of disclosure receipt or a proof of notice receipt if the filing does not comply with Section R152-15-4 or Section R152-15-5, or if the filing is otherwise incomplete.

KEY: [~~franchises, marketing~~]business opportunity, consumer protection
Date of Last Change: 2022[~~July 8, 2016~~]
Notice of Continuation: November 24, 2021
Authorizing, and Implemented or Interpreted Law: [~~13-15-3; 13-2-5~~]13-2-5(1); 13-15-102(6); 13-15-201(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Rule or Section Number:	**R152-26**	**Filing ID: 55018**

Agency Information

1. Department:	Commerce	
Agency:	Consumer Protection	
Building:	Heber Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146704	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	**Phone:**	**Email:**
Blake Young	801-530-6606	bdyoung@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R152-26. Telephone Fraud Prevention Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This repeal and reenact is being submitted as a result of H.B. 217, passed in the 2022 General Session. The purpose of the replacement is to ensure this rule reflects changes made to the Telephone Fraud Prevention Act (Act), including the definition of "seller" and other clarifying provisions. The replacement also revises the information required to register in accordance with the Act.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The old Telephone Fraud Prevention Act Rule is repealed, and replaced with a new rule which is consistent with changes made to the Act in H.B. 217 (2022). The Act's usage of the defined term "seller" is reflected in the new rule. Various changes are made to conform this rule to rulewriting standards. Changes are also made to the application to revise the application for registration under the Act. Nonsubstantive changes are made to this rule to simplify the numbering and structure of this rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule is not expected to have any fiscal impact on state government revenues or expenditures beyond those addressed in the Fiscal Note to H.B. 217 (2022).

B) Local governments:

This rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it does not create any new requirement local governments must follow, nor does it otherwise constrain local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule is not expected to have any fiscal impact on small businesses because it does not impose requirements upon small businesses beyond what is required by Title 13, Chapter 26, Telephone Fraud Prevention Act. Any fiscal impact on small businesses was addressed by the Fiscal Note to H.B. 217 (2022).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

This rule is not expected to have any fiscal impact on non-small businesses because it does not impose requirements upon non-small businesses beyond what is required by Title 13, Chapter 26, Telephone Fraud Prevention Act. Any fiscal impact on non-small businesses was addressed by the Fiscal Note to H.B. 217 (2022).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule is not expected to have any fiscal impacts on persons other than small businesses, non-small businesses, state, or local government entities because it does not impose requirements upon them beyond what is required by Title 13, Chapter 26, Telephone Fraud Prevention Act.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

This rule is not expected to impose compliance costs because it does not impose requirements upon them beyond what is required by Title 13, Chapter 26, Telephone

Fraud Prevention Act. Any compliance costs were addressed by the Fiscal Note to H.B. 217 (2022).

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Division of Consumer Protection proposes a repeal and reenactment of Rule R152-26, the Telephone Fraud Prevention Act Rule. This replacement is being submitted to comport the rule to H.B. 217 (2022). The purpose of the replacement is to update this rule to reflect recent changes to the Act. Also, there are formatting changes throughout this rule to conform this rule to the Office of Administrative Rules' requirements in accordance with Executive Order No. 2021-1 and 2021-12. This rule does not impose foreseeable impact on businesses beyond the fiscal note to H.B. 217 (2022). Also, the other amendments are made to make the rule comport to the Utah Rulewriting Manual.

The Executive Director of the Department of Commerce, Margaret Busse, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 13-2-5(1)	Subsection 13-26-3(5)	Subsection 13-26-3(6)

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Blake Young, Commerce Analyst	**Date:**	10/28/2022

R152. Commerce, Consumer Protection.
R152-26. Telephone Fraud Prevention Act Rule.
[~~R152-26-1. Authority.~~

~~These rules are promulgated pursuant to Section 13-2-5 to administer the Utah Telephone Fraud Prevention Act.~~

~~**R152-26-2. Scope and Applicability.**~~

~~These rules shall have the same scope and applicability as Title 13, Chapter 26.~~

~~**R152-26-3. Definitions.**~~

~~The following terms, in addition to the definitions appearing in Section 13-26-2, shall be used in construing this rule.~~

~~(1) "Director" means the director of the Utah Department of Commerce, Division of Consumer Protection.~~

~~(2) "Division" means the Utah Department of Commerce, Division of Consumer Protection.~~

~~(3) "Registrant" means any person who has submitted an application for registration to the division pursuant to Section 13-26-3.~~

~~(4) "Durable goods" means goods likely to be used for three years or more.~~

~~**R152-26-4. Denial, Revocation, or Suspension of Registration.**~~

~~(1) The director may deny an application for registration for the following reasons:~~

~~(a) the registrant has committed any of the violations of law set forth in Section 13-26-11; or~~

~~(b) the registrant has failed to comply with all of the requirements of Section 13-26-3 and these rules;~~

~~(2) The director may suspend or revoke a registration for any violation of Title 13, Chapter 26 by the registrant.~~

~~R152-26-5. Registration.~~

~~(1) A registrant shall submit an application for registration only on the form authorized by the division. An application may be summarily denied if:~~

~~(a) it is submitted on a form not authorized by the division;~~

~~(b) it is submitted on the authorized form but it is not legible; or~~

~~(c) it is submitted on the authorized form but it is incomplete in some material respect.~~

~~(2) The application shall include the following:~~

~~(a) the registrant's name, address, telephone number and facsimile number, if any;~~

~~(b) the names, addresses, birth dates and places, and social security numbers of all registrant's officers, directors, members, principals and/or key employees;~~

~~(c) the registrant's previous business addresses during the previous ten years;~~

~~(d) other names, if any, that the registrant does business under;~~

~~(e) identification of all licenses or permits currently held by the registrant and any that have been revoked or suspended;~~

~~(f) disclosure of any judgment, injunctive order or conviction of any of registrant's officers, directors, members, principals, or key employees of racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion of property, misappropriation of property or other similar crimes;~~

~~(g) the name and address of the registrant's registered agent;~~

~~(h) the location where telephone numbers are to be dialed; and~~

~~(i) a description of the goods or services that are to be the subject of the telephone solicitation.~~

~~(3) Each registrant shall submit copies of the following documents with their application:~~

~~(a) All scripts to be used in the telephone solicitation;~~

~~(b) Articles of incorporation or other organizational documentation showing registrant's current legal status.~~

~~(4) At the option of the director, the processing of an application by the division's staff may be delayed to give the registrant an opportunity to cure technical defects in his application.~~

~~(5) If information in an application for registration or for renewal of registration as a telephone soliciting business materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the information changes or becomes incorrect or incomplete, submit the correct information on the corresponding page of the registration application with a cover page or letter clarifying that the submission is correcting information to an existing registration.~~

~~(a) Material changes to the legal status of the registrant's organization or ownership of the telephone soliciting business may not be submitted as an amendment to an existing registration. An initial application for registration must be completed and submitted for approval by the Division.~~

~~(b) The director may suspend or revoke a registration if material changes or corrections to the registration are not submitted as required by this rule.~~

~~R152-26-7. Bonds, Irrevocable Letters of Credit and Certificates of Deposit.~~

~~(1) At the option of the registrant, a bond, irrevocable letter of credit or certificate of deposit may be tendered to the division to fulfill the requirements of Section 13-26-3(3)(a).~~

~~(2) Whichever type of instrument is tendered by a registrant, payment is immediately due and owing to the division when:~~

~~(a) the director delivers a signed writing to the registrant's surety or issuing financial institution demanding payment of a specified sum of money; and~~

~~(b) the registrant's liability in the amount specified is demonstrated by a certified copy of the division's final order or the civil judgment of any Utah or federal court, which copy shall be attached to the director's demand for payment.~~

~~(3) The division may make a demand on a bond, irrevocable letter of credit or certificate of deposit either in its own right or as the representative of consumers who have been injured by the registrant's violation of Title 13, Chapter 26.~~

~~(4) Instruments tendered to the division under Section 13-26-3(3)(a) may be executed in any form that the director deems commercially and legally reasonable and consistent with this rule. The division's acceptance of a non-conforming instrument does not result in a waiver of the requirements of this rule.~~

~~R152-26-8. Isolated Transaction Exemption.~~

~~For purposes of Section 13-26-4(2)(i), an "isolated transaction" means no more than two occurrences in any twelve month period.~~

~~R152-26-9. Right of Rescission.~~

~~(1) For purposes of Section 13-26-5(2), a written notification of cancellation is effective the earlier of:~~

~~(a) when the notice is actually received by the seller; or~~

~~(b) when the notice is placed in the custody of the U.S. Postal Service, provided the postage is prepaid and the letter is properly addressed to the seller.~~

~~(2) A rescission letter is in the custody of the U.S. Postal Service when the letter is actually placed in the possession of a U.S. Postal Service employee or in a receptacle for letters authorized by the U.S. Postal Service.~~]

R152-26-1. Purpose.

The purpose of this rule is to:

(1) establish registration requirements for a seller;

(2) establish the registration process for a seller;

(3) establish the process by which a seller may update its registration; and

(4) aid the division's administration and enforcement of Title 13, Chapter 26, Telephone Fraud Prevention Act.

R152-26-2. Authority.

This rule is promulgated in accordance with Subsections 13-2-5(1), 13-26-3(5), and 13-26-3(6).

R152-26-3. Definitions.

As used in Subsection 13-26-4(2)(i), an "isolated transaction" means two or fewer transactions in any twelve-month period.

R152-26-4. Application for Registration.

(1) An application for registration as a seller shall be submitted on the form and in the manner approved by the division;

(2) The application shall include:

(a) the applicant's:

(i) name, and any alternate name including dba or trade name, that the applicant uses as a seller;

(ii) street address;

(iii) mailing address;

(iv) telephone number, and if applicable facsimile number;

(v) email address;

(b) the name and contact information of a person the division can contact regarding the application;

(c) the name and contact information of the applicant's registered agent, and proof of the registered agent's residency in Utah;

(d) a description of the applicant's business entity type and documentation showing the entity's legal status;

(e) each participant's fingerprints, in the form approved by the division, and the participant's consent to a criminal background check in accordance with Subsection 13-26-3(4)(c);

(f) a copy of each script used by the applicant or the applicant's solicitor in connection with a telephone solicitation;

(g) a description of each good or service that the applicant will offer in a telephone solicitation;

(h) disclosure of:

(i) each participant's name, date of birth, and title;

(ii) any criminal conviction entered against an applicant's participant within the 10 years preceding the application's filing;

(iii) any of the following:

(A) a conviction of a felony or misdemeanor or plea of no contest to a felony or misdemeanor charge, if the felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

(B) a finding of liability or consent to the entry of a stipulated judgment in an administrative or civil action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property, the use of untrue or misleading representations, or the use of any unfair, unlawful, or deceptive business practice; or

(C) an injunction or restrictive order relating to business activity as the result of a government agency action;

(iv) any business operated by the applicant or the applicant's owner, officer, director, or principal within the last 10 years;

(v) any other business license, permit, or registration held by the applicant;

(vi) any telemarketing license, permit, or registration the applicant or participant obtained or attempted to obtain that has been denied, revoked, or suspended in Utah or another state;

(vii) each address where a telephone solicitation will be made or received by the applicant or its solicitor;

(viii) any company that provides telecommunication services to the applicant, including telephone and text messaging service;

(ix) any website the applicant or its solicitor uses in connection with a telephone solicitation;

(x) the account number of any merchant account used by the seller in connection with a telephone solicitation;

(i) in accordance with Subsections 13-26-3(3)(a), (b), and (e), completed surety documentation in the form approved by the division; and

(j) the required filing fee.

(3) A bond, irrevocable letter of credit, or certificate of deposit tendered to the division to fulfill the requirements of Subsection 13-26-3(3)(a) may take any form that the director deems commercially and legally reasonable and consistent with Section 13-26-3 and this rule.

(4) In accordance with Subsection 13-26-3(7), the director may deny an application for registration if the applicant fails to comply with Rule R152-26-5.

R152-26-5. Material Change to Information in Application.

(1) In accordance with Subsection 13-26-3(6), if information in an application for registration or renewal of registration as a seller materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the information changes or becomes incorrect or incomplete:

(a) submit the correct and complete information on the corresponding page of the registration application; and

(b) state in writing that the submission corrects an existing registration application.

(2) If a seller's legal status or ownership materially changes, the seller must submit a new initial application for registration.

(3) The division director may deny or revoke a registration for failing to comply with Rule R152-26-5.

R152-26-6. Right of Rescission.

For purposes of Subsection 13-26-5(2), a written notification of cancellation is effective the earliest of:

(1) when the notice is actually received by the seller;

(2) when the notice is placed in the possession of a U.S. Postal Service employee or in a receptacle for letters authorized by the U.S. Postal Service, provided the postage is prepaid and the letter is properly addressed to the seller; or

(3) when the notice is placed in the possession of a common carrier for delivery within three days.

KEY: telephones, fraud, consumers
Date of Last Change: 2022[~~January 7, 2014~~]
Notice of Continuation: March 22, 2021
Authorizing, and Implemented or Interpreted Law: [~~13-2-5~~]13-2-5(1); 13-26-3(5); 13-26-3(6)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R156-17b**	**Filing ID: 55001**

Agency Information

1. Department:	Commerce
Agency:	Professional Licensing
Building:	Heber M. Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741

Contact persons:		
Name:	**Phone:**	**Email:**
Lisa Martin	801-530-7632	lmartin@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R156-17b. Pharmacy Practice Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The Division of Professional Licensing (Division) in collaboration with the Board of Pharmacy is filing these proposed amendments to update this rule and implement certain requirements in accordance with statutory changes made by S.B. 236 passed during the 2022 General Session. Additionally, amendments are made in accordance with Executive Order No. 2021-1 to eliminate unnecessary regulation and reduce barriers, and under Executive Order No. 2021-12 to streamline licensure pathways and to update this rule consistent with the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

In accordance with Executive Order No. 2021-1, to eliminate unnecessary regulation and reduce barriers to working, Section R156-17b-303a is amended to clarify education requirements for pharmacy technicians, and add as approved pharmacy technician training programs those programs that are accredited by the Accrediting Bureau of Health Education Schools (ABHES). Additionally, Section R156-17b-601 is amended to increase the allowed pharmacy technician trainee-to-pharmacist ratio by allowing two trainees to one pharmacist when a licensed pharmacy technician or intern is working during the same shift.

The amendments to Section R156-17b-606 clarify operating standards for Pharmacist Preceptors, and the amendments to Section R156-17b-607 clarify operating standards for Supportive Personnel.

In accordance with S.B. 236 (2022), the amendments to Section R156-17b-608 clarify standards for medication delivery and the accepting back and redistributing of an unused drug via United States Postal Service, licensed common carrier, or supportive personnel; the amendments to Section R156-17b-612b will reference a list on the Division's website to allow a pharmacist to dispense additional supplies for treating diabetes; and the amendments to Section R156-17b-628 establish operating standards under Subsections 58-17b-620(7) and (8) to allow a licensed nurse employed by a health department to dispense a drug to treat a sexually transmitted infection, via the new Utah Guidance for Dispensing by Health Department Nurse of STI Drug, adopted 08/23/2022, that will be posted on the Division's website.

Section R156-17b-623 is amended to add the "generic equivalent" of Latisse to the list of drugs that may be dispensed by a dispensing medical practitioner (DMP) in accordance with Subsection 58-17b-802(1) and Section 58-17b-803.

In accordance with Executive Order No. 2021-12, the remaining amendments make formatting changes throughout to update and clarify this rule to facilitate compliance and enforcement and make changes consistent with the Utah Rulewriting Manual.

Public Hearing Information:
11/16/2022 at 9:00 AM
Anchor location: 160 East 300 South - Conference Room 402 (fourth floor) - Salt Lake City, Utah

Google Meet information:
Meeting link:
meet.google.com/yos-hwiy-peh

Join by phone:
(US) +1 216-930-8257
PIN: 998848919

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

None of the proposed changes are expected to impact state government revenues or expenditures because the changes merely update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12, and will not affect existing state government procedures.

B) Local governments:

These proposed amendments are expected to benefit businesses in the pharmacy industry that employ pharmacists and pharmacy technicians/pharmacy technician trainees, and this may potentially include certain local government entities acting as businesses. However, as described in Boxes 5C and D of this form for businesses, the Division estimates that these proposed amendments will have no measurable impact on local governments.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There are approximately 372 small businesses in the pharmacies/drug retailers and hospital industries that may employ pharmacists and pharmacy technicians/pharmacy trainees (NAICS 456110, 622210). The proposed amendments to Sections R156-17b-303a and R156-17b-601 are expected to benefit these small businesses by facilitating their ability to employ pharmacy technicians and pharmacy technician trainees, as a result of the addition of the approved pharmacy technician training programs accredited by ABHES, and the increased pharmacy technician trainee-to-pharmacist ratio allowed when a licensed pharmacy technician or intern is working during the same shift.

However, the full fiscal and non-fiscal impacts on these businesses cannot be estimated because the data necessary to determine how many additional individuals may become employees is unavailable, and because the benefits that each business may experience from any resulting increased ability to employ personnel will vary widely depending on the characteristics of each individual employee and the employer. The remainder of these proposed amendments are expected to have no measurable impact on small businesses as the changes merely streamline and update this rule in accordance with Executive Order No. 2021-12 and conform this rule to statutory changes.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are approximately 111 non-small businesses in the pharmacies/drug retailers and hospital industries that may employ pharmacists and pharmacy technicians/pharmacy trainees (NAICS 456110, 622110, 622210). The proposed amendments to Sections R156-17b-303a and R156-17b-601 are expected to benefit these non-small businesses by facilitating their ability to employ pharmacy technicians and pharmacy technician trainees, as a result of the addition of the approved pharmacy technician training programs accredited by ABHES, and the increased pharmacy technician trainee-to-pharmacist ratio allowed when a licensed pharmacy technician or intern is working during the same shift.

However, the full fiscal and non-fiscal impacts on these businesses cannot be estimated because the data necessary to determine how many additional individuals may become employees is unavailable, and because the benefits that each business may experience from any resulting increased ability to employ personnel will vary widely depending on the characteristics of each individual employee and the employer.

The remainder of these proposed amendments are expected to have no measurable impact on non-small businesses as the changes merely streamline and update this rule in accordance with Executive Order No. 2021-12 and conform this rule to statutory changes.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

In Utah there are currently 1,519 licensed pharmacy technician trainees. The proposed amendments to Sections R156-17b-303a and R156-17b-601 may benefit these individuals by facilitating their ability to become employed. However, the full fiscal and non-fiscal impacts on these individuals cannot be estimated because the data necessary to determine how many will obtain licensure or employment is unavailable, and because the benefits that each individual may experience from any resulting increased ability to become employed will vary widely depending on the unique characteristics of each individual and employer.

The remainder of these proposed amendments are expected to have no measurable impact on other persons as they merely streamline and update this rule in accordance with Executive Order No. 2021-12 and conform this rule to statutory changes.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

As described in Box 5E above, there are no compliance costs expected for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division, in concert with the Utah Board of Pharmacy, propose amendments to Rule R156-17b, the Pharmacy Practice Act Rule. The proposed amendments are to update the rule and implement certain requirements in accordance with statutory changes made by S.B. 236 (2022).

Additionally, the Division has made formatting changes throughout this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders 2021-1 and 2021-12.

Small Businesses (less than 50 employees):
The Division finds that will not be a fiscal impact for small businesses. The Division approximates that there are 372 small businesses in the pharmacy, drug retail, and hospital industries that employ pharmacists, pharmacy technicians, and pharmacy trainees (NAICS 456110, 622210). The proposed amendments are expected to benefit these small businesses by allowing them to hire pharmacy technicians and pharmacy technician trainees that have completed technician training programs accredited by the Accrediting Bureau of Health Education Schools (ABHES). This will result in that there will be an increased pharmacy technician trainee-to-pharmacist ratio allowed when a licensed pharmacy technician or intern working during the same shift in an approved pharmacy.

Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make this rule comport to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees)
The Division finds that there are approximately 111 non-small businesses in the pharmacy, drug retail, and hospital industries that employ pharmacists, pharmacy technicians, and pharmacy trainees (NAICS 456110, 622110, 622210). However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses.

Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 58-17b-101	Subsection 58-17b-601(1)	Section 58-37-1
Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Utah Guidance for Dispensing by Health Department Nurse of STI Drugs
Publisher	Utah Division of Professional Licensing/Utah Board of Pharmacy
Issue Date	August 23, 2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

B) A public hearing (optional) will be held:		
On:	**At:**	**At:**
11/16/2022	9:00 AM	See information in Box 4 above

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	10/20/2022

R156. Commerce, [~~Occupational and~~]Professional Licensing.
R156-17b. Pharmacy Practice Act Rule.
R156-17b-101. Title - Authority - Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Pharmacy Practice Act Rule."[~~.~~]

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 17b, Pharmacy Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-17b-102. Definitions.

[~~In addition to the definitions in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act, the~~]The following [~~rule~~]definitions supplement the statutory definitions in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act:

(1) "Accredited by[~~ ASHP~~]" means [~~a program~~]that, on the day the applicant for licensure completed the program, the program was:

(a) [~~was~~]accredited[~~ by the ASHP on the day the applicant for licensure completed the program~~]; or

(b) [~~was~~]in [~~ASHP~~]candidate status[~~ on the day the applicant for licensure completed the program~~].

(2) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(3) "Analytical laboratory":

(a) means a facility in possession of prescription drugs for analysis; and

(b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis, if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.

(4) "Area of need" as used in Subsection 58-17b-612(1)(b)(i) means:

(a) a remote-rural hospital, as defined in Section 26-21-13.6;

(b) a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501; or

(c) any area where a demonstration of need is approved by the Division in collaboration with the Board, based on any factors affecting the access of persons in that area to pharmacy resources.

(5) "ASHP" means the American Society of Health System Pharmacists.

(6) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist, as defined in Section 1504 of the Internal Revenue Code, if the pharmaceutical wholesaler:

(a) has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; and

(b) is listed on the manufacturer's current list of authorized distributors of record.

(7) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the pharmacy's operational processes of the pharmacy and contributes to the natural flow of pharmaceutical care.

(8) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies with the same common ownership and control.

(9) "Clinic" as used in Subsection 58-17b-625(3)(b) means a Class B pharmacy as defined in Subsection 58-17b-102(11), or a facility that provides outpatient health care services whose primary practice includes the therapeutic use of drugs related to a specific patient for:

(a) curing or preventing the patient's disease;

(b) eliminating or reducing the patient's disease; or

(c) arresting or slowing a disease process.

(10) "Co-licensed partner" means a person that has the right to engage in the manufacturing or marketing of a co-licensed product.

(11) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with 21 CFR 203 (2021).

(12) "Community pharmacy" as used in Subsection 58-17b-625(3)(b) means a Class A pharmacy as defined in Subsection 58-17b-102(10).

(13) "Compounding," as defined in Subsection 58-17b-102(18), in accordance with 21 U.S.C. 353a(e) Pharmacy Compounding, does not include:

(a) mixing, reconstituting, or other such acts that are performed in accordance with directions in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling; or

(b) the addition of flavoring agents to conventionally manufactured and commercially prepared available liquid medications, if the flavoring agents:

(i) are therapeutically inert; and

(ii) do not exceed 5% of a preparation's total volume.

(14) "Consulting pharmacist" means a licensed pharmacist who provides consultation on an aspect of a pharmaceutical administration facility under Section R156-17b-614c.

(15) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned, operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

(16) "Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2).

(17) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

(18) "Dispense," as defined in Subsection 58-17b-102(22), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

(19) "Designated representative" or "DR" means an individual supervising the licensed facility in accordance with Subsections R156-17b-615(4) and (5).

(20) "Device" means a prescription device as defined in 21 CFR 801.109 (2021).

(21) "DMP" means a dispensing medical practitioner licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy.

(22) "DMP designee" means an individual, acting under the direction of a DMP, who:

(a)(i) holds an active health care professional license under one of the following chapters:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 68, Utah Osteopathic Medical Practice Act;

(C) Chapter 70a, Physician Assistant Act;

(D) Chapter 31b, Nurse Practice Act;

(E) Chapter 16a, Utah Optometry Practice Act;

(F) Chapter 44a, Nurse Midwife Practice Act; or

(G) Chapter 17b, Pharmacy Practice Act; or

(ii) is a medical assistant as defined in Subsection 58-67-102(12);

(b) meets requirements in Subsection 58-17b-803-(4)(c); and

(c) can document successful completion of a formal or on-the-job dispensing training program under Section R156-17b-622.

(23) "DMPIC" means a [~~dispensing medical practitioner in charge~~]dispensing-medical-practitioner-in-charge licensed under Title 58, Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

(24) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:

(a) the pharmaceutical wholesale distributor takes title to but not physical possession of such prescription drug;

(b) the pharmaceutical wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense to administer such drug; and

(c) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer; from the co-licensed product partner, third party logistics provider, or exclusive distributor; or from an authorized distributor of record that purchases the product directly from the manufacturer or from one of these entities.

(25) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

(26) "Drugs," as used in this rule, means drugs or devices.

(27) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose;

(c) generally is not useful to a person in the absence of an illness or injury;

(d) is suitable for use in a health care facility or in the home; and

(e) may include devices and medical supplies.

(28) "Entities under common administrative control" means an entity holds the power, actual as well as legal, to influence the management, direction, or functioning of a business or organization.

(29) "Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

(30) "ExCPT" means the Exam for the Certification of Pharmacy Technicians.

(31) "FDA" means the United States Food and Drug Administration and any successor agency.

(32) "FDA-Approved" means the federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. Section 301 et seq. and regulations promulgated thereunder permit the subject drug or device to be lawfully manufactured, marketed, distributed, and sold.

(33) "High-risk, medium-risk, and low-risk drugs" refers to the risk level to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797.

(34) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

(35) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

(36) "Legend drug" or "prescription drug" means a drug or device that has been determined to be unsafe for self-medication or one that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

(37) "Long-term care facility" as used in Section 58-17b-610.7 means the same as defined in Section 58-31b-102.

(38) "Maintenance medications" means medications the patient takes on an ongoing basis.

(39)(a) "Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the drug's sale or disposition.

(b) A manufacturer's exclusive distributor shall be licensed as a pharmaceutical wholesaler and be an "authorized distributor of record" to be considered part of the normal distribution channel.

(40) "Medical supplies" means items for medical use that are:

(a) suitable for use in a health care facility or in the home; and

(b) disposable or semi-disposable and non-reusable.

(41) "MPJE" means the Multistate Jurisprudence Examination.

(42) "NABP" means the National Association of Boards of Pharmacy.

(43) "NAPLEX" means North American Pharmacy Licensing Examination.

(44) "Non-drug or device handling central prescription processing pharmacy" means a central prescription processing pharmacy that does not engage in compounding, packaging, labeling, dispensing, or administering of drugs or devices.

(45) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection (24), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third party logistics provider, or the exclusive distributor, to:

(a) a pharmacy or other designated persons authorized to dispense or administer prescription drugs to a patient;

(b) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;

(c) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;

(d) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized to dispense or administer such drug for use by a patient;

(e) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or

(f) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized to dispense or administer such drug for use by a patient.

(46) "Other health care facilities" means an entity as defined in Subsection R432-1-3(55).

(47) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(48) "Patient's agent" means a:

(a) relative, friend, or other authorized designee of the patient involved in the patient's care; or

(b) if requested by the patient or the individual under Subsection (45)(a), one of the following facilities:

(i) an office of a licensed prescribing practitioner in Utah;

(ii) a long-term care facility where the patient resides; or

(iii) a hospital, office, clinic, or another medical facility that provides health care services.

(49) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

(50) "PIC," as used in this rule, means the pharmacist-in-charge.

(51) "Prepackaged" or "Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepackaging occurred.

(52) "Prescription files" means hard copy and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.

(53) "Professional entry degree," as used in Subsection 58-17b-303(1)(f), means the professional entry degree offered by the applicant's ACPE-accredited school or college of pharmacy in the applicant's year of graduation, either a baccalaureate in pharmacy (BSPharm) or a doctorate in pharmacy (PharmD).

(54) "PTCB" means the Pharmacy Technician Certification Board.

(55) "Qualified continuing education,"[~~,~~] as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

(56) "Refill" means to fill again.

(57) "Remote dispensing pharmacist-in-charge" or "RDPIC" means the PIC of a remote dispensing pharmacy. The RDPIC shall be the PIC of the remote dispensing pharmacy's supervising pharmacy.

(58) "Remote dispensing pharmacy" means a Class A or Class B pharmacy located in Utah that serves as the originating site where a patient receiving services through a telepharmacy system is physically located and the practice of telepharmacy occurs, pursuant to Section R156-17b-614g.

(59) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.

(60) "Research facility" means a facility where research takes place that has policies and procedures describing such research.

(61) "Responsible party" means the identity of the supervisor or director or the Class E pharmacy under Section R156-17b-617a.

(62) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy by removing those drugs from stock and destroying them.

(63) "Self-administered hormonal contraceptive" means the same as defined in Subsection 26-64-102(9).

(64) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(65) "Supervising pharmacy" means the Class A or Class B pharmacy responsible for overseeing the operation of a remote dispensing pharmacy, and whose PIC is the RDPIC for the remote dispensing pharmacy, pursuant to Section R156-17b-614g.

(66) "Supervisor" means a licensed pharmacist or DMP in good standing with the Division.

(67) "Telepharmacy system" means a telecommunications and information technologies system that monitors the preparation and dispensing of prescription drugs and provides for related drug review and HIPAA-compliant patient counseling services using:

(a) asynchronous store and forward transfer as defined in Subsection 26-60-102(1);

(b) synchronous interaction as defined in Subsection 26-60-102(7); or

(c) still image capture.

(68) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale.

(69) "Unauthorized personnel" means a person not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

(70) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug.

(71) "Unprofessional conduct," as defined in Title 58, Chapter 1, Division of [~~Occupational and~~]Professional Licensing Act, and Title 58, Chapter 17b, Pharmacy Practice Act, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

(72) The "Utah Hormonal Contraceptive Self-screening Risk Assessment Questionnaire," adopted September 18, 2018, by the Division in collaboration with the Utah State Board of Pharmacy and Physicians Licensing Board, which is incorporated by reference, is the self-screening risk assessment questionnaire approved by the Division pursuant to Section 26-64-106.

(73) "USP-NF" means the United States Pharmacopeia-National Formulary (USP 41-NF 36), either First Supplement, dated

August 1, 2018, or Second Supplement, dated December 1, 2018, which is [~~hereby adopted and~~]incorporated by reference.

(74) "Vaccine Administration Protocol" means the Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications, adopted September 24, 2020, by the Division in collaboration with the Board and Utah Physicians Licensing Board, which is incorporated by reference.

(75) "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

(76) "Wholesale distribution" means the same as 21 CFR 203.3(cc) (2021).[

~~**R156-17b-103. Authority - Purpose.**~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 17b.~~

~~**R156-17b-104. Organization - Relationship to Rule R156-1.**~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~]

R156-17b-[~~105~~]103. Licensure - Administrative Inspection.

[~~In accordance with~~]Under Subsection 58-17b-103(3)(f), the procedure for disposing of drugs or devices seized by the Division during an administrative inspection is as follows:

(1) Legal drugs or devices that the Division finds [~~to be in compliance~~]compliant with Title 58, Chapter 17b, Pharmacy Practice Act, shall be returned to the [~~involved~~]pharmacy's consulting pharmacist, designated representative, responsible party, PIC, RDPIC, or DMPIC, at the conclusion of the investigative or adjudicative proceedings and appeals.

(2)(a) Drugs or devices that the Division finds to be unlawfully possessed, adulterated, misbranded, outdated, or otherwise in violation of Title 58, Chapter 17b, Pharmacy Practice Act, shall be destroyed by Division personnel at the conclusion of the investigative or adjudicative proceedings and appeals.

(b) The destruction of seized controlled substance drugs shall be witnessed by two Division individuals. A controlled substance destruction form shall be completed and retained by the Division.

(3) An investigator may, upon determination that the violations observed pose an imminent peril to the public health, safety, [~~and~~]or welfare, recommend to the Division Director to issue an emergency licensure action, such as cease and desist.[

~~**R156-17b-106. Clarification of Use of Shall or May.**~~

~~As used in Title 58, Chapters 1 and 17b or this rule, the use of "shall" and "may" is clarified as follows:~~

~~(1) "May" is permissive, and is used when granting a right, privilege, or power, or indicating any discretion to act.~~

~~(2) "Shall creates a legal duty or obligation on the part of the subject. The statute or rule is mandating that the person act as required by the statute or rule, and the person has no discretion to act differently.~~

~~(3) When used negatively:~~

~~(a) "may not" is prohibitory, and absolutely prohibits the subject of the statute or rule from performing a particular act; it annihilates discretion; and~~

~~(b) "shall not" is a construction not used in drafting Utah statute or rule.~~]

R156-17b-302. Pharmacy Licensure Classifications - Pharmacist-in-Charge, Remote Dispensing Pharmacist-in-Charge, or [~~Dispensing Medical Practitioner-In-Charge~~] Dispensing-Medical-Practitioner-in-Charge Requirements.

[~~In accordance with~~]Under Section 58-17b-302, the classification of pharmacies is clarified as follows:

(1) A Class A pharmacy includes [~~all~~]retail operations located in Utah. A Class A pharmacy requires a PIC or RDPIC. Examples of Class A pharmacies include:

(a) retail pharmacies;

(b) mail service retail pharmacies; and

(c) remote dispensing pharmacies.

(2) A Class B pharmacy includes an institutional pharmacy that provides services to a target population unique to the needs of the healthcare services required by the patient. [~~All~~]A Class B [~~pharmacies~~]pharmacy require a PIC, RDPIC, or DMPIC, except for pharmaceutical administration facilities and narcotic treatment program pharmacies. Examples of Class B pharmacies include:

(a) closed door pharmacies;

(b) hospital clinic pharmacies;

(c) narcotic treatment program pharmacies;

(d) nuclear pharmacies;

(e) branch pharmacies;

(f) hospice facility pharmacies;

(g) pharmaceutical administration facility pharmacies;

(h) sterile product preparation facility pharmacies;

(i) dispensing medical practitioner clinic pharmacies; and

(j) remote dispensing pharmacies.

(3) A Class C pharmacy includes a pharmacy that is involved in:

(a) manufacturing;

(b) producing;

(c) wholesaling;

(d) distributing; or

(e) reverse distributing.

(4) A Class D pharmacy requires a PIC licensed in the state where the pharmacy is located and includes an out-of-state mail service pharmacy. [~~Facilities~~]A Class D pharmacy with multiple locations shall have licenses for each facility and each component part of a facility.

(5) A Class E pharmacy does not require a PIC and includes:

(a) analytical laboratory pharmacies;

(b) animal control pharmacies;

(c) durable medical equipment provider pharmacies;

(d) human clinical investigational drug research facility pharmacies;

(e) medical gas provider pharmacies;

(f) animal narcotic detection training facility pharmacies;

(g) third party logistics providers;

(h) [~~non-drug~~]non-drug or device handling central prescription processing pharmacies; and

(i) veterinarian pharmaceutical facility pharmacies.

(6) The Division shall convert all pharmacy licenses to the appropriate classification as identified in Section 58-17b-302.

(7) Each Class A and each Class B pharmacy required to have a PIC or DMPIC shall have one PIC or DMPIC who is employed on a full-time basis as defined by the employer, who acts as a PIC or DMPIC for one pharmacy. However, the PIC or DMPIC:

(a) may be the PIC or DMPIC of more than one Class A or Class B pharmacy, if the additional Class A or Class B pharmacies are not open to provide pharmacy services simultaneously; and

(b) may serve as an RDPIC.

(8) A PIC, RDPIC, or DMPIC shall comply with Section R156-17b-603.

R156-17b-303a. Qualifications for Licensure - Pharmacist, Pharmacy Intern, and Pharmacy Technician - Education Requirements.

(1) [~~In accordance with~~]Under Subsections 58-17b-303(2) and 58-17b-304(6)(b), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy[~~ Foundation~~].

(2) [~~In accordance with~~]Under Subsection 58-17b-304(6), an applicant for a pharmacy intern license shall[~~ demonstrate that the applicant meets one of the following education criteria~~]:

(a) be a current [~~admission~~]pharmacy student in a college of pharmacy accredited by the ACPE, as evidenced by written verification from a dean of the college; or

(b) [~~a graduate degree from a school or college of pharmacy that is accredited by the ACPE; or~~

~~(c)~~]hold a graduate degree from a foreign pharmacy school [~~as established by~~]and have received a certificate of equivalency from an approved credentialing agency[~~ defined in~~] under Subsection (1).

(3) [~~In accordance with~~]Under Subsection 58-17b-305(1)([~~f~~]e), a pharmacy technician shall complete a training program that[~~ is~~]:

(a) is accredited by:

(i) ASHP; or

(ii) the Accrediting Bureau of Health Education Schools (ABHES); or

(b) is conducted by:

(i) [~~the National Pharmacy Technician Association;~~

~~(ii)~~]Pharmacy Technicians University; or

(ii[~~i~~]) a branch of the Armed Forces of the United States[~~,~~]; and

(c) meets the following standards:

(i) requires completion, while licensed as a pharmacy technician trainee, of at least 180 hours of directly supervised practical training in a licensed pharmacy [~~as determined appropriate~~]by a licensed pharmacist in good standing; and

(ii) has written protocols and guidelines for the teaching pharmacist outlining the [~~utilization~~]use and supervision of pharmacy technician trainees that address:

(A) the specific manner in which supervision will be completed; and

(B) an evaluative procedure to verify the accuracy and completeness of any act, task, and function performed by the pharmacy technician trainee.

(4) [~~An individual~~]A pharmacy technician trainee shall complete a pharmacy technician training program and [~~successfully~~]pass the required examination [~~as listed~~]in Subsection R156-17b-303c(4) within two years after obtaining [~~a~~]their pharmacy technician trainee license, unless otherwise approved by the Division in collaboration with the Board for good cause showing exceptional circumstances.[

~~(a) Unless otherwise approved under Subsection (4), an~~] An individual who fails to [~~apply for and obtain a pharmacy technician license within the two year~~]comply with this time frame shall repeat a pharmacy technician training program in its entirety if the individual pursues licensure as a pharmacy technician.

(5)(a) A pharmacy[~~Pharmacy~~] technician training program[~~s that received Division approval on or before April 30, 2014 are~~] is exempt from satisfying ASHP or ABHES accreditation [~~standards in Subsection R156-17b-303a(3)~~]for students enrolled on or before December 31, [~~2018~~]2024.

(b) A student in a program described in Subsection (5)(a) shall comply with the program completion deadline and testing requirements in Subsection (4), except that the license application shall be submitted to the Division [~~no later than~~]before December 31, [~~2021~~]2025.[

~~(c)~~] A program in ASHP candidate status shall notify a student [~~prior to~~]before enrollment that if the program is denied accreditation status while the student is enrolled in the program, the student will be required to complete education in another program with no assurance of how many credits will transfer to the new program.

([~~d~~]c) A program in ASHP candidate status that is denied accreditation shall immediately notify the Division, enrolled students, and student practice sites, of the denial. The notice shall instruct each student and practice site that:

(i) the program no longer satisfies the pharmacy technician license education requirement in Utah; and

(ii) enrollment in a different program meeting requirements [~~established~~]in Subsection R156-17b-303a(3) is necessary for the student to complete training and to satisfy the pharmacy technician license education requirement in Utah.

(6) An applicant from another jurisdiction seeking licensure as a pharmacy technician in Utah, who does not meet the qualifications for licensure by endorsement in Subsection 58-1-302(1), meets the qualifications for licensure in Subsections 58-1-302(2), 58-17b-305(1)(e), and 58-17b-305(1)(f) if the applicant:

(a) has engaged in the practice of a pharmacy technician for a minimum of 1,000 hours in that jurisdiction within the past two years, or has equivalent experience as approved by the Division in collaboration with the Board; and

(b) has [~~passed and maintained~~]current PTCB or ExCPT certification.

R156-17b-303b. Qualifications for Licensure - Pharmacist - Pharmacy Internship Standards.

(1) [~~In accordance with~~]Under Subsection 58-17b-303(1)(f), the pharmacy internship standards [~~required~~]for licensure as a pharmacist are established in this section.

(2) A graduate of a U.S. pharmacy school shall have at least 1,740 hours of practice obtained according to the Accreditation Council for Pharmacy Education (ACPE), Accreditation Standards and Key Elements for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree, effective July 1, 2016 ("Standards 2016"), which is [~~hereby~~]incorporated by reference.

(3)(a) A graduate of a foreign pharmacy school shall have at least 1,440 hours of supervised pharmacy practice in the United States.

(b) The Division in collaboration with the Board may credit up to 500 hours toward[~~s~~] the requirement of Subsection (3)(a) for a graduate's other experience substantially related to the practice of pharmacy.

(4) If a pharmacy intern is suspended or dismissed from an approved [~~C~~]college of [~~P~~]pharmacy, the pharmacy intern shall notify the Division within 15 days of the suspension or dismissal.

(5) If a pharmacy intern ceases to meet [~~each~~]a requirement for intern licensure, the pharmacy intern shall surrender the pharmacy intern license to the Division within 60 days unless an

extension is [~~requested and~~]granted by the Division in collaboration with the Board.

R156-17b-303c. Qualifications for Licensure - Pharmacist and Pharmacy Technician - Examinations.

(1) [~~In accordance with~~]Under Subsection 58-17b-303(1)(g), the examinations that shall be passed by an applicant for licensure as a pharmacist are:

(a) the NAPLEX with a passing score [~~as~~]established by NABP; and

(b) the Utah Multistate Pharmacy Jurisprudence Examination(MPJE) with a [~~minimum~~]passing score [~~as~~]established by NABP.

(2)(a) An individual who has failed either examination three times shall meet with the Board to request an additional authorization to test.

(b) The Division, in collaboration with the Board, may require additional training as a condition for approval of an authorization to retest.

(3) [~~In accordance with~~]Under Subsection 58-17b-303(3)(i), an applicant [~~applying~~]for license by endorsement as a pharmacist shall pass the Utah MPJE.

(4)(a) [~~In accordance with~~]Under Subsection 58-17b-305(1)(f), an applicant [~~applying~~]for licensure as a pharmacy technician shall pass the PTCB or ExCPT with a passing score [~~as~~]established by the certifying body.

(b) [~~The~~]A PTCB or ExCPT certificate shall [~~exhibit~~]show a valid date and that the certification is active.

(5) A graduate of a foreign pharmacy school shall obtain a passing score on the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination.

R156-17b-303d. Qualifications for Licensure - Meet with the Board.

[~~In accordance with~~]Under Subsections 58-1-202(1)(d) and 58-1-301(3), an applicant for licensure under Title 58, Chapter 17b, Pharmacy Practice Act may be required to meet with the Board [~~of Pharmacy for the purpose of evaluating~~]to evaluate the applicant's qualifications for licensure.

R156-17b-601. Operating Standards - Pharmacy Technician and Pharmacy Technician Trainee.

[~~In accordance with~~]Under Subsection 58-17b-102(56), practice as a licensed pharmacy technician is defined as follows:

(1) A pharmacy technician may perform any task associated with the physical preparation and processing of prescription and medication orders, including:

(a) receiving written prescriptions;

(b) taking refill orders, including refill authorizations;

(c) entering and retrieving information into and from a database or patient profile;

(d) preparing labels;

(e) retrieving medications from inventory;

(f) counting and pouring into containers;

(g) placing medications into patient storage containers;

(h) affixing labels;

(i) compounding;

(j) counseling for over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist;

(k) receiving new prescription drug orders when communicating telephonically or electronically, if the original information is recorded so the pharmacist may review the prescription drug order as transmitted, including accepting new prescription drug orders saved on voicemail for a pharmacist to review;

(l) transferring prescriptions under Sections 58-17b-604 and R156-17b-609;

(m) performing checks of certain medications prepared for distribution filled or prepared by another technician within a Class B hospital pharmacy, such as medications prepared for distribution to an automated dispensing cabinet, cart fill, crash cart medication tray, or unit dosing from a prepared stock bottle, in accordance with the following operating standards:

(i) a technician[~~s~~] authorized by a hospital to check medications shall have at least:

(A) one year of experience working as a pharmacy technician; and

(B) six months of experience at the hospital where the technician is authorized to check medications;

(ii) a technician[~~s shall~~] may only check steps in the medication distribution process that do not require the professional judgment of a pharmacist and that are supported by sufficient automation or technology to ensure accuracy, such as barcode scanning, drug identification automation, checklists, or visual aids[~~)~~];

(iii) a hospital[~~s~~] that authorizes technicians to check medications shall:

(A) have a training program and ongoing competency assessment that is documented and retrievable [~~for the duration of~~]during each technician's employment and at least three years beyond employment;[~~ and~~]

(B) maintain a list of technicians on staff that are allowed to check medications;[

~~(iv) hospitals that authorize technicians to check medications shall~~]

(C) have a medication error reporting system [~~in place~~]and [~~shall~~]be able to produce documentation of its use;

([~~v~~]D) have a supervising pharmacist [~~shall be~~]immediately available during times that a pharmacy technician is checking medications; and

([~~vi~~]E) [~~hospitals that authorize technicians to check medications shall~~]have comprehensive policies and procedures that guide technician checking that include the following:

([~~A~~]I) process for technician training and ongoing competency assessment and documentation;

([~~B~~]II) process for supervising technicians who check medications;

([~~C~~]III) list of medications, or types of medications that may or may not be checked by a technician;

([~~D~~]IV) description of the automation or technology to be utilized by the institution to augment the technician check;

([~~E~~]V) process for maintaining a permanent log of the unique initials or identification codes that identify each technician responsible for checked medications by name; and

([~~F~~]VI) description of processes used to track and respond to medication errors; and

(n) additional tasks not requiring the judgment of a pharmacist.

(2) A pharmacy technician may not:

(a) receive a new prescription or medication order, except as described in Subsection (1-)(k);

(b) clarify a prescription or medication order from a prescriber;

(c) perform a drug utilization review;

(d) perform final review of a prescribed drug prepared for dispensing;

(e) dispense a drug; or

(f) counsel a patient with respect to a prescription drug.

(3) A pharmacy technician may administer vaccines and emergency medications pursuant to delegation by a pharmacist under the Vaccine Administration Protocol, if the pharmacy technician:

(a) has completed the initial training required by Section R156-17b-621;

(b) is under direct, on-site supervision by the delegating pharmacist as defined in Subsection R156-1-102a(4)(a); and

(c) for each renewal cycle after the initial training, has completed a minimum of two hours of continuing education in immunization or vaccine-related topics in accordance with Section R156-17b-309.

(4) A pharmacy technician trainee:

(a) shall practice only under the direct supervision of a pharmacist, and in a ratio not to exceed:

(i) one pharmacy technician trainee to one pharmacist; or

(ii) two pharmacy technician trainees to one pharmacist, if a licensed pharmacy technician or intern is working during the same shift; and

(b) may perform any task in Subsection (1), except performing checks of certain medications prepared for distribution filled or prepared by a technician within a Class B hospital pharmacy as described in Subsection (1)([~~n~~]m).

R156-17b-602. Operating Standards - Pharmacy Intern.

A pharmacy intern may provide services including the practice of pharmacy under the supervision of a pharmacist preceptor[~~, if the pharmacy intern met the criteria in Subsection R156-17b-303a~~] in accordance with Section R156-17b-606.

R156-17b-603. Operating Standards - Consulting Pharmacist, Pharmacist-In-Charge, Remote Dispensing Pharmacist-in-Charge, or Dispensing-Medical-Practitioner-In-Charge.

(1) The consulting pharmacist, PIC, RDPIC, or DMPIC shall have the responsibility to oversee the operation of the pharmacy in conformance with laws and rules pertinent to the practice of pharmacy and the distribution of drugs, durable medical equipment, and medical supplies. The consulting pharmacist, PIC, RDPIC, or DMPIC shall be personally in full and actual charge of the pharmacy.

(2)(a) In accordance with Subsections 58-17b-103(1) and 58-17b-601(1), a unique email address shall be established by the consulting pharmacist, PIC, RDPIC, DMPIC, or responsible party for the pharmacy to be used for self-audits or pharmacy alerts initiated by the Division.

(b) The consulting pharmacist, PIC, RDPIC, DMPIC, or responsible party shall notify the Division of the pharmacy's email address in the initial application for licensure.

(3) The duties of the consulting pharmacist, PIC, RDPIC, or DMPIC shall include:

(a) [~~assuring~~]ensuring that a pharmacist, pharmacy intern, DMP, or DMP designee dispenses drugs or devices, including:

(i) packaging, preparation, compounding and labeling; and

(ii) ensuring that drugs are dispensed safely and accurately as prescribed;

(b) [~~assuring~~]ensuring that pharmacy personnel deliver drugs to the patient or the patient's agent, including ensuring that drugs are delivered safely and accurately as prescribed;

(c) [~~assuring~~]ensuring that a pharmacist, pharmacy intern, or DMP communicates to the patient or the patient's agent, at their request, information concerning any prescription drugs dispensed to the patient by the pharmacist, pharmacy intern, or DMP;

(d) [~~assuring~~]ensuring that a reasonable effort is made to obtain, record and maintain patient medication records;

(e) education and training of pharmacy personnel;

(f) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the pharmacy;

(g) disposal and distribution of drugs from the pharmacy;

(h) bulk compounding of drugs;

(i) storage of materials, including drugs, chemicals and biologicals;

(j) maintenance of records of transactions of the pharmacy necessary to maintain accurate control over and accountability for pharmaceutical materials required by [~~applicable~~]state and federal laws and regulations;

(k) establishment and maintenance of effective controls against theft or diversion of prescription drugs and records for [~~such~~]the prescription drugs;

(l) if records are kept on a data processing system, the maintenance of records stored in that system [~~shall be~~]in compliance with pharmacy requirements;

(m) legal operation of the pharmacy including meeting inspection and other requirements of state and federal laws, rules and regulations governing the practice of pharmacy;

(n) implementation of an ongoing quality assurance program that monitors performance of the automated pharmacy system, which is evidenced by written policies and procedures developed for pharmaceutical care;

(o) if permitted to use an automated pharmacy system for dispensing purposes:

(i) ensuring that the system is in good working order and accurately dispenses the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards; and

(ii) implementation of an ongoing quality assurance program that monitors performance of the automated pharmacy system, which is evidenced by written policies and procedures developed for pharmaceutical care;

(p) [~~assuring~~]ensuring that relevant information is submitted to the Controlled Substance Database in the appropriate format and in a timely manner;

(q) [~~assuring~~]ensuring that pharmacy personnel have the appropriate licensure;

(r) [~~assuring~~]ensuring that no pharmacy operates with a ratio of pharmacist or DMP to other pharmacy personnel in circumstances that result in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare;

(s) [~~assuring~~]ensuring that the consulting pharmacist, PIC, RDPIC, or DMPIC assigned to the pharmacy is recorded with the Division on a form provided by the Division, and that the Division is notified of a change in consulting pharmacist, PIC, RDPIC, or DMPIC within 30 days of the change;

(t) [~~assuring~~]ensuring, with regard to the unique email address used for self-audits and pharmacy alerts, that the pharmacy:

(i) uses a single email address; and

(ii) notifies the Division, on the form prescribed, of a change in the email address within seven calendar days of the change;

(u) under Subsection 58-17b-103(1), conducting a pharmacy self-audit on a form provided by the Division, in accordance with the following timeframes:

(i) within 30 days of a change of consulting pharmacist, PIC, DMPIC or RDPIC;

(ii) within 30 days of the opening of a new facility; and

(iii) at least 90 days [~~prior to~~]before the end of each renewal cycle; and

(iv) maintaining each pharmacy self-audit form for [~~a period of~~]two years from the date of the self-audit.

R156-17b-606. Operating Standards - Pharmacist Preceptor.

(1) [~~In accordance with Subsections 58-17b-601(1) and 58-17b-102(50), the operating standards for a pharmacist preceptor are established in this section.~~

(2) ~~A~~]Under Subsections 58-17b-601(1) and 58-17b-102(50), a pharmacist preceptor shall:

(a) hold an active and good standing pharmacist license [~~permitting~~]to practice in the jurisdiction where the pharmacist is acting as a preceptor; and

(b) have engaged in active practice as a licensed pharmacist for at least one year immediately preceding the internship, in any jurisdiction.[~~; and~~]

(2) A pharmacist preceptor shall:

(a) ensure or provide as necessary the direct, on-site supervision required under the Vaccine Administration Protocol, and provide general supervision for all other pharmacy intern activities; and

(b) [~~(c)~~]ensure the totality of the internship circumstances are safe and appropriate according to generally recognized industry standards of practice[~~;~~].

(3) A pharmacist preceptor may [~~provide indirect, on-site supervision~~]supervise up to:

(a) [~~up to~~]two pharmacy interns during a working shift[~~, except as provided in Subsection (3)(b)~~]; and

(b) [~~up to~~]five pharmacy interns at public[~~-~~] health outreach programs such as informational health fairs, chronic disease state screening and education programs, or immunization clinics.

(4) A pharmacist preceptor shall document the number of internship hours completed by the pharmacy intern, and evaluate the quality of the pharmacy intern's performance[~~ during the internship~~].

(5) A pharmacist preceptor is responsible for the pharmacy intern's actions related to the practice of pharmacy while the pharmacy intern is practicing under the preceptor's supervision.

R156-17b-607. Operating Standards - Supportive Personnel.

(1) [~~In accordance with~~]Under Subsection 58-17b-102(71)(a), supportive personnel may assist in [~~any~~]tasks not related to drug preparation or processing, including:

(a) stock ordering and restocking;

(b) cashiering;

(c) billing;

(d) filing;

(e) receiving a written prescription and delivering it to the pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee;

(f) housekeeping; and

(g) delivering a pre-filled prescription to a patient.

(2) Supportive personnel [~~shall~~]may not enter information into a patient prescription profile or accept verbal refill information.

(3) [~~In accordance with~~]Under Subsection 58-17b-102(71)(b), [~~all~~]supportive personnel shall be [~~under the supervision of~~]supervised by a licensed pharmacist or DMP[~~. The licensed pharmacist or DMP shall be~~] who is:

(a) present in the area where the [~~person~~]individual being supervised is performing services; and

(b) [~~shall be~~]immediately available to assist the [~~person~~]individual being supervised in the services being performed, except for the delivery of pre-filled prescriptions [~~as provided in~~]under Subsection (1)(g)[~~ above~~].

(4) [~~In accordance with~~]Under Subsection 58-17b-601(1), a pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee whose license has been revoked or is suspended [~~shall~~]may not [~~be allowed to~~]provide [~~any~~]support services in a pharmacy.

R156-17b-608. [~~Common Carrier Delivery~~]Delivery Via United States Postal Service, Licensed Common Carrier, or Supportive Personnel.

(1) A pharmacy that employs the United States Postal Service, [~~or other~~]common carrier, or supportive personnel to deliver a filled prescription [~~directly~~]to a patient shall[~~, under the direction of the PIC, RDPIC, DMPIC, or other responsible employee~~]:

([~~1~~]a) use adequate storage or shipping containers and shipping processes to ensure drug stability and potency and appropriate storage temperatures throughout delivery with packaging material and devices recommended by [~~. The shipping processes shall include the use of appropriate packaging material and devices, according to the recommendations of~~]the manufacturer or the United States Pharmacopeia Chapter 1079[~~, in order to ensure that the drug is kept at appropriate storage temperatures throughout the delivery process to maintain the integrity of the medication~~];

([~~2~~]b) use shipping containers [~~that are~~]sealed in a manner to detect evidence of opening or tampering;

([~~3~~]c) [~~develop and implement~~]have policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements, including[~~. The policies and procedures shall address~~] when drugs do not arrive on time[~~at their destination in a timely manner~~] or [~~when~~]there is evidence that the integrity of a drug was compromised and providing[~~during shipment. In these instances, the pharmacy shall make provisions~~] for the replacement of [~~the~~]those drugs;

([~~4~~]d)[~~(i)~~] provide for an electronic, telephonic, or written communication mechanism [~~for a pharmacy~~]to offer counseling to the patient [~~as defined in~~]in accordance with Sections 58-17b-613 and R156-17b-610[~~; and~~

~~(ii) provide documentation of such counseling~~]; and

([~~5~~]e) provide information to the patient indicating what the patient should do if the integrity of the packaging or drug was compromised during shipment.

(2) Under Subsection 58-17b-503(2)(c)(iii), to determine that a drug has not been adversely affected by the drug's attempted delivery and return, before the drug is redistributed the pharmacist at the pharmacy shall:

(a) verify that the drug was returned to the original pharmacy within 14 days of the shipped date;

(b) determine in the pharmacist's clinical judgment that the drug's integrity is intact and the security of the drug packaging has not been compromised; and

(c) if the drug is a controlled substance, correct the report to the Controlled Substance Database.

R156-17b-610. Operating Standards - Patient Counseling.

[~~In accordance with~~]Under Subsection 58-17b-601(1), guidelines for providing patient counseling [~~established~~]in Section 58-17b-613 include the following:

(1)(a) Counseling shall be offered orally in person, unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits oral communication.

(b) Counseling may be provided through a telepharmacy system.

(2) A pharmacy facility shall orally offer to counsel, but is not required to counsel a patient or patient's agent who refuses [~~such~~]counseling.

(3) Based upon the professional judgment of the pharmacist, pharmacy intern, or DMP, patient counseling may include the following elements:

(a) [~~the~~]name and description of the prescription drug;

(b) [~~the~~]dosage form, dose, route of administration and duration of drug therapy;

(c) intended use of the drug, when known, and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescription refill information;

(i) action to be taken in the event of a missed dose;

(j) pharmacist comments relevant to the individual's drug therapy, including any other information specific to the patient or drug; and

(k) the date after which the prescription should not be taken or used, or the beyond use date.

(4) The offer to counsel shall be documented. Documentation shall be maintained for [~~a period of~~]five years, and be available for inspection by the Division within [~~7-10~~]seven to ten business days of the Division's request.

(5) Only a pharmacist, pharmacy intern, or DMP may orally provide counseling to a patient or patient's agent and answer questions concerning prescription drugs.

(6) If a prescription drug order is delivered to the patient or patient's agent or other designated location:

(a) the information [~~specified~~]in Subsection (3) shall be delivered with the dispensed prescription in writing;

(b) if prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container, the telephone number of the pharmacy and the statement "Written information about this prescription has been provided for you. Please read this information before you take this medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions."; and

(c) the written information [~~provided in~~]under Subsection (6)(b) shall be in the form of patient information leaflets similar to USP-NF patient information monographs or equivalent information.

(7) Patient counseling is not required for patients of a hospital or institution where other licensed health care professionals are authorized to administer the patient's drugs.

(8) A pharmacist or pharmacy intern who dispenses a self-administered hormonal contraceptive shall obtain a completed Utah Hormonal Contraceptive Self-Screening Risk Assessment Questionnaire and provide written information and counseling as described in Section 26-62-106.

R156-17b-612b. Operating Standards - [~~Exhausted Prescription for~~]Insulin Prescription and Diabetes Supplies.

(1) [~~In accordance with~~]Under Subsection[~~s~~] 58-17b-601(1) and Section 58-17b-608.2[~~(7)~~], the operating standards for dispensing an exhausted prescription for insulin are [~~established in this section.~~]as follows:

([~~2~~]a) Under Subsection 58-17b-608.2(3), a refill for an exhausted prescription in an amount up to a supply for 60 days may be for the nearest available package size.

([~~3~~]b) The pharmacist who dispenses a refill of an exhausted prescription of insulin shall obtain:

([~~a~~]i) the prescribing information for the insulin;

([~~b~~]ii) prescription directions; and

([~~c~~]iii) other documentation based on the pharmacist's clinical judgment.

([4]c) The pharmacist shall document the following on the exhausted prescription refill hard copy or in the medication profile system:

([~~a~~]i) the information described in Subsection ([~~3~~]1)(b);

([~~b~~]ii) the method of the attempt under Subsection 58-[~~1b7~~]17b-608.2(5)(a) to contact the patient's prescribing practitioner; and

([~~c~~]iii) the method of the notification to the patient under Subsection 58-17b-608.2(5)(b) regarding the outcome of the attempt to contact the prescribing practitioner.

([~~5~~]d) An exhausted prescription refill label shall state "exhausted prescription."[~~.~~]

(2) Under Subsection 58-17b-608.2(7)(f), a pharmacist may dispense a therapeutic equivalent when filling a prescription for supplies for treating diabetes that are listed on the Division's website at https://dopl.utah.gov/pharm.

R156-17b-617e. Class E Pharmacy Operating Standards - Human Clinical Investigational Drug Research Facility.

(1) [~~In accordance with~~]Under Section 58-17b-302 and Subsection 58-17b-601(1), a human clinical investigational drug research facility licensed as a Class E [~~P~~]pharmacy shall, in addition to the requirements [~~contained~~]in S[~~ubs~~]ection R156-17b-617a, conduct operations in accordance with the operating standards set forth in 21 CFR Part 312, April 1, 2012 edition, which [~~are hereby~~]is incorporated by reference.

(2) [~~In accordance with~~]Under Subsections 58-37-6(2)(b) and (3)(a)(i), persons licensed to conduct research in Utah with controlled substances in Schedules I-V [~~within this state~~]may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license.

(3) [~~In accordance with~~]Under Subsection 58-37-6(2), the following persons are not required to obtain a license and may lawfully possess controlled substances [~~included~~]in Schedules II-V:

(a) an agent or employee acting in the usual course of the person's business or employment, and

(b) an ultimate user, or a[~~ny~~] person who possesses a[~~ny~~] controlled substance pursuant to a lawful order of a practitioner.

(4) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

R156-17b-618. Change in Ownership, Name, or Location.

(1) [~~In accordance with~~]Under Section 58-17b-614, except for changes in ownership caused by a change in [~~the~~]stockholders in

publicly listed corporations [~~that are publicly listed and~~]whose stock is publicly traded, a licensed pharmaceutical facility shall [~~make application~~]apply for a new license and receive approval from the Division no later than ten business days [~~prior to any of the following proposed changes~~]before a change in:

(a) location or address, except for a reassignment of a new address by the United States Postal Service that does not involve any change of location;

(b) name, except for a doing-business-as (DBA) name change that is properly registered with the Division of Corporations and filed with the Division of [~~Occupational and~~]Professional Licensing; or

(c) ownership, with[~~ when one of the following occurs~~]:

(i) a change in entity type; or

(ii) the sale or transfer of 51% or more of an entity's ownership or membership interest to another individual or entity.

(2) Upon approval of the change in location, name, or ownership, and the issuance of a new license, the pharmaceutical facility shall surrender its original license[~~ shall be surrendered~~] to the Division.[

~~(3) Upon approval of the name change, the original licenses shall be surrendered to the Division.~~]

R156-17b-623. Standards - Approved Cosmetic Drugs and Injectable Weight Loss Drugs for Dispensing Medical Practitioners.

The drugs that may be dispensed by a DMP in accordance with Subsection 58-17b-802(1) and Section 58-17b-803 are limited to:

(1) the following cosmetic drugs:

(a) Latisse or generic equivalent; and

(b) the injectable weight loss drug human chorionic gonadotropin; and

(2) the legend, non-controlled drugs approved under Section R156-83-306 for prescribing by an online prescriber.

R156-17b-627. Operating Standards - Prescription of Drugs or Devices by a Pharmacist.

(1) [~~In accordance with~~]Under Subsection 58-17b-601(1) and Section 58-17b-627, a pharmacist from a Class A or Class B pharmacy may prescribe a prescription drug or device as follows:

(a) [~~Prior to~~]Before prescribing, the pharmacist shall conduct a patient assessment that includes:

(i) current health status;

(ii) past medical history;

(iii) allergies;

(iv) medication sensitivities;

(v) rationale for care;

(vi) current medication; and

(vii) if the pharmacist should refer the patient to an appropriate health care provider or otherwise encourage the patient to seek further medical care.

(b) The pharmacist shall follow the guidelines for prescribing health care providers established by:

(i) the Centers for Disease Control and Prevention;

(ii) nationally accepted guidelines; and

(iii) the Department of Health and Human Services and the Division in collaboration with the Board, in the guidance documents incorporated by reference in Subsection (2)(a).

(c) The pharmacist shall comply with the requirements of Sections 58-17b-602 and 58-17b-609.

(d) The pharmacist shall develop and implement an appropriate follow-up care plan with the patient that includes:

(i) monitoring parameters for efficacy and safety;

(ii) adverse reactions; and

(iii) further medical care.

(e)(i)(A) The pharmacist shall notify the patient's primary care or other health care provider about the prescription within five business days of the prescribing.

(B) The prescription notification may be conveyed in writing, by electronic transmission, or by telephone.

(C) If the patient does not have a primary care or other health care provider, the pharmacist shall provide the prescription notification to the patient.

(D) The pharmacy shall maintain the prescription notification in the patient record for at least five years from the date of notification, in an immediately retrievable written or electronic format.

(ii) Each prescription notification shall include the following:

(A) prescribing pharmacist;

(B) pharmacy name;

(C) pharmacy phone number;

(D) patient;

(E) patient date of birth;

(F) drug or device;

(G) if dispensed, dispensed quantity;

(H) directions for use;

(I) refill; and

(J) identity of the patient's primary care or other health care provider, if any.

(2)(a) A pharmacist may prescribe drugs or devices under Subsection 58-17b-627(3)(a) as established in the following guidance documents posted on the Division's website at dopl.utah.gov/pharm:

(i) Utah Guidance for Pre-Exposure and Post-Exposure Prophylaxis of HIV, adopted September 28, 2021;

(ii) Utah Guidance for Self-Administered Hormonal Contraceptives, adopted September 28, 2021;

(iii) Utah Guidance for Tobacco Cessation Products, adopted September 28, 2021; and

(iv) Utah Guidance for Naloxone, adopted September 28, 2021.

(b) The Division incorporates by reference the guidance documents in Subsection (2)(a).

(3)(a) The[~~ The Division in collaboration with the Board shall review the guidance documents in Subsection (2) on a biennial basis, in collaboration with the individuals identified in Subsection 58-17b-627(4) and other persons as determined by the Division in collaboration with the Board.~~

~~(4)(a) Beginning June 2022 and commencing annually thereafter, the~~] Department of Health and Human Services may submit to the Division a written proposal that includes:

(i) [~~in accordance with~~]under Subsection 58-17b-627(3)(a), designated public health concerns that the Department of Health and Human Services has determined can be addressed through pharmacist prescribing of drugs or devices; and

(ii) [~~any~~]recommendations for updates to the guidance documents in Subsection (2)[~~.~~]; and

(b) [~~A~~]after receipt of the [~~Department of Health's annual~~]designation, the Division:

(i) shall contact the Department of Health and Human Services to review its proposal; and

(ii) may review the rules made by the Division, including the guidance documents in Subsection (2), in accordance with Subsections 58-17b-627(3) and (4).

([~~5~~]4) The Division shall review the guidance documents in Subsection (2) [~~on a biennial basis~~]biennially, in collaboration with:

(a) the Board;

(b) the individuals identified in Subsection 58-17b-627(4); and

(c) other persons as determined by the Division.

R156-17b-628. Operating Standards - Prescriptions Issued Within the Public Health System.

(1) Under Subsections 58-17b-620(7) and (8), a nurse employed by a health department and licensed under Title 58, Chapter 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection as established in the Utah Guidance for Dispensing by Health Department Nurse of STI Drug, adopted August 23, 2022, posted on the Division's website at dopl.utah.gov/pharm.

(2) The Division incorporates by reference the guidance document in Subsection (1).

R156-17b-901. Operating Standards - Charitable Prescription Drug Recycling Program.

(1) [~~In accordance with~~]Under Sections 58-17b-903 and 58-17b-907, the operating standards for [~~implementation of~~]the Charitable Prescription Drug Recycling Program under Title 58, Chapter 17b, Part 9, Charitable Prescription Drug Recycling Act, are established in this section.

(2) The Division in collaboration with the [~~b~~]Board has not established a date later than the beyond use date or the expiration date recommended by the manufacturer for a specific prescription drug.

(3) [~~As authorized by~~]Under Subsection 58-17b-905(2)(e), an eligible pharmacy may charge the following handling fees:

(a) before accepting a prescription drug under the program: $0 - $10; and

(b) before dispensing a prescription drug under the program: ~~-~~$0 - $5.

(4) A pharmacy seeking registration with the Division as an eligible pharmacy shall submit an application on a form provided by the Division and establish that the pharmacy:

(a) [~~the applicant~~]is currently licensed and in good standing with the Division;

(b) [~~the applicant~~]agrees to maintain, subject to inspection by the Division, written standards and procedures in compliance with Subsection (6);

(c) [~~the applicant~~]agrees to create and maintain, subject to inspection by the Division, a special training program in accordance with Subsection (8); and

(d) [~~the applicant~~]meets the requirements of Subsection 58-17b-902(8)(b).

(5) The formulary established under Subsection 58-17b-907(2) shall include each prescription drug approved by the federal Food and Drug Administration that meet Section 58-17b-904 criteria, except for:

(a) controlled substances;

(b) compounded drugs; and

(c) drugs that can only be dispensed to a patient registered with the drug's manufacturer per federal Food and Drug Administration requirements.

(6) An eligible pharmacy shall maintain written standards and procedures available for inspection by the [~~d~~]Division that:

(a) satisfy the requirements of Section 58-17b-907; and

(b) satisfy labeling requirements of Subsections 58-17b-602(5) through (8), and ensure that labels clearly identify the eligible drug was dispensed under the program.

(7)(a) [~~In accordance with~~]Under Subsection 58-17b-907(4)(a), the [~~d~~]Division shall schedule and facilitate an annual meeting between the Department of Health and Human Services and eligible pharmacies to establish program standards and procedures for assisted living facilities and nursing care facilities.

(b) [~~In accordance with~~]Under Subsection 58-17b-907(4)(b), the [~~d~~]Division shall schedule and facilitate an annual meeting between the Division of Substance Abuse and Mental Health and eligible pharmacies to establish program standards and procedures for mental health and substance abuse clients.

(8) An eligible pharmacy shall:

(a) create and maintain a special training program that its pharmacists and licensed pharmacy technicians shall complete before participating in the program; and

(b) maintain a record for at least two years of each pharmacist and licensed pharmacy technician that has completed the special training program.

KEY: pharmacists, licensing, pharmacies
Date of Last Change: [~~January 27,~~]2022
Notice of Continuation: September 5, 2019
Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R156-37**	**Filing ID: 55007**

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E. 300 S.	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	**Phone:**	**Email:**
Larry Marx	801-530-6254	lmarx@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R156-37. Utah Controlled Substances Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This filing updates this rule to implement H.B. 265 passed during the 2021 General Session, which amended the rule governing pharmacy software for receiving and transferring electronic controlled substance prescriptions. These amendments also incorporate statutory changes made by H.B. 177 passed during the 2020 General Session, which amended the Controlled Substances Act regarding electronic transmission of controlled substance prescriptions.

Additionally, changes are made in accordance with Executive Order No. 2021-12 to update and clarify this rule to facilitate compliance and enforcement, in particular with respect to recommendations by the Board of Pharmacy and the Division of Professional Licensing (Division) regarding certain definitions and to make changes consistent with the Utah Rulewriting Manual.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments to Section R156-37-102 add definitions for "electronic controlled substance prescribing extension," "emergency situation," "forward," and "technical difficulty or electronic failure."

The amendments to Section R156-37-502 add to the definition of unprofessional conduct for a prescribing practitioner or pharmacy, failing to seek to correct a technical difficulty or electronic failure under Subsection 58-37-22(1)(d) that is reasonably within their control.

The substantive amendments to Section R156-37-603 are at the request of the Pharmacy Board, with concurrence by the Physicians Licensing Board and the Osteopathic Physicians and Surgeons Licensing Board. These amendments eliminate the prohibitive language regarding the prescribing of schedule II stimulants, and allow the prescribing provider to ensure they are prescribing stimulants in the best interest of the patient and within the standard of care.

In compliance with Section 58-37-22, new Sections R156-37-609 and R156-37-610 provide guidance for electronic prescriptions for controlled substances by establishing: 1) that a prescribing practitioner or pharmacy experiencing a technical difficulty or electronic failure shall document it on the prescription's hard copy; 2) a protocol to follow if a pharmacy that receives an electronic prescription is not able to fill the prescription; 3) additional exemptions to electronic prescription requirements; 4) guidelines under which a prescribing practitioner or pharmacy may obtain an extension of time to comply with the electronic prescribing requirements in Subsection 58-37-22(1); and 5) a requirement to issue and dispense an electronic prescription in accordance with 21 CFR 1311.

In accordance with Executive Order No. 2021-12, the remaining amendments make formatting changes throughout to update and clarify this rule to facilitate compliance and enforcement and make changes consistent with the Utah Rulewriting Manual, including amendments to Section R156-37-305 that clarify that a practitioner shall maintain appropriate licensure when prescribing controlled substances, and amendments to Section R156-37-606 that update the reference to 21 CFR 1317.

Public Hearing Information:
11/22/2002, 10:00 AM
160 East 300 South, Conference Room 402, Salt Lake City, Utah

Google Meet information:
Electronic Meeting link:
meet.google.com/har-yfec-vbm

Join by phone:
(US) +1 443-574-7046
PIN: 108791761

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

None of these proposed changes are expected to impact state government revenues or expenditures because the changes merely update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12, and will not affect existing state government procedures.

The Division estimates that these proposed amendments will have no measurable impact on state government revenues or expenditure as none of these amendments are expected to impact state government practices or procedures beyond the fiscal analysis for H.B. 177 (2020), https://le.utah.gov/~2020/bills/static/HB0177.html and for H.B. 265 (2021), https://le.utah.gov/~2021/bills/static/HB0265.html.

B) Local governments:

These proposed amendments will impact businesses in the healthcare and pharmacy industry that employ prescribers, pharmacists, pharmacy interns, and pharmacy technicians (NAICS 446110, 621399, 621112, 621111, 621330, 622110, 622310, 621493, 623220,

621420, 621420, 623110) and this may potentially include certain local government entities acting as businesses.

However, the Division estimates that these proposed amendments will have no impact on local governments because the changes merely update the rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

These amendments will affect small businesses in the healthcare industry that employ controlled substance prescribers or dispense controlled substances; these involve businesses in NAICS 446110, 621399, 621112, 621111, 621330, 622110, 622310, 621493, 623220, 621420, 621420, and 623110.

However, none of the amendments are expected to impact small businesses' revenues or expenditures, as they are based on extensive collaboration with the Board of Pharmacy, as well as the Physicians Licensing Board and the Osteopathic Physicians and Surgeons Licensing Board, to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession, and make nonsubstantive changes for clarity to facilitate compliance and enforcement in accordance with Executive Order No. 2021-12.

Additionally, funding for software that allows electronic health records and pharmaceutical dispensing software has been available through Centers for Medicare and Medicaid Services since 2006.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

These amendments will affect non-small businesses in the healthcare industry that employ controlled substance prescribers and/or dispense controlled substances, these involve businesses in NAICS 446110, 621399, 621112, 621111, 621330, 622110, 622310, 621493, 623220, 621420, 621420, and 623110.

However, as described in Box 5C for small businesses, none of the amendments are expected to impact non-small businesses' revenues or expenditures.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

These amendments will affect Utah licensed controlled substance prescribers and controlled substance dispensers. However, as described in Box 5C for small businesses, none of the amendments are expected to impact the revenues or expenditures for these persons.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

As described in Box 5E for other persons, no compliance costs are expected for any affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division in concert with the Utah Board of Pharmacy, Utah Physicians Licensing Board, and the Utah Osteopathic Physicians and Surgeons Licensing Board, propose amendments to Rule R156-37, the Utah

Controlled Substances Act Rule. Changes to this rule are proposed to comply with H.B. 265 (2021), which amended the rule governing pharmacy software for receiving and transferring electronic controlled substance prescriptions.

These amendments also incorporate statutory changes made by H.B. 177 (2020), which amended the Controlled Substances Act regarding electronic transmission of controlled substance prescriptions. Also, the Division has made formatting changes throughout this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):
The Division finds that will not be a fiscal impact to small businesses in the Utah healthcare industry with the proposed amendments (relevant NAICS codes were identified as 446110, 621399, 621112, 621111, 621330, 622110, 622310, 621493, 623220, 621420, 621420, and 623110). The changes are to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession.

Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make the rule comport to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees)
The Division finds that the non-small businesses in the Utah healthcare industry in the NAICS codes aforementioned, will not suffer a negative fiscal impact from the proposed rule amendments. However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses.

Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 58-1-106(1)(a)	Subsection 58-37-6(1)(a)	Subsection 58-37f-301(1)

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	21 CFR Part 1311
Publisher	Code of Federal Regulations/US Food and Drug Administration
Issue Date	July 26, 2022

B) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	21 CFR Part 1317
Publisher	Code of Federal Regulations/US Food and Drug Administration
Issue Date	July 26, 2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	12/15/2022	
B) A public hearing (optional) will be held:		
On:	**At:**	**At:**
11/22/2022	10:00 AM	See information in Box 4 above

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	10/25/2022

R156. Commerce, [~~Occupational and~~]Professional Licensing.
R156-37. Utah Controlled Substances Act Rule.
R156-37-101. Title - Authority.

(1) This rule is known as the "Utah Controlled Substances Act Rule."

(2) This rule is adopted by the Division under the authority of Subsections 58-1-106(1)(a) and 58-37-6(1)(a) to enable the Division to administer Title 58, Chapter 37, Utah Controlled Substances Act.

R156-37-102. Definitions.

[~~In addition to the~~]The following definitions supplement the definitions in Title 58, Chapter[~~s~~] 1, Division of Professional Licensing Act, and Title 58, Chapter 37, Utah Controlled Substances Act[~~as used in Title 58, Chapters 1 and 37, or this rule~~]:

(1) "DEA" means the Drug Enforcement Administration of the United States Department of Justice.

(2) "Electronic Controlled Substance Prescribing Extension" means the prescribing practitioner or pharmacy has a controlled substance designation class indicated on the license, approved by the Division under Section R156-37-610, and does not participate in electronic prescriptions for controlled substances.

(3) "Emergency situation," for purposes of Subsection 58-37-6(7)(c)(iii) and Section R156-37-605 for emergency verbal prescriptions, Subsection 58-37-6(7)(d) for prescription signature and information requirements, and Subsection 58-37-22(10)(e) for electronic prescription requirements:

(a) means a situation in which the prescribing practitioner who intends to prescribe a controlled substance, or the pharmacy that intends to dispense a controlled substance, has determined that:

(i) the controlled substance prescription cannot be issued, filled, compounded, dispensed, or transmitted electronically as an electronic prescription in compliance with the statutory requirement without causing a delay;

(ii) the delay would adversely impact the patient's medical condition; and

(iii) the prompt prescribing or dispensing of the controlled substance is necessary for the proper treatment of the patient; and

(b) includes a situation when a prescription is written for an emergent or urgent condition:

(i) at a time when the prescribing practitioner is not reasonably able to transmit an electronic prescription to the patient's desired pharmacy for dispensing; or

(ii) after normal pharmacy business hours including weekends, holidays, late evening or overnight, and the patient cannot fill the prescription secondary to limited access to 24-hour pharmacy locations and no access to their regular pharmacy.

(4) "Forward" in Subsection R156-37-609(5)(a) means an original unfilled electronic controlled substance prescription.

([~~2~~]5) "NABP" means the National Association of Boards of Pharmacy.

([~~3~~]6) "Principal place of business or professional practice"[~~, as used~~] in Subsection 58-37-6(2)(e), means any location where controlled substances are received or stored.

([4]7) "Schedule II controlled stimulant" means any material, compound, mixture, or preparation listed in Subsection 58-37-4(2)(b)(iii).

([~~5~~]8) "SBIRT training" means training in the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration, as defined in Subsections 58-37-6.5(1)(e) and 58-37-6.5(3).

(9) "Technical difficulty or electronic failure" in Subsection 58-37-22(1)(d) means a loss of electrical power or internet service, a failure of a computer system, application, or device, or other service interruption to a computer system that reasonably prevents:

(a) a practitioner from transmitting an electronic controlled substance prescription to a pharmacy;

(b) a pharmacy from receiving an electronic controlled substance prescription or transmitting an electronic controlled substance prescription to a different pharmacy in accordance with Subsection 58-37-22(3); or

(c) compliance by a practitioner or a pharmacy with the requirements of state or federal law, including 21 CFR Part 1311 (July 26, 2022), which is incorporated by reference.

([~~6~~]10) "Unprofessional conduct"[~~,~~] as defined in Title 58, Occupations and Professions, is further defined in accordance with Subsections 58-1-203(1)(e) and 58-37-6(1)(a), in Section R156-37-502.[

~~**R156-37-103. Purpose - Authority.**~~

~~This rule is adopted by the Division under the authority of Subsections 58-1-106(1)(a) and 58-37-6(1)(a) to enable the Division to administer Title 58, Chapter 37.~~]

R156-37-301. License Classifications - Restrictions.

(1) [~~Consistent with the provisions of law,~~]Under Subsection 58-37-6(2), the Division may issue a controlled substance license to[~~ manufacture, produce, distribute, dispense, prescribe, obtain, administer, analyze, or conduct research with controlled substances in Schedules I, II, III, IV, or V to qualified persons. Licenses shall be issued to qualified persons in the following categories~~]:

(a) a qualified person licensed in good standing in the classification of:

([~~a~~]i) pharmacist;

([~~b~~]ii) optometrist;

([~~c~~]iii) podiatric physician;

([~~d~~]iv) dentist;

([~~e~~]v) osteopathic physician and surgeon;

([~~f~~]vi) physician and surgeon;

([~~g~~]vii]) physician assistant;

([~~h~~]viii) veterinarian;

(ix) advanced practice registered nurse or advanced practice registered nurse-certified registered nurse anesthetist;

([~~j~~]x) certified nurse midwife;

([~~k~~]xi) naturopathic physician;

(xii) anesthesiologist assistant;

([~~l~~]xiii) Class A pharmacy[~~ retail operations located in Utah~~] under Subsection R156-17b-302(1);

([~~m~~]xiv) Class B pharmacy under Subsection R156-17b-302(2);[~~located in Utah providing services to a target population unique to the needs of the healthcare services required by the patient, including:~~

~~(i) closed door pharmacy;~~

~~(ii) hospital clinic pharmacy;~~

~~(iii) methadone clinic pharmacy;~~

~~(iv) nuclear pharmacy;~~

~~(v) branch pharmacy;~~

~~(vi) hospice facility pharmacy;~~

~~(vii) veterinarian pharmaceutical facility pharmacy;~~

~~(viii) pharmaceutical administration facility pharmacy;~~

~~(ix) sterile product preparation facility pharmacy; and~~

~~(x) dispensing medical practitioner clinic pharmacy.~~]

([~~n~~]xv) Class C pharmacy under Subsection R156-17b-302(3);[~~engaged in:~~

~~(i) manufacturing;~~

~~(ii) producing;~~

~~(iii) wholesaling;~~

~~(iv) distributing; and~~

~~(v) reverse distributing.~~]

([~~o~~]xvi) Class D [~~Out-of-state mail order pharmacies.~~]pharmacy under Subsection R156-17b-302(4); or

([~~p~~]xvii) Class E pharmacy under Subsection R156-17b-302(5); or[~~including:~~

~~(i) medical gases provider;~~

~~(ii) analytical laboratory pharmacy;~~

~~(iii) animal control pharmacy;~~

~~(iv) human clinical investigational drug research facility pharmacy; and~~

~~(v) animal narcotic detection training facility pharmacy.~~]

([~~q~~]xvii) the Utah Department of Corrections, for the conduct of execution by the administration of lethal injection [~~under its statutory authority and~~]in accordance with Section 77-18-113[~~its policies and procedures~~].

(2) [~~A~~]The Division may restrict a controlled substance license [~~may be restricted~~]to the extent [~~determined by~~]the Division, in collaboration with the appropriate licensing boards, determines [~~that a restriction is~~]necessary to protect the [~~public~~]health, safety, or welfare of:

(a) the public; or

(b) [~~, or the welfare of~~]the licensee.

(3) A person [~~receiving~~]holding a restricted controlled substance license [~~shall manufacture, produce, obtain, distribute, dispense, prescribe, administer, analyze, or conduct research with controlled substances only to the extent of the terms and conditions under which the restricted license is issued by the Division~~]may use the license only to the extent of the restricted terms and conditions.

R156-37-302. Qualifications for Licensure - Application Requirements.

(1) An applicant for a controlled substance license shall:

(a) submit an application in a form [~~as~~]prescribed by the Division;[~~ and~~]

(b) [~~shall~~]pay the [~~required~~]fee [~~as~~]established by the Division under [~~the provisions of~~]Section 63J-1-504[~~.~~]; and

(c) [~~(2) Any person seeking a controlled substance license shall~~]be currently licensed in good standing by the state in [~~the appropriate professional license~~]a classification [~~as listed~~]in Section R156-37-301[~~ and shall maintain that license classification as current at all times while holding a controlled substance license~~].

(3) The Division and the reviewing board may request from the applicant information that is reasonable and necessary to permit an evaluation of[~~ the applicant's~~]:

(a) the applicant's qualifications to engage in practice with controlled substances; and

(b) the public interest in the issuance of a controlled substance license to the applicant.

(4) To determine if an applicant is qualified for licensure, the Division may:

(a) assign the application to a qualified and appropriate licensing board for review and recommendation to the Division[~~ with respect to issuance of a license.~~

~~**R156-37-303. Qualifications for Licensure - Site Inspections - Investigations.**~~

~~The Division shall have the right to~~]; and

(b) conduct site inspections, review research protocol, conduct interviews with persons knowledgeable about the applicant, and conduct any other investigation [~~which~~]that is reasonable and necessary to determine the applicant is [~~of good moral character and~~]qualified to receive a controlled substance license.

R156-37-305. Qualifications for Licensure -- Drug Enforcement Administration (DEA) Registration - Active License.

(1)(a) Except as specified in Subsection (1)(b), an[~~ An~~] individual who obtains a controlled substance license [~~except those individuals described in Subsection (2) below,~~]shall obtain a DEA registration within 120 days of the date the controlled substance license is issued.

([~~2~~]b) [~~Any~~]A controlled substance licensee who [~~obtains prior~~]has written consent [~~of~~]from the licensee's employer to use the employer's hospital or institution DEA registration to administer [~~and/~~]or prescribe controlled substances, or both, is not required to obtain an individual practitioner DEA registration.

(2) A person who holds a controlled substance license shall maintain their license under Subsection R156-37-301(1) active and in good standing.

(3) If a person's license under Subsection R156-37-301(1) expires or is revoked, surrendered, or suspended, the Division shall:

(a) immediately suspend the person's controlled substance license; and

(b) reinstate the person's controlled substance license only upon reinstatement of the underlying license, without further administrative action that would be grounds for the continued denial of the controlled substance license.

R156-37-306. Exemption from Licensure -- Law Enforcement Personnel, University Research, Narcotic Detection Training of Animals, and Animal Control.

[~~In accordance with~~]Under Subsection 58-37-6(2)(d), the following persons are exempt from licensure under Title 58, Chapter 37, Utah Controlled Substances Act:

(1)(a) except as specified in Subsection (1)(b), law[~~ Law~~] enforcement agencies and their sworn personnel, [~~are exempt from the licensing requirements of the Controlled Substance Act~~]to the extent their official duties require them to possess controlled substances[~~;~~], if they:

(i) [~~they~~]act within the scope of their enforcement responsibilities;

(ii) [~~they~~]maintain accurate records of controlled substances that come into their possession; and

(iii) [~~they~~]maintain an effective audit trail[~~.~~];

(b) [~~Nothing herein shall authorize~~]law enforcement personnel [~~to~~]may not purchase or possess controlled substances for administration to animals unless the purchase or possession is in accordance with a [~~duly issued~~]controlled substance license[~~.~~];

(2) [~~I~~]individuals and entities engaged in research using pharmaceuticals as defined in Subsection 58-17b-102([~~65~~]66) within a research facility as defined in Subsection R156-17b-102([~~49~~]48)[~~.~~]; and

(3) [~~I~~]individuals employed by a facility engaged in the following activities, if the facility employing that individual has a controlled substance license in Utah[~~,~~] and a DEA registration number, and uses the controlled substances according to a written protocol:

(a) narcotic detection training of animals for law enforcement use; or

(b) animal control, including:

(i) animal euthanasia; or

(ii) animal immobilization.

R156-37-402. Continuing Professional Education for Controlled Substance Prescribers.

[~~In accordance with~~]Under Section 58-37-6.5, qualified continuing professional education requirements for controlled substance prescribers are further established as follows:

(1) Continuing education under this section shall:

(a) be prepared and presented by individuals who are qualified by education, training, and experience to provide the controlled substance prescriber continuing education; and

(b) have a method of verification of attendance and a post-course knowledge assessment or examination.

(2) In accordance with Subsections 58-37-6.5(2)(b), 58-37-6.5(5), 58-37-6.5(7), and 58-37-6.5(8), the controlled substance

prescribing classes and SBIRT training that satisfy the [~~d~~]Division's continuing education requirements for license renewal, and that are delivered by an accredited or approved continuing education provider recognized by the [~~d~~]Division as offering appropriate continuing education, shall be posted on the [~~d~~]Division's website at [~~http://~~]dopl.utah.gov[~~/~~].

(3) Credit for continuing education shall be recognized as follows:

(a) Unlimited hours shall be recognized for continuing education completed in blocks of time of not less than 50 minutes;

(b) Continuing education hours for licensees who have not been licensed for the entire two-year period shall be prorated from the date of licensure;

(c) In accordance with Subsection 58-37f-304(3), the required 1/2 hour of continuing education for the online tutorial and test relating to the controlled substance database shall be waived by the [~~d~~]Division for a controlled substance prescriber renewing a license, if the prescriber attests on the license renewal form that:

(i) in the past license period, the prescriber accessed the controlled substance database; and

(ii) upon the prescriber's information and belief, the prescriber's use of the database reduced the prescribing, dispensing, and use of opioids in an unprofessional or unlawful manner, or in quantities or frequencies inconsistent with generally recognized standards of dosage for an opioid.

(4)(a) A licensee shall maintain competent records of completed qualified continuing professional education for a period of [~~four~~]two years after close of the two-year period to which the records pertain.

(b) The [~~d~~]Division may review controlled substance database usage by the prescriber or proxy to audit an attestation [~~provided~~]under Subsection [~~R156-37-402~~](3)(c).

R156-37-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) as a licensee with authority to prescribe or administer controlled substances:

(a) prescribing or administering to oneself any Schedule II or III controlled substance that is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug;

(b) prescribing or administering a controlled substance for a condition that the [~~prescriber~~]licensee is not licensed or competent to treat;

(2) violating a[~~ny~~] federal or state law relating to controlled substances;

(3) failing to deliver to the Division [~~all~~]each controlled substance license certificate[~~s~~] issued by the Division [~~to the Division~~]upon an action that revokes, suspends, or limits the license;

(4) failing to maintain controls over controlled substances that a prudent licensee would [~~be considered by a prudent practitioner to be~~]maintain as effective against diversion, theft, or shortage of controlled substances;

(5) [~~being unable~~]failing to account for shortages of [~~any~~]controlled substance inventory for which the licensee has responsibility;

(6) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(1)(s), except for legitimate medical purposes as permitted by law;

(7) refusing to make available for inspection controlled substance stock, inventory, [~~and~~]or records as required under [~~this rule~~]Rule R156-37 or other law regulating controlled substances and controlled substance records;

(8) failing to submit controlled substance prescription information to the [~~d~~]Database [~~m~~]Manager after being notified in writing by the Division to do so;[~~ or~~]

(9) failing to [~~obtain~~]get a DEA registration within the time frame [~~established~~]in Section R156-37-305[~~,~~];

(10) as a prescribing practitioner, failing to seek to correct a technical difficulty or electronic failure under Subsection 58-37-22(1)(d) that is reasonably within the prescribing practitioner's control; or

(11) as a pharmacy, failing to seek to correct a technical difficulty or electronic failure under Subsection 58-37-22(1)(d) that is reasonably within the pharmacy's control.

R156-37-601. Access to Records, Facilities, and Inventory.

[~~Applicants~~]During regular business hours, and at other reasonable times, each applicant for licensure and [~~all~~]licensee[~~s~~] shall make available for inspection to a[~~ny~~] person authorized to conduct an administrative inspection[~~ pursuant to this rule;~~] under federal law, Title 58, Chapter 37, [~~the~~]Utah Controlled Substances Act[~~; or federal law during regular business hours and at other reasonable times in the event of an emergency~~], or Rule R156-37, their:

(1) controlled substance stock or inventory;

(2) records required in accordance with state and federal laws and rules[~~under the Utah Controlled Substances Act, this rule, or Federal controlled substance laws~~]; and

(3) facilities related to activities involving controlled substances.

R156-37-602. Records.

(1)(a) Records of controlled substances shall be kept in accordance with state and federal laws and rules for their:

(i) purchase[~~,~~];

(ii) distribution[~~,~~];

(iii) dispensing[~~,~~];

(iv) prescribing[~~,~~] and

(v) administration[~~ of controlled substances shall be kept according to state and federal law~~].

(b) Prescribing practitioners shall keep accurate records for each patient reflecting[~~ the~~]:

(i) examination[~~,~~];

(ii) evaluation; and

(iii) treatment[~~ of all patients~~].

(c) Patient medical records shall:

(i) accurately reflect the prescription or administration of controlled substances in the treatment of the patient[~~,~~];

(ii) the purpose for which the controlled substance is utilized[~~,~~]; and

(iii) information upon which the diagnosis is based.

(d) Practitioners shall keep records apart from patient records of each controlled substance purchased, and with respect to each controlled substance, its disposition, whether by administration or any other means, date of disposition, to whom given, and the quantity given.

(2) A[~~ny~~] licensee who experiences any theft, including diversion, or significant loss of controlled substances shall immediately:

(a) file the appropriate forms with the [~~Drug Enforcement Administration~~]DEA, with a copy to the Division directed to the attention of the Investigation Bureau; and

(b) report the incident to the local law enforcement agency.

(3) [~~All~~]Each record[~~s~~] required by federal and state laws or rules [~~must~~]shall be maintained by the licensee for [~~a period of~~]five years. If a licensee [~~should~~]sells or transfers ownership of records in any way, those records shall be maintained separately from other records of the new owner.

(4) Prescription records may be maintained electronically [~~so long as~~]if:

(a) the original of each prescription, including telephone prescriptions, is maintained in a physical file and contains [~~all of~~]the information required by federal and state law; and

(b) an automated data processing system is used for the storage and immediate retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, in accordance with federal guidelines.

(5) [~~All~~]Each record[~~s~~] relating to Schedule II controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from [~~all~~]other records of the pharmacy or practice.

(6) [~~All~~]Each record[~~s~~] relating to Schedules III, IV, and V controlled substances received, purchased, administered, or dispensed by the practitioner shall be maintained separately from [~~all~~]other records of the pharmacy or practice.

R156-37-603. Restrictions Upon the Prescription, Dispensing, and Administration of Controlled Substances.

(1) A practitioner may prescribe or administer the Schedule II controlled substance cocaine hydrochloride only as:

(a) a topical anesthetic for mucous membranes in surgical situations in which it is [~~properly~~]indicated; and

(b) as local anesthetic for the repair of facial and pediatric lacerations, if [~~when~~]the controlled substance is mixed and dispensed by a [~~registered~~]licensed pharmacist in the proper formulation and dosage.

(2) A practitioner [~~shall~~]may not prescribe or administer a controlled substance without taking into account the drug's potential for abuse, and the possibility:

(a) that the drug may lead to dependence[~~,~~];

(b) that [~~the possibility the~~]patient [~~will~~]may get [~~obtain~~]the drug for a nontherapeutic use or to distribute to others[~~,~~]; and

(c) [~~the possibility of~~]that an illicit market exists for the drug.

(3) [~~In accordance with~~]Under Subsection 58-37-6(7)(f)(vii)[~~(D)~~], unless the [~~prescriber~~]prescribing practitioner determines there is a valid medical reason to allow an earlier dispensing date, the dispensing date of a second or third prescription shall be [~~no less than~~]at least 30 days from the dispensing date of the previous prescription, to allow for receipt of the subsequent prescription before the previous prescription runs out.

(4)(a) If a practitioner fails to document [~~his~~]the practitioner's intentions relative to refills of controlled substances in Schedules III through V on a prescription form, it shall mean no refills are authorized.

(b) [~~No~~]A refill is not permitted on a prescription for a Schedule II controlled substance.

(5) Refills of controlled substance prescriptions shall be permitted for the following periods from the original date of the prescription[~~ as follows~~]:

(a) Schedules III and IV, for six months from the original date of the prescription; and

(b) Schedule V, for one year from the original date of the prescription.

(6) [~~No~~]A refill may not be dispensed until [~~such~~]sufficient time has passed since the date of the last dispensing that 80% of the medication in the previous dispensing should have been consumed if taken according to the [~~prescriber's~~]prescribing practitioner's instruction.

(7) [~~No~~]A controlled substance prescription [~~for a controlled substance shall~~]may not be issued or dispensed without specific instructions from the [~~prescriber~~]prescribing practitioner on how and when the drug is to be used.

(8) Refills after expiration of the original prescription term shall require[~~s the~~] issuance of a new prescription by the prescribing practitioner.

(9) Each prescription for a controlled substance and the number of refills authorized shall be documented in the patient records by the prescribing practitioner.

(10) [~~A practitioner shall not prescribe or administer a Schedule II controlled stimulant for any purpose except:~~

~~(a) the treatment of narcolepsy as confirmed by neurological evaluation;~~

~~(b) the treatment of abnormal behavioral syndrome, attention deficit disorder, hyperkinetic syndrome, or related disorders;~~

~~(c) the treatment of drug-induced brain dysfunction;~~

~~(d) the differential diagnostic psychiatric evaluation of depression;~~

~~(e) the treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as tricyclic antidepressants or MAO inhibitors;~~

~~(f) in the terminal stages of disease, as adjunctive therapy in the treatment of chronic severe pain or chronic severe pain accompanied by depression;~~

~~(g) the clinical investigation of the effects of the drugs, in which case the practitioner shall submit to the Division a written investigative protocol for its review and approval before the investigation has begun. The investigation shall be conducted in strict compliance with the investigative protocol, and the practitioner shall, within 60 days following the conclusion of the investigation, submit to the Division a written report detailing the findings and conclusions of the investigation; or~~

~~(h) in treatment of depression associated with medical illness after due consideration of other therapeutic modalities.~~

~~(11)~~]A practitioner may prescribe, dispense, or administer a Schedule II controlled stimulant when [~~properly~~]indicated[~~ for any purpose listed in Subsection (10), provided that all of the following conditions are met:~~

~~(a)~~] if, before initiating treatment [~~utilizing a~~]using the Schedule II controlled stimulant, the practitioner:

(a) obtains an appropriate history and physical examination;[~~, and~~]

(b) rules out the existence of [~~any~~]recognized contraindications; and[~~ to the use of the controlled substance to be utilized;~~

~~(b) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant when he knows or has reason to believe that a recognized contraindication to its use exists;~~

~~(c) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant in the treatment of a patient who he knows or should know is pregnant; and~~

~~(d) the practitioner shall not initiate or shall discontinue prescribing, dispensing or administering all Schedule II controlled stimulants immediately upon ascertaining or having~~]

(c) has no reason to believe that the patient has consumed or disposed of any controlled stimulant other than in compliance with the treating practitioner's directions.

R156-37-604. Prescribing of Controlled Substances for Weight Reduction or Control.

(1) A practitioner [~~shall~~]may not prescribe, dispense, or administer a Schedule II or Schedule III controlled substance for [~~purposes of~~]weight reduction or control.

(2) A prescribing practitioner may prescribe or administer a Schedule IV controlled substance in treating excessive weight leading to increased health risks only [~~when all~~]if the prescribing practitioner complies with each of the following conditions[~~ are met~~]:

(a) medication is used only as an adjunct to a comprehensive weight loss program based on supplemental weight loss activities including[~~, but not limited to,~~] changing lifestyle counseling, nutritional education, and a regular, individualized exercise regimen;

(b) [~~prior to~~]before initiating treatment the prescribing practitioner[~~ shall~~]:

(i) determines through thorough review of past medical records that the patient has made a substantial good-faith effort to lose weight in a comprehensive weight loss program without the use of controlled substances, and the previous regimen has not been effective;

(ii) obtains a complete history, performs a complete physical examination of the patient, and rules out the existence of [~~any~~]recognized contraindications to the use of the medication[~~(s)~~];

(iii) determines and documents [~~this~~]the assessment in the patient's medical record, that the health benefit to the patient greatly outweighs the possible risks of the medications prescribed; and

(iv) discusses with the patient the possible risks associated with the medication, and [~~have~~]has on record an informed consent [~~which~~]that clearly documents that the long term effects of using controlled substances for weight loss or weight control are not known;

(c) throughout the prescribing period, the prescribing practitioner[~~ shall~~]:

(i) supervises, oversees, and regularly monitors the patient, including [~~his~~]the patient's participation in supplemental weight loss activities, efficacy of the medication, and advisability of continuing to prescribe the weight loss or weight control medication; and

(ii) maintains a central medical record[~~, containing at least,~~] that contains at least the following information:

(A) the goal of treatment or target weight[~~,~~];

(B) the ongoing progress toward that goal or maintenance of the weight loss[~~,~~];

(C) the patient's supplemental weight loss activities with documentation of compliance with the comprehensive weight loss program; and

(d) the prescribing practitioner shall immediately discontinue the weight loss medication [~~in any of the following situations~~]if:

(i) the practitioner knows or should know that the patient is pregnant;

(ii) the patient has consumed or disposed of any controlled substance other than in compliance with the prescribing practitioner's directions;

(iii) the patient is abusing the controlled substance being prescribed for weight loss;

(iv) the patient develops a contraindication [~~during the course~~]of therapy;[~~ or~~]

(v) the medication is not effective; or

(vi) [~~that~~]the patient is not [~~abiding with and following through~~]complying with the agreed upon comprehensive weight loss program.

R156-37-605. Emergency Verbal Prescription of Schedule II Controlled Substances.

(1) Under Subsection 58-37-6(7), in an emergency situation a prescribing[~~Prescribing~~] practitioner[~~s~~] may give an oral [~~verbal~~]prescription for a Schedule II controlled substance if:

(a) the quantity dispensed is only sufficient to cover the patient for the emergency period, not to exceed 72 hours;

(b)(i) the prescribing practitioner has examined the patient within the past 30 days[~~,~~];

(ii) the patient is under the continuing care of the prescribing practitioner for a chronic disease or ailment[~~,~~]; or

(iii) the prescribing practitioner is covering for another practitioner and has knowledge of the patient's condition; and

(c) a written prescription is delivered to the pharmacist within seven [~~working~~]business days of the [~~verbal~~]oral order.

(2) Under Subsection 58-37-6(7), in an emergency situation a[~~A~~] pharmacist may fill [~~an emergency verbal or telephonic~~]an oral prescription from a prescribing practitioner for a Schedule II controlled substance if:

(a) the amount does not exceed a 72 hour supply; and

(b) the [~~filling~~]pharmacist reasonably believes, or makes a reasonable effort to determine, that the prescribing practitioner is licensed to prescribe the controlled substance[~~s or makes a reasonable effort to determine that he is licensed~~].

R156-37-606. Disposal of Controlled Substances.

(1) [~~Any disposal of controlled substances by licensees shall be consistent with the provisions of~~]A licensee shall dispose of controlled substances in accordance with 21 CFR Part 1317 (July 26, 2022) which is incorporated by reference[~~ 1307.21 of the Code of Federal Regulations~~].

(2) [~~Records of disposal of controlled substances shall be maintained and made~~]A licensee who disposes of controlled substances shall:

(a) maintain records of the disposal for five years from the date of disposal; and

(b) make the records available for inspection upon request to the Division or its agents[~~ for inspection for a period of five years~~].

R156-37-607. Surrender of Suspended or Revoked License.

(1) [~~Licenses which have been~~]A licensee whose license has been restricted, suspended, or revoked shall [~~be surrendered~~]surrender the license to the Division within 30 days of the effective date of the order[~~ of restriction, suspension or revocation~~].

(2) The Division shall consider compliance[~~ Compliance~~] with this section [~~will be a consideration~~]in evaluating an application[~~s~~] for relicensing.

R156-37-608. Restricted Applicability - Herbs, Herbal Products, or Food Supplements.

[~~The~~]Under Section 58-37-2.5, the Division [~~shall~~]may not apply [~~the provisions of~~]Title 58, Chapter 37, Utah [~~the~~]Controlled Substance Act or [~~this rule~~]Rule R156-37 [~~in restricting~~]to restrict citizens or practitioners, regardless of their license status, from the sale or use of [~~food or~~]herbs, herbal products, or food supplements

that are not scheduled as controlled substances by [~~S~~]state or [~~F~~]federal law.

R156-37-609. Electronic Prescriptions for Controlled Substances.

(1) Under Subsection 58-37-22(2)(a), a prescribing practitioner or pharmacy experiencing a temporary technical difficulty or electronic failure under Subsection 58-37-22(1)(d) shall document the nature of the technical difficulty or electronic failure on the prescription's hard copy.

(2) A pharmacist who receives a written, oral, or faxed controlled substance prescription is not required to verify that the prescription qualifies for an exemption under this section, and may dispense and deliver medication from an otherwise valid written, oral, or faxed controlled substance prescription.

(3) Under Subsection 58-37--22(2)(c), a prescribing practitioner or pharmacy is exempt from the electronic prescription requirements of Section 58-37-22 if:

(a)(i)(A) the prescribing practitioner is licensed in a jurisdiction other than Utah; and

(B) the receiving pharmacy orally confirms the prescription with the prescribing practitioner;

(ii) the prescribing practitioner and dispensing pharmacy are the same entity;

(iii) the prescription is a Schedule II oral prescription issued in an emergency situation under Section R156-37-605;

(iv) the federal Food and Drug Administration requires the prescription to contain elements that cannot be included in an electronic prescription;

(v) the prescription drug is under a research protocol; or

(vi) the prescription is for a medication that requires compounding two or more ingredients; and

(b) the prescribing practitioner or pharmacy documents the exemption on the prescription's hard copy.

(4) Under Subsection 58-37-22(2)(d), a prescribing practitioner or pharmacy may apply for an extension of time to comply with Subsection 58-37-22(1) by submitting a form to the Division under Section R156-37-610.

(5) Under Subsection 58-37-22(2)(e), if an originating pharmacy that receives an electronic controlled substance prescription cannot fill the prescription, the following protocol shall apply:

(a) if the pharmacy can electronically transmit the prescription, the pharmacy shall:

(i) contact the ultimate user to determine the pharmacy that is to receive the forward prescription; and

(ii) document in the automated pharmacy system the identity of the pharmacy receiving the forward prescription;

(b) if the pharmacy cannot electronically transmit the prescription:

(i) the pharmacy shall:

(A) contact the prescribing practitioner and state the pharmacy cannot fill or transmit the prescription;

(B) document in the automated pharmacy system the individual contacted at the prescribing office; and

(C) void the prescription; and

(ii) the prescribing practitioner may electronically transmit a new prescription to a different pharmacy.

(6) Under Subsection 58-37-22(2)(f), an electronic prescription shall be issued and dispensed in accordance with 21 CFR Part 1311 (July 26, 2022), which is incorporated by reference.

R156-37-610. Electronic Prescribing for Controlled Substance Extension Designation.

(1) Under Subsection 58-37-22(2)(d), a prescribing practitioner or pharmacy that cannot comply with Subsection 58-37-22(1) may apply for an electronic prescribing controlled substance extension on a form provided by the Division, that includes:

(a) the prescribing practitioner's or pharmacy's:

(i) name, address, and license number; and

(ii) current electronic prescribing capabilities;

(b) the reason for the extension, including:

(i) economic hardship;

(ii) technological barrier; or

(iii) exceptional circumstance; and

(c) an attestation that the prescribing practitioner or pharmacy understands that the prescribing practitioner or pharmacy shall comply with Subsection 58-37-22(1) beginning January 1, 2024, and that no further extensions are permitted.

(2) The Division may request supporting documentation to justify the reason for the extension, and the applicant's anticipated date of compliance with Section 58-37-22.

KEY: controlled substances, licensing
Date of Last Change: [~~December 27, 2018~~]2022
Notice of Continuation: December 14, 2021
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37-6(1)(a); 58-37f-301(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R156-55a**	**Filing ID: 55002**

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	**Phone:**	**Email:**
Allyson Pettley	801-530-6628	apettley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-55a. Utah Construction Trades Licensing Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this rule filing is to comply with the provisions in statute and to make nonsubstantive and other technical changes as approved by the Construction Services Commission and in accordance with Executive Orders No. 2021-1 and 2021-12.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

Numerous updates and formatting changes are made throughout this rule to update and clarify this rule using logical, understandable, and concise language consistent with the Utah Rulewriting Manual.

The amendments to Section R156-55a-102 define "hire" to clarify that this means hiring as an employee, and makes technical changes to the definition of "Maintenance."

The amendments to Section R156-55a-301 place all classifications and their corresponding scopes of work in Subsection (2) into a table format, entitled Table 1. Tables 1 and 2 are also renumbered and updated to the new table format. The E100 contractor classification is clarified to remove previous inclusion of the scope of practice of the B100 classification. B100 contractor classification is clarified for subclassifications not covered under the scope of practice for the B100 classification.

The amendments to Section R156-55a-302a codify in rule the Division of Professional Licensing (Division) and Construction Services Commission's policy that the Utah Contractor Business and Law examination is not required for an applicant for licensure by endorsement under Section 58-1-302.

The amendments to Section R156-55a-302b and Subsection R156-55a-302f(10) clarify that the degree in Construction Management must be from a program or institution recognized by the US Department of Education.

The amendments to Section R156-55a-311 codify in rule the Division and Construction Services Commission's policy that a business entity applying for licensure by endorsement shall demonstrate that at least 50% of the ownership is the same as the license held in the jurisdiction used for endorsement, and that no more than 50% of the business entity's ownership has changed in the 12 months preceding the date of application.

The amendments to Section R156-55a-700: 1) clarify that in an emergency under Subsection 58-1-307(4)(g), the Division may also exempt or modify licensure requirements, including scopes of practice; 2) remove the arbitrary expiration dates, and 3) instead provide that an emergency contractor's license and any exempted or modified licensure requirements will expire as specified by the Division in a notice to the licensee, or in a notice posted on the Division's website.

Public Hearing Information:
11/16/2022 at 10:00 AM
Anchor location: 160 E 300 S, Conference Room 402, Salt Lake City, Utah

Google Meet info:
Meeting link:
meet.google.com/ssu-ebah-thf

Join by phone:
(US) +1 315-758-1030
PIN: 858156229

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

No state agencies will be directly or indirectly affected by these rule changes because the proposed changes will not result in any significant increase or decrease in administrative costs or revenue compared to the currently anticipated costs and revenues.

Additionally, there are no state government entities acting as businesses that will be impacted by these changes. Accordingly, the proposed amendments are not expected to impact the state budget.

B) Local governments:

Local governments will neither enforce nor be affected by the processes and requirements implemented by these rules, nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. Therefore, no cost or savings to local governments are anticipated.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The U.S. Census North American Industry Classification System (NAICS) was searched and relevant NAICS codes were identified, including: 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312, 238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, and 238992. Based on these NAICS Codes, DWS Firm Find indicates that approximately 11,384 small businesses in Utah will be covered by these proposed amendments. However, no measurable impact to these small businesses is expected from the amendments.

The changes that are grammatical or nonsubstantive will have no impact on small businesses. With respect to the substantive changes, first, small businesses may be impacted by the clarified scopes of practice for the B100 and E100 classifications, but any impacts are impossible to determine because the clarifications of scope will not necessarily result in a net increase or decrease of cost or value to either current licensees or applicants for licensure, as there is no way to determine if they will actually require any additional classifications to practice in the scope beyond their current work.

Second, small businesses may be impacted by the clarified B100 and the reduced scope of practice E100 classification by a potential reduction in the number of fines to small businesses for practicing beyond the scope of licensure. However, since it is impossible to determine whether the clarified scopes of practice will increase compliance with the unprofessional conduct provisions, there is no measurable direct cost attributable to these changes.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

DWS Firm Find indicates that approximately 254 non-small businesses in Utah will be covered by these rule changes. As described in Box 5D for small businesses, there is no expected measurable impact to non-small businesses from these proposed amendments.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The proposed amendments are not expected to result in cost or savings to other persons as the classifications at issue are granted to businesses, and other persons will not be subject to enforcement of or affected by the processes and requirements implemented by the proposed amendments.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

As described in boxes 5D and E, there are no expected compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division propose amendments to Rule R156-55a, the Construction Trades Licensing Act Rule. Changes to this rule have been made to comply with the provisions in statute and to make nonsubstantive and other technical changes as approved by the Construction Services Commission. Clarification has been made to the E100 and B100 classifications, removal the Utah Contractor Business and Law examination from the application process, clarification to the degree in construction management, and clarification to the emergency powers of the Division to modify licensure requirements. Also, the Division has made formatting changes throughout this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):
The Division finds that approximately 11,384 small businesses in Utah will be effected by these proposed amendments (relevant NAICS codes were identified, including: 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312,

238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, and 238992). The Division sees that small businesses may be impacted positively by the clarified B100 classification changes and the reduced scope of practice of the E100 classification through a decrease in sanctions for practicing beyond the scope of licensure.

Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make this rule comport to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees)
The Division finds that there are 554 non-small businesses in Utah in the NAICS codes aforementioned. However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses.

Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	Section 58-55-101
Subsection 58-55-308(1)(a)	Subsection 58-55-102(39)(a)	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	12/15/2022	
B) A public hearing (optional) will be held:		
On:	**At:**	**At:**
11/16/2022	10:00 AM	See information in Box 4 above

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	10/20/2022

R156. Commerce, [~~Occupational and~~]Professional Licensing.
R156-55a. Utah Construction Trades Licensing Act Rule.
R156-55a-101. Title.

This rule shall be known as the "Utah Construction Trades Licensing Act Rule."[~~.~~]

R156-55a-102. Definitions.

[~~In addition to the~~]The following definitions supplement the definitions in Title 58, Chapter 1, Division of [~~Occupational and~~]Professional Licensing Act, and Chapter 55, Utah Construction Trades Licensing Act[~~, as defined or used in this rule~~]:

(1) "Construction trades instructor"[~~,~~] as used in Subsection 58-55-301(2)[~~(t)~~] means the education facility that is issued the license under S[~~ubs~~]ection R156-55a-302e. It does not mean individuals employed by the facility who may teach classes.

(2) "Construction trades instruction facility" means the facility that is granted the license [~~as specified~~]in Subsection 58-55-301(2)[~~(t)~~] and Section R156-55a-302e.

(3) "Employee"[~~,~~] as used in Subsections 58-55-102(13) and 58-55-102(18), means a person providing labor services in the construction trades who works for compensation for a licensed contractor, or the substantial equivalent of a licensed contractor as determined by the Division, [~~for compensation~~]and who has federal and state taxes withheld and workers' compensation and unemployment insurance provided by the person's employer.

(4) "Hire" means to hire as an employee as defined in Subsection R156-55a-102(3).

([~~4~~]5) "Incidental"[~~,~~] as used in Subsection 58-55-102(45), means work that:

(a) can be safely and competently performed by a specialty contractor;

(b) arises from, and is directly related to, work performed in the licensed specialty classification;

(c) does not exceed 10% [~~percent~~]of the overall contract; and

(d) does not include performance of any electrical or plumbing work.

([~~5~~]6)(a) "Maintenance" means [~~the~~]routine actions to repair, [~~replacement and refinishing of~~]replace, refinish, or preserve any component of an existing structure in its original condition.[~~, but,~~]

(b) "Maintenance" does not include:

(i) alteration or modification to [~~the~~]existing weight-bearing or structural components; or

(ii) any work that involves an electrical or plumbing system.

([~~6~~]7) "Mechanical"[~~,~~] as used in Subsections 58-55-102(22) and [~~58-55-102~~](35), means the work that may be performed by an S350 contractor under Subsection R156-55a-301(2)[~~(s)~~].

([~~7~~]8) "NASCLA" means the National Association of State Contractors Licensing Agencies.

([~~8~~]9) "Personal property" means, as it relates to Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, a structure that is titled by the Utah Division of Motor Vehicles[~~Division, state of Utah,~~] and taxed as personal property.

([~~9~~]10) "Qualifier"[~~, as used in Title 58, Chapter 55, Utah Construction Trades Licensing Act, and this rule,~~] means the individual who demonstrates competence for a contractor license by satisfying the requirements to obtain the contractor license.

([~~10~~]11) "RMGA" means the Rocky Mountain Gas Association.

([~~11~~]12) "School" means a school district, technical college, or accredited college.

R156-55a-103. Authority.

This rule is adopted by the Division under the authority of Subsections 58-1-106(1)(a) and 58-55-103(1)(b)(i) to enable the Division to administer Title 58, Chapter 55, Utah Construction Trades Licensing Act.

R156-55a-301. License Classifications - Scope of Practice.

(1) [~~In accordance with Subsection 58-55-301(2), the~~]The classifications of licensure under Subsection 58-55-301(2) [~~classifications of licensure~~]are [~~listed and~~]described in this section. The contractor classifications [~~listed~~]in Subsections (2) through (6) are those determined to significantly impact the public health, safety, and welfare. A person engaged in work [~~included~~]in Subsection[~~s R156-55a-301~~] (7) [~~and~~]or (8) is exempt from licensure [~~in accordance with~~]under Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:[

~~(a) E100 - General Engineering Contractor. A contractor licensed to perform work under this Subsection (2)(a) as defined in Subsection 58-55-102(24). The scope of practice of a contractor under this Subsection (2)(a) includes the scope of practice of a contractor under Subsection (2)(b).~~

~~(b) B100 - General Building Contractor. A contractor licensed to perform work under this Subsection (2)(b) as defined in Subsection 58-55-102(22). The scope of practice of a contractor under this Subsection (2)(b) includes the scope of practice of every specialty contractor in Subsection R156-55a-301(2) and includes the scope of practice under Subsection (2)(a).~~

~~(c) B200 - Modular Unit Installation Contractor. A contractor under this Subsection (2)(c) may set up or install a modular unit as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. A contractor's scope of practice under this Subsection (2)(c):~~

~~(i) includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together, if required, and securing the modular units to the foundations; and~~

~~(ii) excludes installation of factory built housing and connection of required utilities.~~

~~(d) R100 - Residential and Small Commercial Contractor. A contractor under this Subsection (2)(d) is licensed to perform work as defined in Subsection 58-55-102(35).~~

~~(e) R101 - Residential and Small Commercial Non Structural Remodeling and Repair. A contractor under this Subsection (2)(e) includes remodeling and repairing any existing structure built for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, with the restriction that:~~

~~(i) no change is made to the bearing portions of the existing structure, including footings, foundation, and weight bearing walls; and~~

~~(ii) the entire project is less than $50,000 in total cost, including materials and labor.~~

~~(f) R200 - Factory Built Housing Contractor. A contractor under this Subsection (2)(f) may disconnect, setup, install, or remove manufactured housing on a temporary or permanent basis.~~

~~(i) A contractor's scope of practice under this Subsection (2)(f) includes:~~

~~(A) placing the manufactured housing on a permanent or temporary foundation;~~

~~(B) securing the units together if required;~~

~~(C) securing the manufactured housing to the foundation;~~

~~(D) connecting the utilities from the near proximity, such as a meter, to the manufactured housing unit; and~~

~~(E) construction of foundations of less than four feet six inches in height;~~

~~(ii) A contractor's scope of practice under this Subsection (2)(f) excludes:~~

~~(A) preparation or finishing;~~

~~(B) excavation of the ground in the area where a foundation is to be constructed, back filling, and grading around the foundation;~~

~~(C) construction of foundations of more than four feet six inches in height; and~~

~~(D) construction of utility services from the utility source, to and including the meter or meters if required, or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.~~

~~(g) E200 - General Electrical Contractor. A contractor under this Subsection (2)(g) is licensed to perform work as defined in Subsection 58-55-102(23).~~

~~(h) E201 - Residential Electrical Contractor. A contractor under this Subsection (2)(h) is licensed to perform work as defined in Subsection 58-55-102(37).~~

~~(i) S202 - Solar Photovoltaic Contractor. A contractor's scope of practice under this Subsection (2)(i) includes fabrication, construction, installation, and replacement of photovoltaic modules and related components, subject to the following:~~

~~(i) wiring, connections, and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1) shall only be performed by a contractor under Subsection (2)(g) or a contractor under Subsection (2)(h); and~~

~~(ii) a contractor under Subsection (2)(i) may subcontract or hire a contractor under Subsection (2)(g) or a contractor under Subsection (2)(h).~~

~~(j) P200 - General Plumbing Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(25). A contractor's scope of practice under this Subsection (2)(j) includes the furnishing of materials, fixtures, and labor to extend service from a building out to the main water, sewer, or gas pipeline.~~

~~(k) P201 - Residential Plumbing Contractor. A contractor under this Subsection (2)(k) is licensed to perform work as defined in Subsection 58-55-102(42).~~

~~(l) S220 - Carpentry and Flooring Contractor. A contractor's scope of practice under this Subsection (2)(l) includes construction, fabrication, installation, placing, tying, welding, or repair using:~~

~~(i) wood, wood products, metal, aluminum, metal products, metal studs, vinyl materials, plastic, rubber, fiberglass, polyethylene, thermoplastic polymers, countertops, cabinets, millwork, garage doors, doors, trim, tub liners, wall systems, partitions, or other wood, plastic, rubber, or metal composite or any composite that is by custom and usage accepted in the building industry as carpentry for structural, non-structural, and finish purposes;~~

~~(ii) metal or steel structures and sheet metal, including metal cornices, marquees, metal soffits, flashings, skylights, and skydomes;~~

~~(iii) metal structural studs and bearing walls, reinforcing bars, erecting shapes, plates of any profile, perimeter cross section that are used in structures, including riveting, welding, and rigging;~~

~~(iv) incidental concrete work and footings, grading, and surface preparation related to the scope of work of a contractor under Subsection (2)(l);~~

~~(v) laminate, tile, cement, wood, synthetic wood, or similar flooring product, including prefinished and unfinished material, sanding, staining and finishing of new and existing flooring, the underlayment, and subfloors; and~~

~~(vi) mechanical insulation of pipes, ducts, or conduits.~~

~~(m) S230 - Masonry, Siding, Stucco, Glass, and Rain Gutter Contractor. A contractor's scope of practice under this Subsection (2)(m) includes construction, fabrication, and installation of:~~

~~(i) siding, stucco, stucco to lathe, plaster, glass, glass substitutes, glass-holding members, rain gutters, drains, roof flashings, gravel stops, and metal ridges;~~

~~(ii) natural or synthetic stone, onyx, ceramic, granite, onice, corian, brick, block, forms, brick substitutes, clay, concrete blocks, terra-cotta, marble, tile, gypsum tile, glass block, clay tile, copings, plastic refractories, and castables; and~~

~~(iii) shower pans.~~

~~(n) S260 - Asphalt and Concrete Contractor. A contractor's scope of practice under this Subsection (2)(n) includes fabrication, construction, mixing, batching, injecting, spraying, resurfacing, sealing, and installation of asphalt, asphalt overlay, chip seal, fog seal, slurry seal, concrete, gunnite, grouting, coatings, sealant, and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, shoring material, placing and erection of bars for reinforcing and application of plaster and other cement-related products. A contractor's scope of practice under this Subsection (2)(n) also includes:~~

~~(i) excavation, grading, compacting, and laying of fill or other related base;~~

~~(ii) painting or coating the surfaces, including striping, directional, and other types of symbols or letters; and~~

~~(iii) fabrication, construction, and installation of forms and shoring material.~~

~~(o) S270 - Drywall, Paint, and Plastering Contractor. A contractor's scope of practice under this Subsection (2)(o) includes construction, installation, fabrication, and application of:~~

~~(i) drywall, gypsum, wallboard panels and assemblies, lightweight metal and non-bearing wall partitions, ceiling tile and panels, and the grid system required for placement;~~

~~(ii) insulating media in buildings and structures for temperature control, sound control, fireproofing, mechanical insulation of pipes, ducts, or conduits;~~

~~(iii) stucco, stucco to lathe, plaster, and other surfaces; and~~

~~(iv) paints, varnishes, shellacs, stains, waxes and other coatings or pigments.~~

~~(p) S280 - Roofing Contractor. A contractor's scope of practice under this Subsection (2)(p) includes:~~

~~(i) application and installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of these materials that use and custom has established as usable for, or that are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces;~~

~~(ii) any material attached to the roof;~~

~~(iii) roof conversion;~~

~~(iv) installation of non-electrical skylights;~~

~~(v) installation of electrical skylights, if the electrical connection is performed by a contractor under Subsection (2)(g) or (2)(h);~~

~~(vi) installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control, fireproofing, and mechanical insulation of pipes, ducts, or conduits; and~~

~~(vii) incidental work including the installation of a roof clamp ring to the roof drain.~~

~~(q) S310 - Foundation, Excavation, and Demolition Contractor. A contractor's scope of practice under this Subsection (2)(q) includes:~~

~~(i) moving of the earth's surface and rock or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, smashing, crushing, or combination thereof as they are generally practiced in the construction trade;~~

~~(ii) excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter, or repair piers, piles, footings, and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below; and~~

~~(iii) raising, cribbing, underpinning, moving, and removal of a building, structure, or matter appurtenant or incidental to any building or structure.~~

~~(r) S330 - Landscape and Recreation Contractor. A contractor's scope of practice under this Subsection (2)(r) includes the following:~~

~~(i) The grading and preparing of land for architectural, horticultural, or decorative treatment.~~

~~(ii) The arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation.~~

~~(iii) construction, fabrication, and installation of:~~

~~(A) swimming pools, prefabricated pools, spas, decorative pools, tanks, fountains, sprinkler systems, and water distribution systems for artificial watering or irrigation, for systems that are not connected to the culinary water system, or that are connected to the culinary water system but separated from the culinary water system by a backflow prevention device, the contractor may connect the system to the backflow prevention device;~~

~~(B) metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems if the individual performing the installation is RMGA-certified;~~

~~(C) retaining walls except retaining walls that are intended to hold vehicles, structures, equipment or other non-natural fill materials within the area located within a 45-degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non-natural fill materials are located;~~

~~(D) pergolas, patios, patio areas, and decking, including the deck structure and substructure;~~

~~(E) hothouses, greenhouses, walks, and garden lighting of class two or class three power-limited circuits as defined in the National Electrical Code;~~

~~(F) flag poles, fences, guardrails, handrails, and barriers;~~

~~(G) sports and athletic courts, ranges, and fields including football fields, tennis courts, racquetball courts, handball courts, basketball courts, bowling alleys, shooting ranges, running tracks, playgrounds, playground equipment, rock climbing walls, or any similar court, field, surface, or related components; this includes poles, standards, surface painting or coatings, floors, floor subsurface, wall surface, perimeter walls, perimeter fencing, scoreboards, or other equipment; and~~

~~(H) incidental concrete, excavation, or asphalt work related to the scope of practice under Subsection (2)(r).~~

~~(iv) A contractor's scope of practice under Subsection (2)(r) does not include any electrical or plumbing trade work. A contractor under Subsection (2)(r) may hire or subcontract with a contractor licensed under Subsections (2)(g) or (2)(h) or (2)(j) or (2)(k) for their projects.~~

~~(v) A contractor's scope of practice under Subsection (2)(r) does not include any natural gas-related work. A contractor under Subsection (2)(r) may hire or subcontract with an RMGA-certified licensed contractor for any natural gas-related work for their projects.~~

~~(vi) A contractor's scope of practice under Subsection (2)(r) includes the installation of a backflow preventer device if during each renewal period after initial licensure, the licensee completes at least two of their six continuing education hours pursuant to Section R156-55a-303b in continuing education related to backflow installation.~~

~~(s) S350 - HVAC Contractor. A contractor's scope of practice under this Subsection (2)(s) includes the following:~~

~~(i) The fabrication and installation of complete warm air heating, air conditioning and ventilating systems.(ii) The installation of refrigeration equipment, including built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and other related equipment.~~

~~(iii) A contractor under Subsection (2)(s) shall hire or subcontract with an RMGA-certified licensed contractor for any gas-related work.~~

~~(iv) A contractor's scope of practice under Subsection (2)(s) does not include electrical or plumbing trade work. A contractor under Subsection (2)(s) may hire or subcontract with a contractor licensed under Subsections (2)(g) or (2)(h) for their projects.~~

~~(t) S354 - Radon Mitigation Contractor. A contractor's scope of practice under this Subsection (2)(t) includes the layout, fabrication, and installation of a radon mitigation system. A contractor's scope of practice under this Subsection (2)(t) does not include:~~

~~(i) work on heat recovery ventilation or makeup air components that must be performed by a contractor under Subsection (2)(s); or~~

~~(ii) electrical trade work that must be performed by a contractor licensed under Subsections (2)(g) or (2)(h).~~

~~(u) S370 - Fire Suppression Systems Contractor. A contractor's scope of practice under this Subsection (2)(u) includes the layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. If a potable sanitary water supply system is used as the source of supply, connection to the water system shall be accomplished by a contractor under Subsections (2)(j) or (2)(k). The scope of practice does not include installation of fire suppression systems in hoods above cooking appliances.~~

~~(v) S410 - Boiler, Pipeline, Waste Water, and Water Conditioner Contractor.A contractor's scope of practice under this Subsection (2)(v) includes the following:~~

~~(i) The fabrication, construction, and installation of:~~

~~(A) pipes, conduit, or cables for the conveyance and transmission from one station to another of such products as water, steam, gases except for natural gas which requires an RMGA certificate holder to conduct the work, chemicals, slurries, other substances, data or communications, geo-thermal systems, or solar thermal systems up to where the system interfaces with any other plumbing system;~~

~~(B) installation of above and below ground storage tanks, piping, dispensing equipment, monitoring equipment, and associated temperature control or other equipment for any petroleum, petro-chemical, water, steam, chemicals, slurries, oil, gases except for natural gas which requires an RMGA certificate holder to conduct the work, or other substances;~~

~~(C) insulation of pipes, ducts, and conduits;~~

~~(D) excavation, cabling, horizontal boring, grading, trenching, and backfilling necessary for construction of any work related to the scope of practice under Subsection (2)(v);~~

~~(E) fire-tube and water-tube power boilers and hot water heating boilers, including fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and other devices, apparatus, and equipment related thereto, in a system not connected to the culinary water system, or connected to the culinary water system but separated from the culinary water system by a backflow prevention device;~~

~~(F) water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises;~~

~~(G) sewer, sewer lines, sewage disposal, septic tank, and drainage including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto; and~~

~~(H) incidental excavation, backfill, concrete or asphalt work related to the scope of practice under Subsection (2)(v).~~

~~(ii) A contractor under Subsection (2)(v) shall hire or subcontract with an RMGA-certified licensed contractor for any natural gas-related work.~~

~~(iii) The installation of a backflow preventer device if during each renewal period after initial licensure, the licensee completes at least two of their six continuing education hours pursuant to Section R156-55a-303b in continuing education directly related to backflow installation.~~

~~(w) S440 - Sign Installation Contractor. A contractor's scope of practice under this Subsection (2)(w) includes installation of electrical or non-electrical signs and graphic displays that require installation permits or permission as issued by state or local governmental jurisdictions, subject to the following:~~

~~(i) "Signs and graphic displays" means any type of sign, including both lighted and unlighted, a permanent highway marker sign, an illuminated awning, an electronic message center, a sculpture or a graphic representation including a logo and trademark intended to identify or advertise the user or product, building trim or lighting with neon or decorative fixtures, and any other animated, moving or stationary device used for advertising or identification purposes.~~

~~(ii) "Non-electrical signs and graphics displays" means an outdoor sign that does not have electrical lighting or other electrical requirements, and that are fabricated, installed, and erected in accordance with professionally engineered specifications.~~

~~(iii) Signs and graphic displays shall be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code.~~

~~(iv) The scope of practice under Subsection (2)(w) does not include electrical trade work. A contractor under this Subsection (2)(w) may hire or subcontract with a contractor licensed under Subsection (2)(g) for their projects.~~

~~(x) S510 - Elevator Contractor. A contractor's scope of practice under this Subsection (2)(x) includes erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.~~

~~(y) S700 - Limited Scope License Contractor. A contractor's limited scope license under this Subsection (2)(y) is a license that confines the scope of the allowable contracting work to a specialized area of construction.~~

~~(i) The Division may grant a license under Subsection (2)(y) on a case-by-case basis.~~

~~(ii) When applying for a license under Subsection (2)(y), an applicant shall submit to the Division the following:~~

~~(A) a detailed statement of the type and scope of contracting work that the applicant proposes to perform and an explanation why the scope of practice is not included in any other current classification; and~~

~~(B) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.~~]

TABLE 1 Classifications - Scope of Work	
E100 - General Engineering Contractor	Work as defined in Subsection 58-55-102(24).
B100 General Building Contractor	(1) Work as defined in Subsection 58-55-102(22). (2) Includes the scope of practice of every specialty contractor, except: (a) E200 - General Electrical Contractor; (b) E201 - Residential Electrical Contractor; (c) P200 - General Plumbing Contractor; (d) P201 - Residential Plumbing Contractor; (e) R200 - Factory Built Housing Contractor; (f) S350 - HVAC Contractor, except that a B100 may perform HVAC work for a single-family residence or a multi-family residence up to four units; (g) S510 - Elevator Contractor; and (h) S700 -- Limited Scope License Contractor. (3) Excludes electrical work and plumbing work, but a B100 may hire a licensed journeyman electrician or master electrician, or licensed journeyman plumber or master plumber, to perform that work for a single-family residence or a multi-family residence up to four units.
B200 - Modular Unit Installation Contractor	(1) Set up or install a modular unit as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. (2) Includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing modular units together if required, and securing the modular unit to the foundation. (3) Excludes installation of factory built housing and connection of required utilities.
R100 - Residential and Small Commercial Contractor	Work as defined in Subsection 58-55-102(35).
R101 - Residential and Small Commercial Non Structural Remodeling and Repair.	Remodeling and repairing any existing structure built for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, with the restriction that: (1) no change is made to the bearing portions of the existing structure, including footings, foundation, and weight bearing walls; and (2) the entire project costs less than $50,000, including materials and labor.
R200 - Factory Built Housing Contractor	(1) Disconnect, setup, install, or remove manufactured housing on a temporary or permanent basis. (2) Includes: (a) placing the manufactured housing on a permanent or temporary foundation; (b) securing the units together if required; (c) securing the manufactured housing to the foundation; (d) connecting the utilities from the near proximity, such as a meter, to the manufactured housing unit; and (e) construction of foundations of less than four feet six inches in height; (3) Excludes: (a) preparation or finishing; (b) excavation of the ground in the area where a foundation is to be constructed, back filling, and grading around the foundation; (c) construction of foundations of more than four feet six inches in height; and (d) construction of utility services from the utility source, to and including the meter or meters if required, or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.
E200 - General Electrical Contractor	Work as defined in Subsection 58-55-102(23).
E201 - Residential Electrical Contractor	Work as defined in Subsection 58-55-102(37).
S202 - Solar Photovoltaic Contractor	(1) Fabrication, construction, installation, and replacement of photovoltaic modules and related components. (2) Excludes the performance of any wiring, connections, and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1), but an S202 may hire or subcontract an E200 or E201 contractor for that work.

P200 - General Plumbing Contractor	(1) Work as defined in Subsection 58-55-102(25). (2) Includes the furnishing of materials, fixtures, and labor to extend service from a building out to the main water, sewer, or gas pipeline.
P201 - Residential Plumbing Contractor	Work as defined in Subsection 58-55-102(42).
S220 - Carpentry and Flooring Contractor	Construction, fabrication, installation, placing, tying, welding, or repair using: (1) wood, wood products, metal, aluminum, metal products, metal studs, vinyl materials, plastic, rubber, fiberglass, polyethylene, thermoplastic polymers, countertops, cabinets, millwork, garage doors, doors, trim, tub liners, wall systems, partitions, or other wood, plastic, rubber, or metal composite or any composite that is by custom and usage accepted in the building industry as carpentry for structural, non-structural, and finish purposes; (2) metal or steel structures and sheet metal, including metal cornices, marquees, metal soffits, flashings, skylights, and skydomes; (3) metal structural studs and bearing walls, reinforcing bars, erecting shapes, plates of any profile, perimeter cross-section that are used in structures, including riveting, welding, and rigging; (4) incidental concrete work and footings, grading, and surface preparation related to this scope of work; (5) laminate, tile, cement, wood, synthetic wood, or similar flooring product, including prefinished and unfinished material, sanding, staining and finishing of new and existing flooring, the underlayment, and subfloors; and (6) mechanical insulation of pipes, ducts, or conduits.
S230 - Masonry, Siding, Stucco, Glass, and Rain Gutter Contractor.	Construction, fabrication, and installation of: (1) siding, stucco, stucco to lathe, plaster, glass, glass substitutes, glass-holding members, rain gutters, drains, roof flashings, gravel stops, and metal ridges; (2) natural or synthetic stone, onyx, ceramic, granite, onice, corian, brick, block, forms, brick substitutes, clay, concrete blocks, terra-cotta, marble, tile, gypsum tile, glass block, clay tile, copings, plastic refractories, and castables; and (3) shower pans.
S260 - Asphalt and Concrete Contractor	(1) Fabrication, construction, mixing, batching, injecting, spraying, resurfacing, sealing, and installation of asphalt, asphalt overlay, chip seal, fog seal, slurry seal, concrete, gunnite, grouting, coatings, sealant, and related concrete products, along with placing and setting screeds for pavement for flatwork, the construction of forms, shoring material, placing and erection of bars for reinforcing and application of plaster and other cement-related products. (2) Includes: (a) excavation, grading, compacting, and laying of fill or other related base; (b) painting or coating the surfaces, including striping, directional, and other types of symbols or letters; and (c) fabrication, construction, and installation of forms and shoring material.
S270 - Drywall, Paint, and Plastering Contractor	Construction, installation, fabrication, and application of: (1) drywall, gypsum, wallboard panels and assemblies, lightweight metal and non-bearing wall partitions, ceiling tile and panels, and the grid system required for placement; (2) insulating media in buildings and structures for temperature control, sound control, fireproofing, mechanical insulation of pipes, ducts, or conduits; (3) stucco, stucco to lathe, plaster, and other surfaces; and (4) paints, varnishes, shellacs, stains, waxes and other coatings or pigments.
S280 - Roofing Contractor	(1) Application and installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of these materials that use and custom has established as usable for, or that are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces. (2) Includes: (a) any material attached to the roof; (b) roof conversion; (c) installation of non-electrical skylights; (d) installation of electrical skylights, if the electrical connection is performed by an E200 or E201 contractor; (e) installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control, fireproofing, and mechanical insulation of pipes, ducts, or conduits; and (f) incidental work including the installation of a roof clamp ring to the roof drain.
S310 - Foundation, Excavation, and Demolition Contractor	(1) Moving of the earth's surface and rock or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, smashing, crushing, or

	combination thereof as they are generally practiced in the construction trade. (2) Excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter, or repair piers, piles, footings, and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below. (3) Raising, cribbing, underpinning, moving, and removal of a building, structure, or matter appurtenant or incidental to any building or structure.
S330 - Landscape and Recreation Contractor	(1) Grading and preparing of land for architectural, horticultural, or decorative treatment. (2) Arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation. (3) Construction, fabrication, and installation of: (a) swimming pools, prefabricated pools, spas, decorative pools, tanks, fountains, sprinkler systems, and water distribution systems for artificial watering or irrigation, for systems that are not connected to the culinary water system, or that are connected to the culinary water system but separated from the culinary water system by a backflow prevention device; an S330 may connect the system to the backflow prevention device; (b) metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, if the individual performing the installation is RMGA-certified; (c) retaining walls, except for retaining walls to hold vehicles, structures, equipment or other non-natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non-natural fill materials are located; (d) pergolas, patios, patio areas, and decking, including the deck structure and substructure; (e) hothouses, greenhouses, walks, and garden lighting of class two or class three power-limited circuits as defined in the National Electrical Code; (f) flag poles, fences, guardrails, handrails, and barriers; (g) sports and athletic courts, ranges, and fields including football fields, tennis courts, racquetball courts, handball courts, basketball courts, bowling alleys, shooting ranges, running tracks, playgrounds, playground equipment, rock climbing walls, or any similar court, field, surface, or related components; includes poles, standards, surface painting or coatings, floors, floor subsurface, wall surface, perimeter walls, perimeter fencing, scoreboards, or other equipment; and (h) incidental concrete, excavation, or asphalt work related to this scope of practice. (3) Excludes any electrical work, but an S330 may hire or subcontract an E200 or E201 contractor for that work. (4) Excludes any plumbing work, but an S330 may hire or subcontract a P200 or P201 contractor for that work. (5) Excludes natural gas-related work, but an S330 may hire or subcontract an RMGA-certified licensed contractor for that work. (6) Includes installation of a backflow preventer device, if during each renewal period the licensee completes at least two of their six continuing education hours under Section R156-55a-303b in continuing education related to backflow installation.
S350 - HVAC Contractor	(1) Fabrication and installation of complete warm air heating, air conditioning and ventilating systems. (2) Installation of refrigeration equipment, including built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and other related equipment. (3) Excludes any electrical work, but an S350 may hire or subcontract an E200 or E201 contractor for that work. (4) Excludes any plumbing work, but an S350 may hire or subcontract a P200 or P201 contractor for that work. (5) Excludes natural gas-related work, but an S350 may hire or subcontract an RMGA-certified licensed contractor for that work.
S354 - Radon Mitigation Contractor	(1) Layout, fabrication, and installation of a radon mitigation system. (2) Excludes work on heat recovery ventilation or makeup air components, but an S354 may hire or subcontract an S350 contractor for that work. (3) Excludes electrical work, but an S354 may hire or subcontract an E200 or E201 contractor for that work.
S370 - Fire Suppression Systems Contractor	(1) Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. (2) Excludes connecting to a potable sanitary water supply system. An S370 may hire or subcontract a P200 or P201 contractor for that work.

	(3) Excludes installation of fire suppression systems in hoods above cooking appliances.
S410 - Boiler, Pipeline, Waste Water, and Water Conditioner Contractor	(1) Fabrication, construction, and installation of: (a) pipes, conduit, or cables for the conveyance and transmission from one station to another of products such as water, steam, gases except for natural gas that requires an RMGA certificate holder, chemicals, slurries, other substances, data or communications, geothermal systems, or solar thermal systems up to where the system interfaces with any other plumbing system; (b) insulation of pipes, ducts, and conduits; (c) above and below ground storage tanks, piping, dispensing equipment, monitoring equipment, and associated temperature-control or other equipment for any petroleum, petro-chemical, water, steam, chemicals, slurries, oil, gases except for natural gas which requires an RMGA certificate holder, or other substances; (d) fire-tube and water-tube power boilers and hot water heating boilers, including fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and other devices, apparatus, and equipment related thereto, in a system not connected to the culinary water system, or connected to the culinary water system but separated from the culinary water system by a backflow prevention device; (e) water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises; and (f) sewer, sewer lines, sewage disposal, septic tank, drainage, and the construction of sewage disposal plants and appurtenances thereto. (2) Includes incidental excavation, cabling, horizontal boring, grading, trenching, backfilling, concrete work, or asphalt work necessary for construction of any work related to this scope of practice. (3) Includes installation of a backflow preventer device, if during each renewal period the licensee completes at least two of their six required Section R156-55a-303b continuing education hours in continuing education directly related to backflow installation. (4) Excludes natural gas-related work, but an S410 may hire or subcontract an RMGA-certified licensed contractor for that work.
S440 - Sign Installation Contractor	(1) Fabrication, installation, and erection of electrical or non-electrical signs and graphic displays that require installation permits or permission issued by state or local government jurisdictions, as follows: (a) "Signs and graphic displays" means any type of sign, including lighted and unlighted, permanent highway marker sign, illuminated awning, electronic message center, sculpture or graphic representation including a logo and trademark to identify or advertise the user or product, building trim or lighting with neon or decorative fixtures, and any other animated, moving, or stationary device used for advertising or identification purposes. (b) "Non-electrical signs and graphics displays" means an outdoor sign that does not have electrical lighting or other electrical requirements, and that is fabricated, installed, and erected in accordance with professionally engineered specifications. (2) Signs and graphic displays shall be fabricated, installed, and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code. (3) Excludes any electrical work, but an S440 may hire or subcontract an E200 or E201 contractor for that work.
S510 - Elevator Contractor	Erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.
S700 - Limited Scope License Contractor.	(1) Specialized construction scope of work, granted by the Division on a case-by-case basis. (2) An applicant for this license shall submit to the Division: (a) a detailed statement of the contracting work that the applicant proposes to perform, and an explanation why it is not included in any other classification; and (b) any brochures, catalogs, photographs, diagrams, or other materials to further clarify the proposed scope of work.

(3)(a) A specialty license contractor, as defined in Subsection 58-55-102(45), [~~shall be~~]is confined to the field and scope of work as outlined by the Division.

(b) A specialty license contractor may hire or subcontract with a specialty license contractor that holds the same classification as the hiring contractor.

(4)(a) A licensee may hold up to three specialty license classifications, in addition to any general contractor classifications, except that an R101 Residential and Small Commercial Non Structural Remodeling and Repair contractor [~~under Subsection (2)(e)~~]may not have any other specialty classifications.

(b) A licensee may change classifications at any time by surrendering a classification, and by applying for any classification for which the licensee is qualified and as permitted by law.

(c) To qualify for licensure, an applicant for renewal or reinstatement shall surrender or replace the applicant's contractor classifications as needed to comply with Subsection (4)(a).

(5) Effective July 22, 2019,[~~:~~

~~(a) A contractor license that has~~] the following contractor classification [~~shall be~~]are converted as follows:[~~to the corresponding classification in Table 1:~~

~~TABLE 1~~

~~Current Classification~~	~~Converted To~~
~~P202~~	~~S410~~
~~P204~~	~~S410~~
~~P205~~	~~S410~~
~~P206~~	~~S410~~
~~P207~~	~~S410~~
~~P203~~	~~S330~~
~~E202~~	~~S202~~
~~S221, S222~~	~~S220~~
~~S231~~	~~S230~~
~~S240~~	~~S230~~
~~S250~~	~~S270~~
~~S261, S262, S263~~	~~S260~~
~~S272, S273~~	~~S270~~
~~S290, S291, S292, S293, S294~~	~~S230~~
~~S300~~	~~S270~~
~~S320, S321, S322, S323~~	~~S220~~
~~S340~~	~~S220~~
~~S351, S352, S353~~	~~S350~~
~~S360~~	~~S350~~
~~S380~~	~~S330~~
~~S390~~	~~S410~~
~~S400~~	~~S260~~
~~S420, S421~~	~~S330~~
~~S430~~	~~S330~~
~~S441~~	~~S440~~
~~S450~~	~~S410~~
~~S460~~	~~S310~~
~~S470~~	~~S410~~
~~S480~~	~~S310~~
~~S490~~	~~S220~~
~~S491~~	~~S220~~
~~S500~~	~~S330~~
~~S600~~	~~S230~~
~~I101~~	~~E100~~
~~I102~~	~~B100~~
~~I103~~	~~E200~~
~~I104~~	~~P200~~
~~I105~~	~~S350~~]

TABLE 2	
Former Classification	Converted To
P202	S410
P204	S410
P205	S410
P206	S410
P207	S410
P203	S330
E202	S202
S221, S222	S220
S231	S230
S240	S230
S250	S270
S261, S262, S263	S260
S272, S273	S270
S290, S291, S292, S293, S294	S230
S300	S270
S320, S321, S322, S323	S220
S340	S220
S351, S352, S353	S350
S360	S350
S380	S330
S390	S410
S400	S260
S420,S421	S330
S430	S330
S441	S440
S450	S410
S460	S310
S470	S410
S480	S310
S490	S220
S491	S220
S500	S330
S600	S230
I101	E100
I102	B100
I103	E200
I104	P200
I105	S350

(6) [~~A contractor's scope of practice for the~~]The following primary classifications scopes of practice include[~~s~~] the listed subclassification scope of practice, [~~stated in the descriptions for the following subsclassifications~~]and a [~~licensee with the following~~]primary classification contractor may hire or subcontract with a subclassification licensee[~~ with an included subclassification~~]:[

~~TABLE 2~~

~~Primary Classification~~	~~Included subclassifications~~
~~B100~~	~~B200, R200~~
~~E200~~	~~E201, S202~~
~~P200~~	~~P201~~
~~S350~~	~~S354~~
~~S420~~	~~S421~~
~~S440~~	~~S441~~
~~S490~~	~~S491~~]

TABLE 3	
Primary Classification	Included Subclassification
B100	B200, R200
E200	E201, S202
P200	P201
S350	S354
S420	S421
S440	S441
S490	S491

(7) The following activities are determined to not significantly impact the public health, safety, and welfare, and therefore do not require a contractor[~~s~~] license:

(a) sandblasting;

(b) pumping services;

(c) tree stump or tree removal;

(d) installation of a satellite dish or communication device on or within a building, including for phone, internet, or television;

(e) installation of class two or class three power-limited circuits as defined in the National Electrical Code;

(f) construction of utility sheds, gazebos, or other similar items that are personal property and not attached to:

(i) a residential or commercial building; or

(ii) a foundation;

(g) building cleaning, sanitizing, and window washing, including power washing;

(h) central vacuum systems installation;

(i) concrete cutting;

(j) interior decorating;

(k) wall paper hanging;

(l) installation of drapery, blinds, shutters, or other window coverings;

(m) welding on personal property that is not attached;

(n) chimney sweepers other than repairing masonry;

(o) carpet, vinyl sheet tile, or vinyl plank floor installation;

(p) artificial turf installation;

(q) general cleanup of a construction site that does not include demolition or excavation;

(r) installation or removal of weather-stripping but does not include moisture vapor barriers;

(s) fabrication, installation, or removal of mirrors;

(t) construction, installation, or removal of awnings and canopies, including attached or detached;

(u) pallet racking, conveyors, conveyor belts, conveyor systems, or metal shelving, whether attached or detached to the structure, excluding plumbing and electrical [~~trade~~]work;

(v) seismic strapping for pipes, appliances, and water heaters;

(w) dustless blasting;

(x) lock-smithing, including installation or repair of door locks, door access controls, or other door or cabinetry hardware;

(y) yurt or membrane-covered frame structures as defined in Section 15A-1-204;

(z) installation of art and artwork, including sculpture, that is not part of the structural components or a building or structure;

(aa) installation of standalone solar systems that do not tie into premises wiring or into the electrical utility; and

(bb) lawn aeration, fertilizing, power raking, and dethatching.

(8) The following activities are determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies, and therefore do not require a contractor[~~s~~] license:

(a) lead removal regulated by the Department of Environmental Quality;

(b) asbestos removal regulated by the Department of Environmental Quality; and

(c) fire alarm installation regulated by the Fire Marshal.

R156-55a-302a. Qualifications for Licensure - Examinations.

(1) [~~In accordance with~~]Under Subsection 58-55-302(1)(c), no examination is required for the qualifier of an applicant for licensure as a contractor except for the Utah Contractor Business and Law Examination for the classifications [~~listed~~]in Subsection 58-55-302(1)(c)(ii).

(2) An applicant who fails an examination may retake the failed examination as follows:

(a) no sooner than 30 days following any failure, up to three failures; and

(b) no sooner than six months following any failure thereafter.

(3) The Utah Contractor Business and Law Examination is not required for an applicant for licensure by endorsement under Section 58-1-302.

R156-55a-302b. Qualifications for Licensure - Experience Requirements.

(1) "Experience in the construction industry" as defined in Subsection 58-55-302(1)(e)(ii) is more broad in scope than the definition of "construction trade[~~s~~]"[~~,~~] in Subsection 58-55-102(11), and includes experience obtained:

(a) in the construction industry regardless if paid as a W-2, or as an owner, and regardless of whether licensed or exempt;

(b) while performing construction activities in the military or for a railroad corporation; or

(c) under the supervision of a construction trades instructor as a part of an educational program.

(2)(a) "Two years full-time paid employment"[~~,~~] as defined in Subsection 58-55-302(1)(e)(ii)(A), [~~shall be~~]is a total of 4,000 hours paid employment.

(b) The following shall satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A):

(i) a passing score on the NASCLA Accredited Examination for Commercial General Building Contractors;

(ii) a four-year bachelor's degree or a two-year associate[~~'s~~] degree in Construction Management from a program or institution recognized by the United States Department of Education; or

(iii) a Utah professional engineer license.

R156-55a-302d. Qualifications for Licensure - Proof of Insurance and Registrations.

[~~In accordance with~~]Under Subsection 58-55-302(2)(b), an applicant for licensure shall submit proof of public liability insurance by means of a certificate of insurance that:

(1) [~~naming~~]names the Division as a certificate holder[~~, that:~~];

([~~1~~]2) provides coverage for the scope of work performed;

([~~2~~]3) is in force for the entire duration of active licensure; and

([~~3~~]4) has coverage amounts of at least $100,000 for each incident and $300,000 in total.

R156-55a-302e. Requirements for Construction Trades Instructors, Schools, and Colleges.

[~~In accordance with~~]Under Subsection 58-55-302(1)(f), a school that provides instruction to students by engaging in the construction trade for the public as part of the instruction shall be a Utah licensed contractor with an active qualifier in the classification [~~in~~]for the scope of practice in which the students are being instructed.

R156-55a-302f. Pre-licensure Education - Standards.

(1) The 25-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iii) and the five-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iv) shall be completed by the qualifier for a contractor license applicant.

(a) Any approved 20-hour pre-licensure course completed by the qualifier before November 30, 2017 shall be accepted by the Division as satisfaction of the 25-hour and five-hour pre-licensure course requirements in Subsections 58-55-302(1)(e)(iii) and (iv).

(b) Any approved 25-hour pre-license course completed by the qualifier before July 1, 2019 shall be accepted by the Division as

satisfaction of the 25-hour and five-hour pre-license course requirements in Subsections 58-55-302(1)(e)(iii) and (iv).

(2) The 25-hour course may include a provider-administered exam at the end of the course for no additional fee, and shall include the following topics and hours of education relevant to the practice of the construction trades consistent with the laws and rules of this state:

(a) 15 hours of financial responsibility instruction that includes the following:

(i) record keeping and financial statements;

(ii) payroll, including:

(A) payroll taxes;

(B) worker compensation insurance requirements;

(C) unemployment insurance requirements;

(D) professional employer organization alternatives;

(E) prohibitions regarding paying employees on 1099 forms as independent contractors, unless licensed or exempted;

(F) employee benefits; and

(G) Fair Labor Standard Act;

(iii) cash flow;

(iv) insurance requirements including auto, liability, and health; and

(v) independent contractor licensure and exemption requirements;

(b) six hours of construction business practices that includes the following:

(i) estimating and bidding;

(ii) contracts;

(iii) project management;

(iv) subcontractors; and

(v) suppliers;

(c) two hours of regulatory requirements that includes the following:

(i) licensing laws;

(ii) Occupational Safety and Health Administration (OSHA);

(iii) Environmental Protection Agency (EPA); and

(iv) consumer protection laws; and

(d) two hours of mechanic lien fundamentals that include the State Construction Registry.

(3) The five-hour course shall include five hours of education on the topics covered in the Utah Contractor Business and Law [~~e~~]Examination. The five-hour course may include a provider-administered exam at the end of the course for no additional fee.

(4) [~~An~~]Under Subsections 58-55-102(7) and 58-55-302(1)(e)(iii) and (iv), an approved pre-licensure course provider shall offer the 25-hour and five-hour course:

(a) at least 12 times per year;

(b) shall comply with Subsection 58-55-102(7)(b); and

(c) except as necessary to meet the requirements of Subsection 58-55-102(7)(b), is not obligated to provide a course if the provider determines enrollment is not sufficient to [~~breakeven~~]break even on cost.

(5) [~~The~~]A pre-licensure course shall meet the following standards:

(a) Each hour of pre-licensure course credit shall consist of 50 minutes of education in the form of live lectures or training sessions. Time allowed for lunches or breaks may not be counted as part of the course time for which course credit is issued.

(b) The learning objectives of the pre-licensure course shall be reasonably and clearly stated.

(c) The pre-licensure course shall be presented in a competent and well-organized manner consistent with the stated purpose and objective of the program. The student shall demonstrate knowledge of the course material.

(d) The pre-licensure course shall be prepared and presented by individuals who are qualified by education, training or experience.

(e) [~~Distance~~]A pre-licensure course may not be taught by distance learning, internet course[~~s~~], [~~and~~]or home study course[~~s are not allowed to meet pre-licensure course requirements~~].

(f) The provider shall have a competent method of registration and verification of attendance of individuals who complete the pre-licensure education.

(g) The provider shall provide or develop a pre-licensure course curriculum and study guide for the pre-licensure course, and have them pre-approved by the Commission and the Division [~~prior to~~]before use.

(h) The pre-licensure education course may be taught by live broadcast if:

(i) the student and the instructor are able to see and hear each other; and

(ii) a representative of the provider is at any remote location to monitor registration and attendance at the course.

(6) The pre-licensure course provider shall provide individuals completing the pre-licensure course a certificate that contains[~~ the following information~~]:

(a) the date of the pre-licensure course;

(b) the name of the pre-licensure course provider;

(c) the attendee's name;

(d) verification of completion; and

(e) the signature of the pre-licensure course provider.

(7) A pre-licensure course provider shall, within seven calendar days, submit directly to the Division verification of attendance and completion on behalf of persons attending and completing the program. This verification shall be submitted on forms approved by the Division.

(8) On a random basis, the Division or Commission may assign monitors [~~at no charge~~]to attend a pre-licensure course at no charge to [~~for the purpose of evaluating~~]evaluate the course and the instructor.

(9) Each provider shall [~~for a period of four years~~]maintain adequate documentation [~~as proof of~~]to prove compliance with this section for at least four years after the end of a pre-licensure course, and [~~shall, upon request,~~]make such documentation available for review by the Division or the Commission upon request. Documentation shall include:

(a) the dates of pre-licensure courses that have been completed;

(b) registration and attendance logs of individuals who completed the pre-licensure course;

(c) the names of instructors for each course provided as a part of the program; and

(d) pre-licensure course handouts and materials.

(10) [~~In accordance with~~]Under Subsections 58-55-302(1)(e)(iii) and (iv), the following persons are not required to complete the pre-licensure course program[~~ requirements~~]:

(a) a person holding a four-year bachelor's degree or a two-year associate degree in Construction Management from [~~an accredited program~~]a program or institution recognized by the United States Department of Education;

(b) a person holding an active and unrestricted Utah professional engineer license;

(c) a person who is or has been a qualifier on an active and unrestricted Utah contractor license within the past five years; and

(d) a person who qualifies for licensure by endorsement as a contractor pursuant to Section 58-1-302.

R156-55a-303a. Renewal Cycle - Procedures.

(1) [~~In accordance with~~]Under Subsection 58-1-308(1), the renewal date for the two year renewal cycle [~~applicable to~~]for licensees under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is established [~~by rule~~]in [~~Section~~]Subsection R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308l.

(3) [~~In accordance with~~]Under Subsections 58-55-501(21) and 58-1-308(3)(b)(i) and Section 58-55-302.5, there is established a continuing education requirement for license renewal. Each licensee, or the licensee's qualifier, or an officer, director, or supervising individual, as designated by the licensee, shall comply with the continuing education requirements [~~set forth~~]in Section R156-55a-303b.

(4) Contractors shall renew their license in an online form approved by the Division, except as permitted by the Division in writing.

R156-55a-303b. Continuing Education - Standards.

(1) [~~Pursuant to~~]Under Section 58-55-302.5, each licensee shall complete six hours of continuing education during each two-year license term. A minimum of three hours shall be core education; the remaining three hours may be professional education or core education. A minimum of three hours shall consist of live in-class attendance; the remaining three hours may consist of distance learning courses.

(a) Regular attendance by a Commission member on the Construction Services Commission shall satisfy the member's continuing education requirements under Section 58-55-302.5.

(b) A contractor under Subsection R156-55a-301(2)(s) shall complete at least three of their six continuing education hours in continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(c) A contractor under Subsection[~~s~~] R156-55a-301(2)(r) or R156-55a-301(2)(v) that performs installation of a backflow preventer device shall complete at least two of their six continuing education hours in continuing education directly related to backflow installation.

(d) Contractors with a renewal cycle that ends after January 1, 2020, shall complete at least one of their six continuing education hours in energy conservation.

(e) "Core continuing education" means education related to construction codes, construction laws, job site safety, OSHA 10 or OSHA 30 safety training, governmental regulations pertaining to the construction trades and employee verification and payment practices, finance, bookkeeping, energy conservation, and construction business practices.

(f) "Professional continuing education" means education related to substantive subjects dealing with the practice of the construction trades, including land development, land use, planning and zoning, professional development, arbitration practices, estimating, marketing techniques, servicing clients, personal and property protection for the licensee and the licensee's clients and similar topics.

(g) The following course subject matter is not acceptable as core education or professional education hours:

(i) mechanical office and business skills, such as typing, speed reading, memory improvement and report writing;

(ii) physical well-being or personal development, such as personal and business motivation, stress management, time management, dress for success, or similar subjects;

(iii) presentations by a supplier or a supplier representative to promote a particular product or line of products; and

(iv) meetings held in conjunction with the general business of the licensee or employer.

(h) The Division may defer or waive [~~the~~]continuing education requirements as provided in Section R156-1-308d.

(2) A continuing education course shall meet the following standards:

(a) Each hour of [~~continuing education course~~]credit shall consist of 50 minutes of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes is to allow for breaks.

(b) The course provider shall be [~~among those~~]specified in Subsection 58-55-302.5(2).

(c) The content of the course shall be relevant to the practice of the construction trades and consistent with the laws and rules of this state.

(d) The learning objectives of the course shall be reasonably and clearly stated.

(e) The course shall be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program.

(f) The course shall be prepared and presented by individuals who are qualified by education, training and experience.

(g) An internet or home study course [~~that is provided through Internet or home study~~]may be recognized for continuing education if the course verifies registration and participation [~~in the course~~]by means of a test demonstrating that the participant has learned the material[~~ presented~~]. Test questions shall be randomized for each participant. A home study course shall include no fewer than five variations of the final examination, distributed randomly to participants. Home study courses, including the five exam variations, shall be submitted in their entirety to the Division for review. Providers shall track the following:

(i) the amount of time each student has spent in the course;

(ii) what activities the student did or did not access; and

(iii) student's test scores.

(h) The course provider shall:

(i) have a competent method of registration of individuals who [~~actually~~]completed the course;

(ii) maintain records of attendance [~~that are~~]available for review by the Division; and

(iii) provide individuals completing the course a certificate that contains the following information:

(A) date of the course;

(B) name of the course provider;

(C) name of the instructor;

(D) course title;

(E) hours of continuing education credit and type of credit, whether [~~(~~]core or professional[~~)~~];

(F) attendee's name; and

(G) signature of the course provider.

(i) A course provided through live broadcast may be recognized for live in-class continuing education credit if the student and the instructor are able to see and hear each other.

(3) The Division may assign monitors at no charge to attend a course for [~~the purpose of~~]evaluating the course and the instructor.

(4)(a) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for [~~a period of three~~]two years from the end of the renewal period for which the continuing education is due.

(b) Each licensee shall [~~assure~~]ensure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (8). Alternatively, the licensee may submit the course to the continuing education registry for approval and pay any course approval fees and attendance recording fees.

(5) Licensees who lecture in continuing education courses meeting the requirements of Section R156-55a-303b shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.

(6)(a) The continuing education requirements [~~established~~]for electricians, plumbers, and elevator mechanics in Section 58-55-302.7, if offered by a provider specified in Subsection 58-55-302.5(2), shall satisfy the contractor continuing education requirements of Section 58-55-302.5 and this section.

(b) The contractor licensee shall assure that the course provider has submitted the verification of the electrician's, plumber's or elevator mechanic's attendance on behalf of the licensee to the continuing education registry as specified in Subsection (8).

(7) A course provider shall submit continuing education courses to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.

(8) The Division shall review continuing education courses that have been submitted through the continuing education registry and shall approve only those courses that meet the standards of this section.

(9) As provided in Section 58-1-401 and Subsections 58-55-302.5(2) and 58-55-302.7(4)(a), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any course or provider, if the course or provider fails to meet any of the requirements of this section or the provider has engaged in unlawful or unprofessional conduct.

(10) The Division shall designate an entity to act as the Continuing Education Registry, and the Continuing Education Registry[~~,~~] in consultation with the Division and the Commission, shall:

(a) through its internet site electronically receive applications from continuing education course providers, and submit to the Division for review and approval only those applications from programs that meet the standards of this section;

(b) publish on their website listings of continuing education programs that have been approved by the Division, and that meet the standards for continuing education credit under this rule;

(c) maintain accurate records of approved qualified continuing education;

(d) maintain accurate records of verification of attendance and completion, by individual licensee, that the licensee may review for compliance with this rule; and

(e) make records of approved continuing education programs and attendance and completion available for audit by representatives of the Division.

(11) The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

R156-55a-305. Compliance Agency Reporting of Sole Owner Building Permits Issued.

[~~In accordance with~~]Under Subsection 58-55-305(2), a compliance agency that issues building permits to sole owners of property shall submit, within 30 days of issuance, the following information concerning each building permit issued in its jurisdiction, to a Division-designated fax number, email address, or written mailing address:

(1) building permit number;

(2) date issued;

(3) issuing compliance agency's name, address, and phone number;

(4) sole owner's full name, home address, and phone number;

(5) building site subdivision and lot number.

R156-55a-305a. Exempt Contractors Filing Affirmation of Liability and Workers' Compensation Insurance.

(1) [~~In accordance with~~]Under Subsection 58-55-305(1)(h)(ii)(H), a person claiming exemption under Subsection 58-55-305(1)(h) for projects with a value greater than $1,000 but less than $3,000 shall file a registration of exemption with the Division that includes:

(a) the identity and address of the person claiming the exemption;

(b) answers to qualifying questions; and

(c) a statement signed by the [~~registrant~~]person verifying that:

(i) [~~that~~]the person has liability insurance in force that includes:

(A) the Division [~~being~~]named as a certificate holder[~~,~~];

(B) the policy number, the expiration date of the policy, the insurance company name and contact information, and coverage amounts of at least $100,000 for each incident and $300,000 in total; and

(ii) that the person:

(A) [~~that the person~~]has workers' compensation insurance in force that names the Division as a certificate holder, includes the policy number, the expiration date of the policy, the insurance company name and contact information; or

(B) that the person does not hire employees and is therefore exempt from the requirement to have workers' compensation insurance.

(2) The affirmation required under Subsection (1) shall be reaffirmed on or before November 30 of each odd numbered year.

R156-55a-306. Contractor Financial Responsibility - Division Audit.

[~~In accordance with~~]Under Subsections 58-55-102(20) and 58-55-302(10)(c)[~~,~~] and Section 58-55-306[~~, and 58-55-102(20)~~], the Division may consider [~~various~~]relevant factors in conducting a financial responsibility audit of an applicant, licensee, qualifier, or any owner, including:

(1) judgments, child support obligations, restitution orders, tax liens, collection actions, bankruptcy schedules, and a history of late payments to creditors, including documentation showing the resolution of any factor under this Subsection (1);

(2) financial statements and tax returns, including the ability to prepare or have prepared competent and current financial statements and tax returns;

(3) a current credit report acceptable to the Division;

(4) an explanation of the reasons for any financial difficulties and how the financial difficulties were resolved;

(5) any of the factors [~~listed~~]in Section R156-1-302 that [~~may~~]relate to failure to maintain financial responsibility;

(6) each of the factors [~~listed~~]in [~~this~~]Subsection (1) regarding the financial history of the owners of the applicant or licensee;

(7) any guaranty agreements provided for the applicant or licensee and any owners; and

(8) any history of prior entities owned or operated by the applicant, licensee, qualifier, or any owner that have failed to maintain financial responsibility.

R156-55a-308b. Natural Gas Technician Certification.

(1) [~~In accordance with~~]Under Subsection 58-55-308(1), the scope of practice [~~defined~~]in Subsection 58-55-308(2)(a) requiring certification is further defined as the installation, modification, maintenance, cleaning, repair or replacement of the gas piping, combustion air vents, exhaust venting system or derating of gas input for altitude of a residential or commercial gas appliance.

(2) An approved training program shall include the following course content:

(a) general gas appliance installation codes;

(b) venting requirements;

(c) combustion air requirements;

(d) gas line sizing codes;

(e) gas line approved materials requirements;

(f) gas line installation codes; and

(g) methods of derating gas appliances for elevation.

(3) [~~In accordance with~~]Under Subsection 58-55-308(2)(c)(i), the following programs are approved to provide natural gas technician training, and to issue certificates or documentation of exemption from certification:

(a) Federal Bureau of Apprenticeship Training;

(b) Utah college apprenticeship program;

(c) trade union apprenticeship program;

(d) Rocky Mountain Gas Association; and

(e) Home Builders Association of Utah.

(4) [~~In accordance with~~]Under Subsection 58-55-308(3), the approved programs in [~~paragraphs~~]Subsections (3)(b) through (3)(e) shall require program participants to pass the RMGA Gas Appliance Installers Certification Exam, or equivalent exams approved by the Commission established or adopted by a training program, with a minimum passing score of 80%.

(5) [~~In accordance with~~]Under Subsection 58-55-308(3), a person who has not completed an approved training program, but has passed the RMGA Gas Exam or approved equivalent exam established or adopted by an approved training program, with a minimum passing score of 80%, or the Utah licensed Journeyman or Residential Journeyman Plumber Exam, with a minimum passing score of 70%, [~~shall be~~]is exempt from the certification requirement in Subsection 58-55-308(2)(c)(i).

(6) An approved program shall issue a certificate, including a wallet certificate, to each person[~~s~~] who successfully completes the[~~ir~~] training program, with [~~containing~~]the following information:

(a) name of the program provider;

(b) name of the approved program;

(c) name of the certificate holder;

(d) date the certification was completed; and

(e) signature of an authorized representative of the program provider.

(7) The following shall constitute documentation of exemption from certification:

(a) certification of completion of training issued by the Federal Bureau of Apprenticeship Training;

(b) current Utah licensed Journeyman or Residential Journeyman plumber license; or

(c) certification from the RMGA or approved equivalent exam which shall include the following:

(i) name of the association, school, union, or other organization who administered the exam;

(ii) name of the person who passed the exam;

(iii) name of the exam;

(iv) date the exam was passed; and

(v) signature of an authorized representative of the test administrator.

(8) Each person engaged in the scope of practice defined in Subsection 58-55-308(2)(a) and [~~as further defined in~~]Subsection (1)[~~ herein~~], shall carry in their possession documentation of certification or exemption.

R156-55a-311. Reorganization - Conversion of Contractor Business Entity - Ownership for Licensure by Endorsement.

(1) A conversion from one form of entity to another form [~~where~~]with "Articles of Conversion" [~~are~~]filed with and approved by the Utah Division of Corporations and Commercial Code [~~shall~~]does not require a new contractor application.

(2) Except as provided in Subsection (1), a reorganization of the business entity under which a licensed contractor is licensed shall require application for a new license under the new form of organization or business structure. The creation of a new legal entity constitutes a reorganization, and includes:

(a) a change to a new entity under the same form of business entity; or

(b) a change of the form of business entity between proprietorship, partnership, whether limited or general, joint venture, corporation, or any other business form.

(3) A business entity applying for licensure by endorsement under Section 58-1-302 shall demonstrate that:

(a) at least 50% of the business entity's ownership proposed for the Utah license is the same as the license held in the jurisdiction used for endorsement; and

(b) no more than 50% of the business entity's ownership has changed in the 12 months preceding the date of application.

R156-55a-312. Inactive License.

(1) The requirements for inactive licensure [~~specified~~]in Subsection R156-1-305(3) shall also include certification that while on inactive status, the licensee will not engage in the construction trades for which the license was issued[~~ while on inactive status~~], except to identify [~~that~~]the licensee as an inactive licensee.

(2) A license on inactive status [~~will not be required to meet the requirements of licensure in~~]is exempt from the licensure requirements of Subsections 58-55-302(1)(e)(i), [~~58-55-302.5 and~~]58-55-302(2)(b) and Section 58-55-302.5.

(3) [~~The~~]In addition to the requirements for reactivation of an inactive license [~~specified~~]in Subsection R156-1-305([~~6~~]5), the licensee shall also[~~include~~]:

(a) [~~documentation that the licensee meets~~]meet the requirements of:

(i) Section 58-55-302.5;

(ii) [~~and~~]Subsection[~~s~~] 58-55-302(1)(e)(i); and

(iii) Subsection 58-55-302(2)(b); and

(b) [~~prior to~~]before a license being activated, [~~a licensee shall~~]complete the continuing education required under Section 58-55-302.5, unless [~~the continuing education required~~]it was completed for the last renewal cycle.

R156-55a-501. Unprofessional Conduct.

Under Subsection 58-55-102(48), "[~~U~~]unprofessional conduct" includes:

(1) failing to notify the Division with respect to any matter for which notification is required under this rule or Title 58, Chapter 55, [~~the~~]Construction Trades Licensing Act, including a change in qualifier, which failure shall be considered by the Division and the Commission as grounds for immediate suspension of the contractor's license;

(2) failing to notify the Division within 10 days of any change of the name, address, phone number, or email address of the qualifier or owners of a licensee;

(3) failing to continuously maintain insurance and registration as required by Subsection 58-55-302(2) and Section R156-55a-302d;

(4) failing to provide within 30 days of a request from the Division or from any person that has a reasonable basis to make a claim on the licensee's insurance policy:

(a) proof of the licensee's insurance coverage;

(b) the name of the licensee's insurance company, policy number, date of expiration, and insurance coverage limits;

(c) a copy of the licensee's insurance policy;

(d) a copy of the licensee's worker compensation policy, if required to maintain worker compensation insurance under Utah law; or

(e) any exclusions included in the licensee's insurance policy;

(5) failing to provide the Division, within 30 days of a request, documents, an interview, or other requested information to determine compliance with Title 58, Chapter 55, Utah Construction Trades Licensing Act, or Title 58, Chapter 1, Division of [~~Occupational and~~]Professional Licensing Act;

(6) refusing, as an electrical or plumbing contractor, to timely and accurately certify the hours of work experience when requested by an electrician or plumber who is or has been an employee;

(7) refusing, as a contractor, to timely and accurately certify the work experience for a contractor application when requested by a current or former employee;

(8) failure of a qualifier, owner, applicant, or licensee to be knowledgeable of the laws and rules applicable to their profession;

(9) failing to timely provide, upon request by any person, a copy of a current license or license number when performing construction trades work;

(10) an owner, qualifier, or licensee advising or instructing any person or applicant, for a fee, concerning an examination required under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for which that owner, qualifier, or licensee was a subject-matter expert of the examination, unless[~~:~~] the Division approves in writing of the owner, qualifier, or licensee providing that instruction;

(11) using, hiring, or contracting with a professional employer organization that is not licensed with the Utah Insurance Department;

(12) failure of an employee of a licensee to properly identify the name of their employer when requested by the Division; and

(13) reproducing, communicating, or transmitting any Division-required test content in any form to any person without written permission from the Division.

R156-55a-502. Penalty for Unlawful Conduct.

The penalty for violating Subsection 58-55-501(1) while suspended from licensure shall include the maximum fine [~~allowed by~~]under Subsection 58-55-503(4)([~~i~~]h).

R156-55a-504. Crane Operator Certifications.

[~~In accordance with~~]Under Subsection 58-55-504(2)(a), one of the following certifications is required to operate a crane on commercial construction projects:

(1) a certification issued by the National Commission for the Certification of Crane Operators;

(2) a certification issued by the Operating Engineers Certification Program; or

(3) a certification issued by the Crane Institute of America.

R156-55a-602. Contractor License Bonds.

[~~Pursuant to~~]Under Subsections 58-55-306(1)(b) and 58-55-306(5)(b)(iii), a contractor shall provide a license bond issued by a surety acceptable to the Division in the amount, form, and coverage as follows:

(1) An acceptable surety is one that is listed in the Department of Treasury, Fiscal Service, Circular 570, [~~entitled~~]"Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" at the date of the bond.

(2) The coverage of the license bond shall include losses that may occur as the result of the contractor's violation of the unprofessional or unlawful provisions [~~contained~~]in Title 58, Chapter[~~s~~] 1, Division of [~~Occupational and~~]Professional Licensing Act, and Title 58, Chapter 55, Utah Construction Trades Licensing Act and Rules R156-1 and R156-55a, including:

(a) failure to maintain financial responsibility;

(b) failure of the licensee to pay its obligations; and

(c) failure of the owners [~~or~~]of a licensed unincorporated entity to pay income taxes or self-employment taxes on the gross distributions from the unincorporated entity to its owners.

(3) The Division may review the financial history of the applicant, licensee, qualifier, or any owner, as outlined in Section R156-55a-306, in determining the bond amount required under this section.

(4) If the licensee is submitting a bond under Subsection 58-55-306(5)(b)(iii)(B), the amount of the bond shall be 20% of the annual gross distributions from the unincorporated entity to its owners. As provided in Subsection 58-55-302(10)(c), the Division, in determining if financial responsibility has been demonstrated, may consider the total number of owners, including new owners added as reported under Subsection 58-55-302(10)(a)(i), in setting the amount of the bond required under this subsection.

(5) If the licensee is submitting a bond for any reason other than Subsection 58-55-306(5)(b)(iii)(B), the minimum amount of the bond shall be the greater of:

(a) if a bankruptcy petition has been filed, is pending, or discharged by any owner or qualifier, by the licensee entity, or by any prior entities of the owners or qualifiers within the last three years from the date of application or renewal or request for financial review of the licensee, 30% of the total liabilities listed on all Forms 106 filed with the bankruptcy court for the owners, qualifiers, the licensee entity, and any prior entities of the owners or qualifiers; or

(b) if the total amount of the cumulative outstanding debts, judgments, child support obligations, liens, and obligations owing by the owners, qualifiers, the licensee entity, and any prior entities of the owners and qualifiers, is $1,000 or more, the greater of:

(i) 30% of that total amount; or

(ii)(A) $50,000 for any general contractor classification except the R100 classification;

(B) $25,000 for the R100 classification; or

(C) $15,000 for other classifications.

(6) A higher or lower amount of the bond [~~referenced~~]in Subsection R156-55a-602(5) may be determined by the Division and the Commission as provided in this section.

(7) The bond shall be maintained [~~for the duration of~~]during licensure until the licensee receives written permission from the Division to discontinue maintaining the bond.

(8) The amount of the bond [~~specified~~]under Subsection R156-55a-602(5) may be increased by an amount determined by the Commission and Division if the financial, criminal, or disciplinary history of the applicant, licensee, qualifier, or any owner indicates the bond amount is insufficient to reasonably cover risks to the public health, safety and welfare. The Division and Commission may review the financial, criminal, and disciplinary history of the applicant, qualifier, licensee or any owner, as outlined in Section R156-55a-306, in determining the bond amount required.

(9) A contractor may provide a license bond issued by a surety acceptable to the Division in an amount less than the bond amount [~~specified~~]in Subsection R156-55a-602(5) if:

(a) the contractor demonstrates by clear and convincing evidence that:

(i) the financial history of the applicant, licensee, qualifier, or any owner indicates the bond amount specified is in excess of what is reasonably necessary to cover risks to the public health, safety and welfare;

(ii) the contractor's lack of financial responsibility is due to extraordinary circumstances that the contractor could not control as opposed to general financial challenges that contractors experience; and

(iii) the contractor's scope of practice will be restricted commensurate with the degree of risk the contract presents to the public health, safety, and welfare; and

(b) the Commission and Division approve the amount.

R156-55a-700. Emergency Contractor Licensing.

[~~Pursuant to Subsection 58-1-307(4)(g), the Division may issue emergency contractor licenses as follows:~~

~~(1) The Division may issue an emergency contractor's license for any classification to any person or entity, including an apprentice, journeyman, or master plumber or electrician license.~~

~~(2) The Division may issue an emergency contractor's license in any form approved by the Division.~~

~~(3) An emergency contractor license shall expire on the earlier of:~~

~~(a) 30 days after the expiration of the emergency declaration;~~

~~(b) 10 days after the Division provides notice to the licensee that the license shall expire; or~~

~~(c) as specified by the Division in a notice to the licensee, at any time and for any reason.~~

~~(4) The Division may institute or waive any contractor licensing requirement under Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and Chapter 55, Utah Construction Trades Licensing Act, and Rules R156-1 and R156-55a in determining eligibility for an emergency contractor license.~~]

(1) Under Subsection 58-1-307(4)(g), the Division may exempt or modify licensure requirements or issue an emergency contractor license for any classification and any person or entity, including an apprentice, journeyman, or master plumber or electrician license.

(2) In determining eligibility for an emergency contractor license, or determining any exemption or modification of licensure requirements, the Division may institute, exempt, or waive any contractor licensing requirement, including any scope of practice, under Title 58, Chapter 1, Division of Professional Licensing Act, Title 58, Chapter 55, Utah Construction Trades Licensing Act, and Rules R156-1 and R156-55a.

(3) The Division may issue an emergency contractor license or exempt or modify any licensure requirement, including scope of practice, in any form approved by the Division.

(4) An emergency contractor license or a licensure requirement exemption or modification shall expire as specified by the Division in a notice to the licensee, or in a notice posted on the Division's website, at any time and for any reason.

KEY: contractors, occupational licensing, licensing
Date of Last Change: [~~September 22, 2020~~]2022
Notice of Continuation: July 8, 2021
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R156-60a**	**Filing ID: 55006**

Agency Information

1. Department:	Commerce
Agency:	Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741

Contact persons:		
Name:	**Phone:**	**Email:**
Jana Johansen	801-530-6628	janajohansen@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R156-60a. Social Worker Licensing Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This filing updates this rule to conform to statutory amendments made by H.B. 283 passed during the 2022 General Session. The Division of Professional Licensing (Division) in collaboration with the Social Service Worker Licensing Board also proposes amending this rule to clarify Certified Social Worker Intern (CSWI) licensure.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments to Section R156-60a-102 add a definition of "CSWI" and "clinical social worker intern" for clarity and references to statutes are updated.

The amendments to Section R156-60a-302c update this rule to reflect the H.B. 283 (2022) experience hour reduction from 4,000 hours to 3,000 hours , and correspondingly remove the time needed to gather the hours.

Section R156-60a-302f is a new section that outlines the Qualifications for Licensure as a CSWI.

The amendments to Section R156-60a-308 experience hours are reduced due to H.B. 283 (2022).

Nonsubstantive formatting changes are also made throughout this rule to streamline and update this rule in accordance with the Utah Rulewriting Manual.

Public Hearing Information:
11/22/2022 at 10:00 AM
Anchor location: 160 E 300 S, Conference Room 402, Salt Lake City, Utah

Electronically with Google Meeting information:
Meeting link:
meet.google.com/wvr-cboa-ajt

Join by phone:
(US) +1 321-215-4407
PIN: 226703394

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Division estimates that these proposed amendments will have no measurable impact on state budget revenues or expenditure because the amendments only conform this rule to the statutory changes made by H.B. 283 (2022) and will not impact existing state government practices or procedures.

B) Local governments:

The Division estimates that these proposed amendments will have no measurable impact on local governments' revenues or expenditure as none of the amendments are expected to impact local governments' practices or procedures.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The Division does not expect small businesses to be impacted by the proposed amendments because the amendments only conform this rule to the statutory changes made by H.B. 283 (2022) and streamline and update this rule for clarity.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The Division does not expect non-small businesses to be impacted by the proposed amendments because the amendments only conform this rule to the statutory changes made by H.B. 283 (2022) and streamline and update this rule for clarity.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The Division does not expect other persons to be impacted by the proposed amendments because the amendments only conform this rule to the statutory changes made by H.B. 283 (2022) and streamline and update this rule for clarity.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

As described in Box 5E for other persons, the proposed amendments are not expected to result in compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division, in concert with the Service Worker Licensing Board, propose amendments to Rule R156-60a, the Social Worker Licensing Act Rule. Amendments to this rule are proposed to conform it to statutory amendments made by H.B. 283 (2022). The Division wishes to clarify Certified Social Worker Intern (CSWI) licensure, and add an alternate exam to obtain Social Service Worker (SSW) licensure due to the inability to extend the exam waiver previously granted by Association of Social Work Boards (ASWB).

Also, the Division has made formatting changes throughout this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):
The Division finds that will not be a fiscal impact for small businesses. The rule changes are to conform this rule to the statutory changes made by H.B. 283 (2022) to end the ASWB exam waiver, and streamline and update this rule for clarity. The changes are to update this rule to establish operating standards that encompass current statutory requirements and practices in the profession.

Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make this rule comport to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees)
The Division finds that the non-small businesses in the Utah involving licensed social workers will not suffer a negative fiscal impact from the proposed rule amendments. However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 58-60-201	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Code of Ethics of the National Association of Social Workers (NASW)
Publisher	National Association of Social Workers (NASW)
Issue Date	2020/2021

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	12/15/2022	
B) A public hearing (optional) will be held:		
On:	**At:**	**At:**
11/22/2022	9:00 AM	See information in Box 4 above

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	10/24/2022

R156. Commerce, [~~Occupational and~~]Professional Licensing.
R156-60a. Social Worker Licensing Act Rule.
R156-60a-101. Title - Authority - Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Social Worker Licensing Act Rule."[~~.~~]

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 60, Part 2, Social Worker Licensing Act.

(3) The organization of this rule and its relationship

R156-60a-102. Definitions.

[~~In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or this rule~~]The following definitions supplement the statutory definitions in Title 58, Chapter 1, Division of Professional Licensing Act, and Title 58, Chapter 60, Part 2, Social Worker Licensing Act:

(1) "ASWB" means the Association of Social Work Boards.

(2) "CSW" means a licensed certified social worker.

(3) "CSWI" or "clinical social worker intern" means an individual who has been issued a temporary externship license under Section 58-60-117.

([~~3~~]4) "Clinical social work concentration and practicum,"[~~,~~] "clinical concentration and practicum," "case work,"[~~,~~] "group work,"[~~,~~] or "family treatment course sequence with a clinical practicum,"[~~,~~] "clinical practicum," or "practicum,"[~~,~~] as used in Subsections 58-60-205(1)([~~g~~]f) and (2)(c)(ii), means a track of professional education that is specifically established to prepare an individual to practice or engage in mental health therapy.

([~~4~~]5) "Human growth and development,"[~~,~~] as used in Subsection 58-60-205[~~(3)(d)~~](4)(c)(iii)(A)(II), means a course at an accredited college or university that includes an emphasis on human growth and development across the lifespan, from conception to death.

([~~5~~]6) "LCSW" means a licensed clinical social worker.

([~~6~~]7) "Social welfare policy,"[~~,~~] as used in Subsection 58-60-205(4)([~~d~~]c)(iii)(A)(I), means a course at an accredited college or university that includes emphasis on the following:

(a) local, state, and federal social policy and how it impacts individuals, families, and communities; and

(b) the diverse needs of social welfare recipients.

([~~7~~]8) "Social work practice methods,"[~~,~~] as used in Subsection 58-60-205(4)([~~d~~]c)(iii)(A)(III), means a course at a program accredited by the Council for Social Work Education as defined in Subsection 58-60-202(5) that includes emphasis on the following:

(a) generalist social work practice at the individual, family, group, organization, and community levels;

(b) planned client change process and social work roles at various levels;

(c) application of key values and principles of the National Association of Social Workers (NASW) Code of Ethics and resolution of ethical dilemmas; and

(d) evaluation of programs and direct practice in the social work field.

([~~8~~]9) "SSW" means a licensed social service worker.

([~~9~~]10) "Supervised practice of mental health therapy by a clinical social worker"[~~,~~] as used in Subsection 58-60-202(4)(a), means that the CSW is under the general supervision of an LCSW meeting the requirements of Section[~~s~~] R156-60a-302c.[

~~**R156-60a-103. Authority - Purpose.**~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 60.~~

~~**R156-60a-104. Organization - Relationship to Rule R156-1.**~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.~~]

R156-60a-302a. Qualifications for Licensure as an SSW - Education Requirements.

[~~In accordance with~~]Under Subsection 58-60-205(4)(c)(ii), a master's degree qualifying an applicant for licensure as an SSW shall be in a field of social work, psychology, marriage and family therapy, or mental health counseling.

R156-60a-302b. Qualifications for Licensure as an SSW - Supervised Qualifying Experience Requirements.

[~~In accordance with~~]Under Subsection 58-60-205(4)(c)(iii)(B), the 2,000 hours of supervised qualifying experience for licensure as an SSW shall be:

(1) performed as a W-2 employee of an agency providing social work services and activities;

(2) performed according to a written social work job description approved by the licensed mental health therapist supervisor; and

(3) completed in not less than one year.

R156-60a-302c. Qualifications for Licensure as an LCSW - Supervised Training Requirements.

(1) [~~In accordance with~~]Under Subsections 58-60-205(1)[~~(e),(f) and (g)~~] and 58-60-202(4)[~~(a)~~], the minimum [4]3,000 hours of clinical social work training and minimum 1,000 hours of supervised training in mental health therapy qualifying an applicant for licensure as an LCSW shall:

(a) be obtained after completion of the education [~~requirement~~]in Subsections 58-60-205(1)[~~(d) and (g)~~](c) and (1)(f), and may not include any clinical practicum hours obtained as part of the education program;

(b) [~~be completed in not less than two years;~~

~~(c)~~]unless [~~this~~]Subsection (2) applies, be completed while the applicant is licensed as a CSW;

([~~d~~]c) be completed while the applicant is a W-2 employee of a public or private agency, educational institution, or hospital engaged in clinical mental health therapy;

([~~e~~]d)(i) be completed in accordance with the supervised training requirements of Section R156-60-302; and

(ii) as required by Subsection 58-60-205(1)([~~f~~]e), at least 100 hours of the mental health therapy training shall be under direct supervision [~~per~~]as defined in Subsection R156-60-102(4);

([~~f~~]e) be completed under the supervision of a supervisor who meets the requirements of Subsection[~~s~~] 58-60-205(1)(e)(ii) and Section R156-60-302e; and

([~~g~~]f) include the following training requirements:

(i) individual, family, and group therapy;

(ii) crisis intervention;

(iii) intermediate treatment; and

(iv) long term treatment.

(2) An applicant may apply [~~to the Division~~]for an LCSW license without complying with this Subsection (1)(c) if the applicant:

(a) qualifies for a license exemption under Subsection 58-1-307(1)(a); or

(b) completed training in another jurisdiction while:

(i) licensed as the equivalent of a CSW; or

(ii) engaged in the practice of certified social work while not required to be licensed.

(3) The exemption in Subsection 58-1-307(1)(b) does not permit an applicant to engage in the required hours of clinical social work training or mental health therapy training without first becoming licensed as a CSW.

R156-60a-302d. Examination Requirements.

(1) [~~In accordance with~~]Under Subsection 58-60-205(1)([~~h~~]g), the examination requirements for licensure as an LCSW shall include passing the ASWB Clinical Examination [~~of the ASWB~~]or the Clinical Social Workers Examination of the State of California.

(2) [~~In accordance with~~]Under Subsection 58-60-205(2)([~~e~~]d), the examination requirements for licensure as a CSW shall include passing the ASWB Masters, Advanced Generalist, or Clinical Examination[~~ of the ASWB~~].

(3) [~~In accordance with~~]Under Subsection 58-60-205(4)([~~e~~]d), the examination requirements for licensure as an SSW shall include passing the ASWB Bachelors Examination[~~ of the ASWB~~].

(4) [~~Applicants~~]An applicant requesting additional time to complete an[~~y~~] ASWB exam [~~in accordance with~~]under Subsection 58-60-205(5) shall complete an ASWB application for special arrangements approved by the Division.

R156-60a-302e. Qualifications to be a CSW Training Supervisor.

[~~In accordance with~~]Under Subsections 58-60-202(3)(c) and 58-60-205(1)(e) and (f), to supervise a CSW, the supervisor shall:

(1) be currently licensed in good standing;

(2) for at least two consecutive years [~~prior to~~]before beginning supervised training, have been licensed in good standing and engaged in lawful active practice, including providing mental health therapy;

(3) supervise no more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the Division in collaboration with the Board; and

(4) comply with all duties and responsibilities uniformly established in Section R156-60-302.

R156-60a-302f. Qualifications for Licensure as a CSWI.

Under Section 58-60-117, an applicant for licensure as a CSWI shall:

(1) hold an earned master's degree from a Masters in Social Work program, as documented by a signed affidavit from the applicant's program director; and

(2) be scheduled for the ASWB Masters Examination, as documented b the ASWB.

R156-60a-303. [~~Renewal Cycle~~]Term, Expiration, Renewal. and Reinstatement of License - Application Procedures.

(1) [~~In accordance with~~]Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle [~~applicable to~~]for licenses under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, is established [~~by rule in Section~~]in Subsection R156-1-308a(1).

(2) Renewal and reinstatement procedures shall be in accordance with [~~Section R156-1-308e~~]Sections R156-1-308a through R156-1-308l, except as provided in Subsection (3).

(3) Under Subsection 58-1-308(5)(a)(ii)(B) and Section R156-1-308g, an applicant for reinstatement of licensure as an LCSW whose license has been expired between two years and five years, shall:

(a) upon request, meet with the Board to evaluate the applicant's ability to safely and competently practice clinical social work and mental health therapy; and

(b) complete one or more of the following, if recommended by the Board to ensure the applicant can safely and competently practice clinical social work and mental health therapy;

(i) establish a plan of supervision under an approved supervisor, which may include up to 3,000 hours of clinical social work and mental health therapy training as a CSW before qualifying for reinstatement of the LCSW license;

(ii) pass the ASWB Clinical Examination; or

(iii) complete up to 40 hours of continuing education in subjects determined by the Board.

R156-60a-304. Continuing Education.

[~~In accordance with~~]Under Sections 58-60-105 and 58-60-205.5, the continuing professional education requirements for a social worker licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, are established in Section R156-60-105.[

~~**R156-60a-308. Reinstatement of an LCSW License which has Expired Beyond Two Years.**~~

~~In accordance with Subsection 58-1-308(6) and Section R156-1-308g, an applicant for reinstatement for licensure as an LCSW, whose license expired after two years following the expiration of that license, shall:~~

~~(1) upon request, meet with the Board to evaluate the applicant's ability to safely and competently practice clinical social work and mental health therapy;~~

~~(2) upon recommendation of the Board, establish a plan of supervision under an approved supervisor which may include up to 4,000 hours of clinical social work and mental health therapy training as a CSW before qualifying for reinstatement of the LCSW license;~~

~~(3) pass the Clinical Examination of the ASWB if it is determined by the Board that examination or reexamination is necessary to demonstrate the applicant's ability to safely and competently practice clinical social work and mental health therapy; and~~

~~(4) complete a minimum of 40 hours of continuing education in subjects determined by the Board as necessary to ensure the applicant's ability to safely and competently practice clinical social work and mental health therapy.~~]

R156-60a-502. Unprofessional Conduct.

Under Subsection 58-60-110(2), "[~~U~~]unprofessional conduct" includes:

(1) using the abbreviated title of LCSW unless licensed as a[~~n LCSW~~] Licensed Clinical Social Worker;

(2) using the abbreviated title of CSW unless licensed as a [~~CSW~~]Certified Social Worker;

(3) using the abbreviated title of SSW unless licensed as a[~~n SSW~~] Social Service Worker;

(4) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring [~~the~~]compliance with [~~the requirements of~~]Sections R156-60-302, R156-60a-302c, [~~or~~]and R156-60a-302e;

(5) engaging in the supervised practice of mental health therapy as a licensed CSW unless:

(a) the licensee has completed a clinical practicum as part of the Council on Social Work Education (CSWE) accredited master's degree program; and

(b) the scope of practice is [~~otherwise~~]within the licensee's competency, abilities and education;

(6) engaging in the supervised practice of mental health therapy while not in compliance with Sections R156-60a-302c and R156-60-302;

(7) engaging in or aiding or abetting conduct or practices that are dishonest, deceptive or fraudulent;

(8) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(9) failing to establish and maintain professional boundaries with a client or former client;

(10) engaging in dual or multiple relationships with a client or former client in which there is a risk of or potential harm to the client;

(11) engaging in sexual activities or sexual contact with a client with or without client consent;

(12) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services, even if there is no risk of exploitation or potential harm to the client;

(13) engaging in sexual activities or sexual contact with client's relative or other individual with whom the client maintains a personal relationship, if there is a risk of exploitation or potential harm to the client;

(14) embracing, massaging, cuddling, caressing, or performing any other act of physical contact with a client, if there is a risk of exploitation or potential harm to the client resulting from the contact;

(15) engaging in or aiding or abetting sexual harassment or any conduct that is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(16) failing to exercise professional discretion and impartial judgment required for the performance of professional activities, duties and functions;

(17) failing to [~~render~~]provide impartial, objective, and informed services, recommendations, or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health, or [~~any~~]other determination concerning an individual's civil or legal rights;

(18) exploiting a client or former client for personal gain;

(19) exploiting a person who has a personal relationship with a client for personal gain;

(20) failing to maintain client records including records of assessment, treatment, progress notes and billing information for a period of not less than ten years from the documented termination of services to the client;

(21) failing to provide client records in a reasonable time upon written request of the client, or the client's legal guardian;

(22) failing to obtain informed consent from the client or the client's legal guardian before taping, recording, or permitting third party observations of client activities or records;

(23) failing to protect the confidences of [~~other~~]persons named or [~~contained~~]identified in the client records; and

(24) failing to abide by [~~the provisions of~~]the Code of Ethics of the National Association of Social Workers (NASW) as approved by the 1996 NASW Delegate Assembly and revised by the [~~2017~~]2020 and 2021 NASW Delegate Assembly, which is [~~adopted and~~]incorporated by reference.

R156-60a-601. Supervision - Scope of Practice - SSW.

[~~In accordance with~~]Under Subsections 58-60-202(2) and (6), supervision and scope of practice of an SSW is further defined as follows:

(1) general supervision of an SSW by a licensed mental health therapist is only required [~~where~~]when mental health therapy services are provided; and

(2) the scope of practice of the SSW shall be in accordance with a written social work job description approved by the licensed mental health therapist supervisor, except that the SSW may not engage in the supervised or unsupervised practice of mental health therapy.

KEY: licensing, social workers
Date of Last Change: [~~November 10, 2020~~]2022
Notice of Continuation: June 13, 2019
Authorizing, and Implemented or Interpreted Law: 58-60-201; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	**R156-70b**	**Filing ID: 55023**

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	**Phone:**	**Email:**
Larry Marx	801-530-6254	lmarx@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R156-70b. Anesthesiologist Assistant Practice Act Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

During the 2022 General Session, S.B. 121 passed and created the Anesthesiologist Assistant Licensing Act (Title 58, Chapter 70b). This rule defines licensing, supervision, renewal, continuing education requirements and unprofessional conduct.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendment in Section R156-70b-102 provides additional definitions related to the practice of anesthesiology.

The amendment in Section R156-70b-103 establishes supervision standards for anesthesiologist to supervise anesthesiologist assistants.

The amendment in Section R156-70b-302a describes the qualifications for licensure as an anesthesiologist assistant.

The amendment in Section R156-70b-303a establishes the renewal requirements.

The amendment in Section R156-70b-303b defines the continuing education requirements for anesthesiologist assistants.

The amendment in Section R156-70b-402 defines unprofessional conduct for anesthesiologist assistants.

Public Hearing Information:
Anchor location: 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, Utah
11/22/2022 at 10:00 AM

Electronically by Google Meet:
Meeting link:
meet.google.com/har-yfec-vbm

Join by phone:
(US) +1 443-574-7046
PIN: 108791761

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Division of Professional Licensing (Division) does not anticipate any fiscal impact beyond that determined by the S.B. 121 (2022) Fiscal Note which can be found at https://le.utah.gov/~2022/bills/static/SB0121.html.

B) Local governments:

The Division does not anticipate any fiscal impact for local governments beyond that determined by the S.B. 121 (2022) Fiscal Note which can be found at https://le.utah.gov/~2022/bills/static/SB0121.html.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The Division does not anticipate any fiscal impact for small businesses beyond that determined by the S.B. 121 (2022) Fiscal Note which can be found at https://le.utah.gov/~2022/bills/static/SB0121.html.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The Division does not anticipate any fiscal impact for non-small businesses beyond that determined by the S.B. 121 (2022) Fiscal Note which can be found at https://le.utah.gov/~2022/bills/static/SB0121.html.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The Division does not anticipate a fiscal impact for other persons beyond that determined by the S.B. 121 (2022) Fiscal Note which can be found at https://le.utah.gov/~2022/bills/static/SB0121.html.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

As described in Box 5E for other persons, the Division does not anticipate a compliance cost for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2023	FY2024	FY2025
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0

Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division proposes Rule R156-70b, the Anesthesiologist Assistant Practice Act Rule. This rule is proposed to comply with S.B. 121 (2022). These amendments incorporates definitions for licensing, supervision, renewal, continuing education requirements, and unprofessional conduct.

Also, the Division proposes this rule to conform this rule to the Utah Rulewriting Manual in accordance with Executive Orders No. 2021-1 and 2021-12.

Small Businesses (less than 50 employees):
The Division finds that will not be a fiscal impact to small businesses in the Utah healthcare industry with the proposed rule. This rule encompasses current statutory requirements and practices in the profession.

Further, the Division does not foresee any negative impact on small businesses since the proposed rule comports to the Utah Rulewriting Manual.

Regulatory Impact to Non-Small Businesses (50 or more employees)
The Division finds that the non-small businesses will not suffer a negative fiscal impact from the proposed rule. However, this rule will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses.

Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 58-1-106(1)(a)	Section 58-70b-101	

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	American Society of Anesthesiologists Physical Status Classification System
Publisher	American Society of Anesthesiologists
Issue Date	December 13, 2020

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	American Society of Anesthesiologists Guidelines for the Ethical Practice of Anesthesiology
Publisher	American Society of Anesthesiologists
Issue Date	December 13, 2020

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

B) A public hearing (optional) will be held:

On:	**At:**	**At:**
11/22/2022	10:00 AM	See information in Box 4 above

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	Date:	10/31/2022

R156. Commerce, Professional Licensing.
R156-70b. Anesthesiologist Assistant Practice Act Rule.
R156-70b-101. Title -- Authority -- Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Anesthesiologist Assistant Practice Act Rule."

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) and Section 58-70b-102 to enable the Division to administer Title 58, Chapter 70b, Anesthesiologist Assistant Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1, General Rule of the Division of Occupational and Professional Licensing, is as described in Section R156-1-107.

R156-70b-102. Definitions.

The following definitions supplement the definitions in Title 58 Chapter 1, Division of Professional Licensing Act, Title 58 Chapter 67 Medical Practice Act, and Title 58, Chapter 70b, Anesthesiologist Assistant Practice Act:

(1) "Acceptable medical practice" under Subsection 58-70b-101(4) and Section 58-70b-402 includes complying with the ASA Ethical Guidelines and the ASA PS.

(2) "ASA Ethical Guidelines" means the American Society of Anesthesiologists Guidelines for the Ethical Practice of Anesthesiology, last amended December 13, 2020, which is incorporated by reference.

(3) "ASA PS" means the American Society of Anesthesiologists Physical Status Classification System last amended December 13, 2020, which is incorporated by reference.

(4) "CAA" means an NCCAA Certified Anesthesiologist Assistant.

(5) "CAAHEP" means the Commission on Accreditation of Allied Health Education Programs.

(6) "Care team" under Subsection 58-70b-101(4), "anesthesia care team," or "ACT" means the anesthesia care team that is led by a physician anesthesiologist, includes physicians and non-physicians, and may include a certified registered nurse anesthetist, a certified anesthesiologist assistant, an anesthesiology fellow physician, or an anesthesiology resident physician.

(7) "CDQ" means the Continued Demonstration of Qualifications exam administered by the NCCAA or its successor organization.

(8) "NCCAA" means the National Commission for Certification of Anesthesiologist Assistants.

R156-70b-103. Supervision Standards.

(1) Under Subsections 58-70b-101(5) and 58-70b-301(1)(b), an anesthesiologist assistant shall be supervised by an anesthesiologist who is licensed in good standing, in accordance with the supervision standards in this section.

(2) An anesthesiologist may supervise up to four anesthesiologist assistants at any one time.

(3) A supervising anesthesiologist shall:

(a) be qualified in the medical areas in which the anesthesiologist assistant performs;

(b) remain physically present in the same facility as the anesthesiologist assistant and be immediately available if needed; and

(c) under Subsection 58-70b-101(5)(b), perform the required physician activities, including at minimum:

(i) prescribing the anesthesia plan;

(ii) personally participating in the most demanding procedures in the anesthesia plan, including induction and emergence;

(iii) monitoring the course of anesthesia administration at frequent intervals; and

(iv) remaining physically present and available in the same facility for immediate diagnosis and treatment of emergencies.

(4) A supervising anesthesiologist is professionally responsible for the performance of the anesthesiologist assistant.

R156-70b-302. Qualifications for Licensure -- Application -- Education -- Exam.

(1) Under Section 58-70b-102 and Subsection 58-70b-302(1), the application form established by the Division shall require the applicant to submit a National Practitioner Data Bank self-query report.

(2) Under Subsection 58-70b-302(3), to provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization, an applicant shall cause an official transcript to be submitted to the Division from a CAAHEP-accredited institution verifying completion of at least a master's level anesthesiology assistant program.

(3) Under Subsection 58-70b-302(4), the NCCAA certification exam requirement for licensure is a passing score on:

(a) the NCCAA Certifying Examination for Anesthesiologist Assistants (CERT); or

(b) the NCCAA Continued Demonstration of Qualifications exam (CDQ).

R156-70b-303a. Renewal Cycle - Procedures.

(1) Under Subsections 58-1-308(1) and 58-70b-303(1), the renewal date for the two-year renewal cycle for licensees under Title 58, Chapter 70b, Anesthesiologist Assistant Licensing Act is established in Section R156-1-308a.

(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308a through R156-1-308l.

R156-70b-303b. Continuing Education.

(1) Under Subsection 58-70b-303(2), the continuing education requirements for renewal or reinstatement of an anesthesiologist assistant license are completion of the NCCAA continuing medical education (CME) and interval exam (CDQ) requirements for ongoing certification, as evidenced by current NCCAA certification.

(2) A licensee shall maintain documentation sufficient to prove compliance with this section for two years after the end of the renewal cycle for which the continuing education is due.

(3) The Division may not defer or waive continuing education requirements under this section, as under Subsection 58-70b-302(5) a licensee is required to maintain NCCAA certification throughout the term of their license.

R156-70b-402. Unprofessional Conduct.

Under Sections 58-70b-102 and 58-70b-402 and Subsection R156-70b-102(1), an anesthesiologist assistant commits unprofessional conduct by:

(1) failing to comply with the ASA Ethical Guidelines; or

(2) failing to comply with the ASA PS in evaluating a patient for the administration of anesthesia.

KEY: anesthesiologist assistant, licensing
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-70b-101

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R277-419**	**Filing ID: 54992**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R277-419. Pupil Accounting

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Rule R277-419 is being amended in order to clarify when an local education agency (LEA) can receive more additional funding for a student participating in the Statewide Online Education Program.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments specifically clarify that, with written verification from the student's parent that the student intends to graduate early, an early graduation student may be counted for more than 180 days of regular membership in accordance with the student's plan for college and career readiness.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. This will not change appropriations for the Utah State Board of Education (USBE), it simply clarifies distribution to LEAs.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The mechanism for LEAs to report more that 180 days of regular membership already exists. This amendment requires LEAs to collect written parent verification of intent for early graduation. The USBE does not estimate a fiscal impact on LEAs to implement these changes, and LEAs can continue to receive more than 180 days of regular membership for students graduating early.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This change only affects LEAs.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This change only affects LEAs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There are no compliance costs for affected persons. LEAs will simply have to obtain written verification from parents or guardians that a student intends to graduate early in order to claim over 180 days of regular membership. USBE does not estimate a quantifiable cost.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-2-102(7)
Subsection 53E-3-501(1)(e)	Subsection 53E-3-602(2)	Subsection 53E-3-301(3)(d)
Section 53G-4-404		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	10/14/2022

R277. Education, Administration.
R277-419. Pupil Accounting.
R277-419-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(e), which directs the Board to establish rules and standards regarding:

(i) cost-effectiveness;

(ii) school budget formats; and

(iii) financial, statistical, and student accounting requirements;

(d) Subsection 53E-3-602(2), which requires a local school board's auditing standards to include financial accounting and student accounting;

(e) Subsection 53E-3-301(3)(d), which requires the Superintendent to present to the Governor and the Legislature data on the funds allocated to LEAs;

(f) Section 53G-4-404, which requires annual financial reports from school districts; and

(g) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools.

(2) The purpose of this rule is to specify pupil accounting procedures used in apportioning and distributing state funds for education.

R277-419-2. Definitions.

(1) "Aggregate Membership" means the sum of all days in membership during a school year for eligible students enrolled in a public school.

(2) "Approved CTE course" means a course approved by the Board within the Career and Technical Education (CTE) Pathway areas of study.

(3) "Attendance validated program" means a program within an LEA that consists of eligible, enrolled public school students who physically attend school in a brick and mortar school.

(4) "Blended learning program" means a formal education program under the direction of an LEA in which a student learns through an integrated experience that is in part:

(a) through online learning, with an element of student control over time, place, path, or pace; and

(b) in a supervised brick and mortar school away from home.

(5) "Brick and mortar school" means a school where classes are conducted in a physical school building.

(6) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

(7) "Educational services" means providing learning opportunities and services designed to support a student to be prepared to succeed and lead by having the knowledge and skills to learn, engage civically, and lead meaningful lives, including by providing:

(a) high quality instruction for each student;

(b) personalized learning supports for each student; and

(c) implementation of evidence-based student health and wellness practices.

(8) "Eligible student" means a student who satisfies the criteria for enrollment in an LEA, set forth in Section R277-419-7.

(9) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English learner plan.

(10)(a) "Home school" means the formal instruction of children in their homes instead of in an LEA.

(b) "Home school" does not include public school instruction provided in a home, including when:

(i) an online student receives instruction at home, but the student is enrolled in a public school that follows state Core Standards;

(ii) an online student is:

(A) subject to laws and rules governing state and federal mandated tests; and

(B) included in accountability measures; or

(iii) an online student receives instruction under the direction of a highly qualified, licensed teacher who is subject to the licensure requirements of Rule R277-301 and fingerprint and background checks consistent with Rules R277-214 and R277-309.

(11) "Home school course" means instruction:

(a) delivered in a home school environment where the curriculum and instruction methods, evaluation of student progress or mastery, and reporting, are provided or administered by the parent, guardian, custodian, or other group of individuals; and

(b) not supervised or directed by an LEA.

(12)(a) "Influenza pandemic" or "pandemic" means a global outbreak of serious illness in people.

(b) "Influenza pandemic" or "pandemic" may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

(13) "ISI-1" means a student who receives 1 to 59 minutes of YIC related services during a typical school day.

(14) "ISI-2" means a student who receives 60 to 179 minutes of YIC related services during a typical school day.

(15) "Learner validated enrollment measurement" means a methodology used to establish a student's membership or enrollment status for purposes of generating membership days.

(16) "Learner validated program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through:

(a) an online learning program;

(b) a blended learning program; or

(c) a personalized, competency-based learning program.

(17)(a) "Membership" means a public school student is on the current roll of a public school class or public school as of a given date.

(b) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

(c) Removal from the roll does not mean that an LEA should delete the student's record, only that the student should no longer be counted in membership.

(18) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(19) "Online learning program" means a program:

(a) that is under the direction of an LEA; and

(b) in which students receive educational services primarily over the internet.

(20) "Personalized, Competency-based Learning Grants Program" means an education program that provides instruction through personalized, competency-based learning as defined in Section 53F-5-501.

(21) "Private school" means an educational institution that:

(a) is not an LEA;

(b) is owned or operated by a private person, firm, association, organization, or corporation; and

(c) is not subject to governance by the Board consistent with the Utah Constitution.

(22) "Program" means a course of instruction within a school that is designed to accomplish a predetermined curricular objective or set of objectives.

(23) "Qualifying school age" means:

(a) a person who is at least five years old and no more than 18 years old on or before September 1;

(b) with respect to special education, a person who is at least three years old and no more than 21 years old on or before July 1;

(c) with respect to YIC, a person who is at least five years old and no more than 21 years old on or before September 1.

(24) "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

(25) "Retained senior" means a student beyond the general compulsory school age who is authorized at the discretion of an LEA to remain in enrollment as a high school senior in the years after the student's cohort has graduated due to:

(a) sickness;

(b) hospitalization;

(c) pending court investigation or action; or

(d) other extenuating circumstances beyond the control of the student.

(26) "S1" means the record maintained by the Superintendent containing individual student demographic and school membership data in a Data Clearinghouse file.

(27) "S2" means the record maintained by the Superintendent containing individual student data related to participation in a special education program in a Data Clearinghouse file.

(28) "S3" means the record maintained by the Superintendent containing individual student data related to participation in a YIC program in a Data Clearinghouse file.

(29) "School" means an educational entity governed by an LEA that:

(a) is supported with public funds;

(b) includes enrolled or prospectively enrolled full-time students;

(c) employs licensed educators as instructors that provide instruction consistent with Section R277-301;

(d) has one or more assigned administrators;

(e) is accredited consistent with Section R277-410-3; and

(f) administers required statewide assessments to the school's students.

(30) "School day" means a day where an LEA provides educational services to students subject to the requirements described in Section R277-419-5.

(31) "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

(32) "School of enrollment" means:

(a) a student's school of record; and

(b) the school that maintains the student's cumulative file, enrollment information, and transcript for purposes of high school graduation.

(33) "School reopening requirements template" means the template LEAs are required to submit to Superintendent as an assurance that the LEA has addressed state requirements for reopening schools for in person learning for the 2020-21 school year.

(34) "School year" means the 12 month period from July 1 through June 30.

(35) "Self-contained" means a public school student with an IEP or YIC, who receives 180 minutes or more of special education or YIC related services during a typical school day.

(36) "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

(37) "SSID" means Statewide Student Identifier.

(38) "Unexcused absence" means an absence charged to a student when:

(a) the student was not physically present at school at any of the times attendance checks were made in accordance with Subsection R277-419-11(5); and

(b) the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53G-6-201.

(39) "Weighted pupil unit" or "WPU" means the same as that term is defined in Section 53F-2-102.

(40) "Year end upload" means the Data Clearinghouse file due annually by July 15 from LEAs to the Superintendent for the prior school year.

(41) "Youth in custody or YIC" means a person under the age of 21 who is:

(a) in the custody of the Department of Human Services as of July 2022;

(b) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(c) being held in a juvenile detention facility.

R277-419-3. Incorporation by Reference of Continuity of Education Plan Form and School Reopening Requirements Template.

(1) This rule incorporates by reference:

(a) the Continuity of Education Plan form created by the Superintendent, which requires planning for services in the event of a school closure, including:

(i) e-learning;

(ii) special education services;

(iii) student meals;

(iv) event planning; and

(v) staffing.

(b) the School Reopening Requirements Template created by the Superintendent and based on the K-12 School Reopening Requirements and Recommendations approved by the Board, which an LEA is required to submit to the Superintendent as an assurance that the LEA has addressed state requirements for safely reopening schools for the 2020-21 year.

(2) A copy of the Continuity of Education Plan form is located at:

(a) http://schools.utah.gov/File/56b38326-eb40-4e8e-bca2-e78437cd5897; and

(b) the Utah State Board of Education.

(3) A copy of the School Reopening Requirements template is located at:

(a) https://www.schools.utah.gov/file/37363ea4-65fe-4c4e-9064-665f2ba4890c; and

(b) the Utah State Board of Education.

R277-419-4. Schools and Programs.

(1)(a) The Superintendent shall provide a list to each school detailing the required accountability reports and other state-mandated reports for the school type and grade range.

(b) A school shall submit a Clearinghouse report to the Superintendent.

(c) A school shall employ at least one licensed educator and one administrator.

(2)(a) A student who is enrolled in a program is considered a member of a public school.

(b) The Superintendent may not require programs to receive separate accountability and other state-mandated reports.

(c) A student reported under an LEA's program shall be included in the LEA's WPU and student enrollment calculations of the LEA's school of enrollment.

(d) A course taught at a program shall be credited to the appropriate school of enrollment.

(3) A private school or program may not be required to submit data to the Superintendent.

(4) A private school or program may not receive annual accountability reports.

R277-419-5. Minimum School Days.

(1)(a) Except as provided in Subsection (1)(b), Section R277-419-6, and Subsection 53F-2-102(4), an LEA shall provide educational services over a minimum of 180 school days each school year.

(b) an LEA may seek an exception to the number of school days described in Subsection (1)(a):

(i) except as provided in Subsection (1)(b)(ii), for a whole school or LEA as described in Rule R277-121;

(ii) for a school closure due to snow, inclement weather, or other emergency as described in Section R277-121-5; or

(iii) for an individual student as described in Section R277-419-14.

(2) An LEA may offer the required school days described in Subsection (1)(a) at any time during the school year, consistent with the law.

(3) An LEA shall plan for emergency, activity, and weather-related exigency time in its annual calendaring.

(4) Minimum standards apply to a public school in all settings unless Utah law or this rule provides for a specific exception.

(5) An LEA's governing board shall provide adequate contingency school days in the LEA's yearly calendar to avoid the necessity of requesting a waiver except in the most extreme circumstances.

(6)(a) A school may conduct parent-teacher and student Plan for College and Career Readiness conferences during the school day.

(b) Parent-teacher and college and career readiness conferences may only be held for a total of the equivalent of three full school days for the school year.

(c) Student membership for professional development or parent-teacher conference days shall be counted as that of the previous school day.

(d) An LEA may designate no more than a total of 12 educational service days at the beginning of the school year, at the end of the school year, or both for the assessment of students entering or completing kindergarten.

(e) If educational service days are designated for kindergarten assessment:

(i) an LEA shall designate the days in an open meeting;

(ii) an LEA shall provide adequate notice and explanation to kindergarten parents well in advance of the assessment period;

(iii) qualified school employees shall conduct the assessment consistent with Section 53G-7-205; and

(iv) assessment time per student shall be adequate to justify the forfeited instruction time.

(f) The final decision and approval regarding planning time, parent-teacher and Student Plan for College and Career Readiness conferences rests with an LEA, consistent with Utah Code and Board administrative rules.

(g) Total instructional time and school calendars shall be approved by an LEA in an open meeting.

R277-419-6. Waiver of the 990 Hour Requirement For the 2020-21 School Year.

Notwithstanding the requirements of Section R277-419-5, for the 2020-21 school year, an LEA is not subject to the requirement to conduct school for at least 990 hours of educational services if, by August 1, 2020, the LEA includes in the LEA's reopening requirements template, how the LEA will ensure continuity of teaching and learning by providing high quality instruction that includes blended learning and formative assessment strategies.

R277-419-7. Student Membership Eligibility and Learner Validated Enrollment Measurements.

(1) A student may enroll in two or more LEAs at the discretion of the LEAs.

(2) A kindergarten student may only enroll in one LEA at a time.

(3) To generate membership for funding through the Minimum School Program on any school day, an LEA shall ensure that a student being counted by the LEA in membership:

(a) has not previously earned a basic high school diploma or certificate of completion;

(b) has not been enrolled in a YIC program with a YIC time code other than ISI-1 or ISI-2;

(c) does not have unexcused absences, which are determined using one of the learner validated enrollment measurements described in Subsection (4);

(d) is a resident of Utah as defined under Section 53G-6-302;

(e) is of qualifying school age or is a retained senior;

(f)(i) is expected to attend a regular learning facility operated or recognized by an LEA on each regularly scheduled school day, if enrolled in an attendance validated program;

(ii) has direct instructional contact with a licensed educator provided by an LEA at:

(A) an LEA-sponsored center for tutorial assistance; or

(B) the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended time, due to:

(I) injury;

(II) illness;

(III) surgery;

(IV) suspension;

(V) pregnancy;

(VI) pending court investigation or action; or

(VII) an LEA determination that home instruction is necessary;

(iii) is enrolled in an approved CTE course on the campus of another state funded institution where such a course is:

(A) not offered at the student's school of membership;

(B) being used to meet Board-approved CTE graduation requirements under Subsection R277-700-6(16); and

(C) a course consistent with the student's Plan for College and Career Readiness; or

(iv) is enrolled in a learner validated program under the direction of an LEA that:

(A) is consistent with the student's Plan for College and Career Readiness;

(B) has been approved by the student's counselor; and

(C) includes regular instruction or facilitation by a designated employee of an LEA.

(4) An LEA shall use one of the following learner validated enrollment measures:

(a) For a student primarily enrolled in an attendance validated program, the LEA may not count a student as an eligible student if the eligible student has unexcused absences during the prior ten consecutive school days.

(b) For a student enrolled in a learner validated program, an LEA shall:

(i) adopt a written policy that designates a learner validated enrollment measurement to document the learner validated membership or enrollment status for each student enrolled in the learner validated program consistent with this [~~S~~]section;

(ii) document each student's continued enrollment status in compliance with the learner validated enrollment policy at least once every ten consecutive school days; and

(iii) appropriately adjust and update student membership records in the student information system for students that did not meet the learner validated enrollment measurement, consistent with this [~~S~~]section.

(c) For a student enrolled in an learner validated program, the LEA may not count a student as an eligible student if the LEA has not personally engaged with the student during the prior ten consecutive school days.

(5) The learner validated enrollment measurement described in Subsection (4)(b) may include the following components, in addition to other components, as determined by an LEA:

(a) a minimum student login or teacher contact requirement;

(b) required periodic contact with a licensed educator;

(c) a minimum hourly requirement, per day or week, when students are engaged in course work; or

(d) required timelines for a student to provide or demonstrate completed assignments, coursework or progress toward academic goals.

(6)(a) Beginning with the 2021-22 school year, an LEA shall submit each student's attendance validated or learner validated enrollment status through the UTREx or Data Clearinghouse.

(b) For a student who participates in both attendance validated, and learner validated programs, the LEA shall designate the student's status as learner validated enrollment.

(7)(a) An LEA desiring to generate membership for student enrollment in courses outlined in Subsection (3)(f)(iii), or to seek a waiver from a requirement in Subsection (3)(f)(iii), shall submit an application for course approval by April 1 of the year prior to which the membership will be counted.

(b) An LEA shall be notified within 30 days of the application deadline if courses have been approved.

R277-419-8. Student Membership Calculations.

(1)(a) Except as provided in Subsection (1)(b) or (1)(c), a student enrolled in only one LEA during a school year is eligible for no more than 180 days of regular membership per school year.

(b) [~~An~~]With written verification from the student's parent that the student intends to graduate early, an early graduation student may be counted for more than 180 days of regular membership in accordance with [~~the student's early graduation student education plan~~]the student's Plan for College and Career Readiness.

(c) A student transferring within an LEA to or from a year-round school is eligible for no more than 205 days of regular membership per school year.

(2)(a) Except as provided in Subsection (2)(b), (2)(c), or (2)(d), a student enrolled in two or more LEAs during a school year is eligible for no more than 180 days of regular membership per school year.

(b) A student transferring to or from an LEA with a schedule approved under Subsection R277-419-5(1)(b) is eligible for no more than 220 days of regular membership per school year.

(c) A student transferring to or from an LEA where the student attended or will attend a year-round school is eligible for no more than 205 days of regular membership per school year.

(d) If the exceptions in Subsections (2)(b) and (2)(c) do not apply but a student transfers from one LEA to another at least one time during the school year, the student is eligible for regular membership in an amount not to exceed the sum of:

(i) 170 days; plus

(ii) 10 days multiplied by the number of LEAs the student attended during the school year.

(3) If a student is enrolled in two or more LEAs during a school year and the aggregate regular membership generated for the student between the LEAs exceeds the amount allowed under Subsection (2), the Superintendent shall apportion the days of regular membership allowed between the LEAs.

(4) If a student was enrolled for only part of the school day or only part of the school year, an LEA shall prorate the student's membership according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled, for example:

(a) if the student was enrolled for four periods each day in a seven period school day for 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days; or

(b) if the student was enrolled for seven periods each day in a seven period school day for 103 school days, the student's membership would also be 103 days.

(5)(a) An LEA shall calculate the days in membership for all students using a method equivalent to the following: total clock hours of educational services for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day.

(b) For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(6) The sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days.

(7) The sum of regular and resource special education membership days may not exceed 360 days.

(8) The sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(9) An LEA may also count a student in membership for the equivalent in hours of up to:

(a) one period each school day, if the student has been:

(i) released by the school, upon a parent or guardian's request, during the school day for religious instruction or individual

learning activity consistent with the student's SEOP/Plan for College and Career Readiness; or

(ii) participating in one or more co-curricular activities under Rule R277-438, but has otherwise been exempted from school attendance under Section 53G-6-204 for home schooling;

(b) two periods each school day per student for time spent in bus travel during the regular school day to and from another state funded institution, if the student is enrolled in CTE instruction consistent with the student's SEOP/Plan for College and Career Readiness;

(c) all periods each school day, if the student is enrolled in:

(i) a concurrent enrollment program that satisfies the provisions of Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(ii) a private school without religious affiliation under a contract initiated by an LEA to provide special education services which directs that the instruction be paid by public funds if the contract with the private school is approved by an LEA board in an open meeting;

(iii) a foreign exchange student program under S[~~ubs~~]ection 53G-6-707; or

(iv) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP provided that:

(A) the student may only be counted in S1 membership and may not have an S2 record; and

(B) the S2 record for the student is submitted by the Utah Schools for the Deaf and the Blind.

(10)(a) Except as provided in Subsection (10)(b), a student receiving instruction delivered in a home school course or by a private school is not eligible to be claimed in an LEA's membership and does not qualify for funding under the Minimum School Program in Title 53F, Chapter 2, Minimum School Program Act.

(b) Subsection (10)(a) does not apply to public school instruction provided by an LEA to a home school or private school student participating in dual enrollment as described in Section 53G-6-702.

R277-419-9. Student Membership Calculation During the 2020 Covid-19 Pandemic.

Notwithstanding the requirements of Sections R277-419-7 and R277-419-8, the Superintendent shall calculate an LEA's membership for days of instruction from March 16, 2020 to June 30, 2020, based on the LEA's average rate of membership between July 1, 2019 and March 13, 2020 if:

(1) the LEA has submitted a continuity of education plan on or before June 1, 2020; and

(2) the LEA provides educational services through the end of the LEA's regular school year calendar.

R277-419-10. Calculations for a First Year Charter School.

(1) For the first operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on October 1 counts.

(2) For the second operational year of a charter school or a new satellite campus, the Superintendent shall determine the charter school's WPU funding based on Section 53F-2-302.

R277-419-11. Reporting Requirements and LEA Records.

(1) An LEA shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record and YIC membership in the S3 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership is calculated in days of membership.

(3) To determine student membership, an LEA shall ensure that records of daily student attendance or student engagement are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused;

(e) disability status, resource or self-contained, if applicable; and

(f) YIC status, ISI-1, ISI-2 or self-contained, if applicable.

(4) An LEA shall ensure that:

(a) computerized or manually produced records for CTE programs are kept by teacher, class, and[~~ classification of instructional program~~] Classification of [~~i~~]Instruction[~~s~~]al [~~p~~]Program or CIP code; and

(b) the records described in Subsection (4)(a) clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(5) An LEA shall ensure that each school within the LEA completes a minimum of one attendance check each school day.

(6) Due to school activities requiring schedule and program modification during the first days and last days of the school year:

(a) for the first five school days, an LEA may report aggregate days of membership equal to the number recorded for the second five-day period of the school year;

(b) for the last five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding five-day period; and

(c) schools shall continue educational service activities throughout required calendared days.

(7) The Superintendent:

(a) shall review each LEA's student membership and fall enrollment reports as they relate to the allocation of state funds; and

(b) may periodically or for cause review LEA records and practices for compliance with Federal and State laws and this rule.

R277-419-12. High School Completion Status.

(1) An LEA shall account for the final status of students who enter high school, grades 9-12, whether they graduate or leave high school for other reasons, using the following decision rules to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(a) graduates are students who earn a basic high school diploma by satisfying one of the options consistent with Rule R277-705 or out-of-school youths of school age who complete adult education secondary diploma requirements consistent with Rule R277-733;

(b) completers are students who have not satisfied Utah's requirements for graduation but who:

(i) are in membership in twelfth grade on the last day of the school year; and

(ii)(A) meet any additional criteria established by an LEA consistent with its authority under Rule R277-705;

(B) meet any criteria established for special education students under Utah State Board of Education Special Education Rules, Revised, June 2016, and available at:

http://www.schools.utah.gov/sars/Laws.aspx and the Utah State Board of Education;

(C) meet any criteria established for special education students under Subsection R277-700-8(5); or

(D) pass a General Educational Development or GED test with a designated score;

(c) continuing students are students who:

(i) transfer to higher education, without first obtaining a diploma;

(ii) transfer to the Utah Center for Assistive Technology without first obtaining a diploma; or

(iii) age out of special education;

(d) dropouts are students who:

(i) leave school with no legitimate reason for departure or absence;

(ii) withdraw due to a situation so serious that educational services cannot be continued even under the conditions of Subsection R277-419-7(3)(f)(ii);

(iii) are expelled and do not re-enroll in another public education institution; or

(iv) transfer to adult education;

(e) an LEA shall exclude a student from the cohort calculation if the student:

(i) transfers out of state, out of the country, to a private school, or to home schooling;

(ii) is a U.S. citizen who enrolls in another country as a foreign exchange student;

(iii) is a non-U.S. citizen who enrolls in a Utah public school as a foreign exchange student under Section 53G-6-707 in which case the student shall be identified by resident status, J for those with a J-1 visa, F for all others, not by an exit code;

(iv) dies; or

(v) beginning with the 2015-2016 school year, is attending an LEA that is not the student's school of enrollment.

(2)(a) An LEA shall report the high school completion status or exit code of each student to the Superintendent as specified in Data Clearinghouse documentation.

(b) High School completion status or exit codes for each student are due to the Superintendent by year end upload for review.

(c) Except as provided in Subsection (2)(d), an LEA shall submit any further updates of completion status or exit codes by October 1 following the end of a student's graduating cohort pursuant to Rule R277-484.

(d) An LEA with an alternative school year schedule where the students have an extended break in a season other than summer, shall submit the LEA's data by the next complete data submission update, following the LEA's extended break, as defined in Rule R277-484.

(3)(a) The Superintendent shall report a graduation rate for each school, LEA, and the state.

(b) The Superintendent shall calculate the graduation rates in accordance with applicable federal law.

(c) The Superintendent shall include a student in a school's graduation rate if:

(i) the school was the last school the student attended before the student's expected graduation date; and

(ii) the student does not meet any exclusion rules as stated in Subsection (1)(e).

(d) The last school a student attended will be determined by the student's exit dates as reported to the Data Clearinghouse.

(e) A student's graduation status will be attributed to the school attended in the student's final cohort year.

(f) If a student attended two or more schools during the student's final cohort year, a tie-breaking logic to select the single school will be used in the following hierarchical order of sequence:

(i) school with an attached graduation status for the final cohort year;

(ii) school with the latest exit date;

(iii) school with the earliest entry date;

(iv) school with the highest total membership;

(v) school of choice;

(vi) school with highest attendance; or

(vii) school with highest cumulative GPA.

(g) The Superintendent shall report the four-year cohort rate on the annual state reports.

R277-419-13. Student Identification and Tracking.

(1)(a) Pursuant to Section 53E-4-308, an LEA shall:

(i) use the SSID system maintained by the Superintendent to assign every student enrolled in a program under the direction of the Board or in a program or a school that is supported by public school funding a unique student identifier; and

(ii) display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

(b) The unique student identifier:

(i) shall be assigned to a student upon enrollment into a public school program or a public school-funded program;

(ii) may not be the student's social security number or contain any personally identifiable information about the student.

(2)(a) An LEA shall require all students to provide their legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

(b) A school shall transcribe the names from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53G-6-603;

(c) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

(d) An LEA may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the Superintendent.

(3) The Superintendent and LEAs shall track students and maintain data using students' legal names.

(4) If there is a compelling need to protect a student by using an alias, an LEA should exercise discretion in recording the name of the student.

(5) An LEA is responsible to verify the accuracy and validity of enrollment verification data, prior to enrolling students in the LEA, and provide students and their parents with notification of enrollment in a public school.

(6) An LEA shall ensure enrollment verification data is collected, transmitted, and stored consistent with sound data policies, established by the LEA as required in Rule R277-487.

R277-419-14. Exceptions.

(1)(a) An LEA may, at its discretion, make an exception for school attendance for a public school student, in the length of the school day or year, for a student with compelling circumstances.

(b) The time an excepted student is required to attend school shall be established by the student's IEP or Plan for College and Career Readiness.

(2) A school using a modified 45-day/15-day year-round schedule initiated prior to July 1, 1995 is in compliance with this rule if the school's schedule includes a minimum of 990 hours of time the LEA will provide educational services over a minimum of 172 days.

R277-419-15. Effective Date.

This rule is effective for the 2021-22 and 2022-23 school years.

KEY: education finance, school enrollment, pupil accounting
Date of Last Change: [~~March 15,~~] 2022
Notice of Continuation: December 2, 2021
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-102(7); 53E-3-501(1)(e); 53E-3-602(2); 53E-3-301(3)(d); 53G-4-404

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	**R277-630**	**Filing ID: 54993**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R277-630. Child Sex Abuse and Human Trafficking Prevention Training and Instruction

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule is being created to outline the process required by Section 53G-9-207 that requires the Utah State Board of Education (USBE) in partnership with the Department of Health and Human Services to approve instructional materials used for training teachers and parents, as well as materials for optional instruction to students regarding child sex abuse and human trafficking prevention.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This rule outlines the process for creating a review committee established by the Superintendent and provides the scoring rubric that the review committee will use to determine if materials are forwarded to the State Board of Education for final approval of the materials. This rule also provides for the establishment of deadlines, application form, and notice of denial of application.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. This requires third party providers to received USBE approval before being used by an LEA. USBE can approve the providers through the review committee and regular board meetings and will not incur additional costs through the process.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. LEAs will not incur any additional costs as USBE will approve the providers and LEAs can use any board approved provider.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and LEAs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons. USBE can approve providers within its regular processes and will not incur additional costs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-9-207

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	10/14/2022

R277. Education, Administration.
R277-630. Child Sex Abuse and Human Trafficking Prevention Training and Instruction.
R277-630-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53G-9-207, which requires the Board to approve, in partnership with the Utah Department of Health and Human Services, age-appropriate instructional materials for the child sex abuse and human trafficking prevention training and instruction.

(2) The purpose of this rule is to provide the process for a third-party provider of instructional materials for the child sex abuse and human trafficking prevention training and instruction to be approved for use by an LEA.

R277-630-2. Application Process and Criteria.

(1) A third-party provider offering child sex abuse or human trafficking training or instruction shall apply to the Superintendent and be approved by the Board before being utilized by an LEA.

(2) An LEA may only use instructional materials that have been approved by the Board.

(3) A third-party provider shall apply according to the form and deadlines established by the Superintendent and include the following within the application submission:

(a) a table showing how the materials and trainings align with state law including Sections:

(i) 53G-9-207; and
(ii) 53G-10-402;
(b) an assurance that the materials and trainings are vetted and do not lead to the accessibility of materials or resources that violate Section 53G-10-103 or train school staff, educators, or administrators on topics prohibited by Rule R277-328;
(c) a copy of all materials to be used for instruction or training purposes and notation for each regarding the intended audience;
(d) a list of evidence-based research that has been used to inform the materials or training; and
(e) additional information as requested by the Superintendent.
(4) The Superintendent, in partnership with the Department of Health and Human Services, shall establish a review committee to determine a potential third-party provider's advancement to the Board for final approval.
(5) The review committee members shall sign a non-disclosure agreement regarding the materials provided
(6) The review committee shall use a scoring rubric to assess several key program components including:
(a) training expectations, including:
(i) familiarity with state and federal law including Subsection 80-4A-201(1);
(ii) specialized instruction that considers cultural differences and needs of specialized populations;
(iii) how to adapt instruction to be age appropriate; and
(iv) a general understanding of child sex abuse and human trafficking, including human trafficking as a form of abuse;
(b) required program concepts, including:
(i) human trafficking definition aligned with state law;
(ii) sex trafficking definition;
(iii) labor trafficking definition;
(iv) grooming cycle;
(v) examples of trafficker conduct or behavior;
(vi) risk factors;
(vii) populations that are vulnerable to being victims of human trafficking;
(viii) concepts showing how human trafficking can happen to any individual; and
(ix) concepts surrounding refusal skills consistent with Section 53G-10-402.
(c) focus areas regarding prevention and reporting of sexual abuse or human trafficking including:
(i) how to be safe in various situations;
(ii) appropriate use of technology;
(iii) appropriate adult behavior;
(iv) concepts of self-awareness and trust;
(v) disclosure of inappropriate activities;
(vi) recognizing warning signs; and
(vii) appropriate mechanism, including time and place, for reporting when sexual abuse or human trafficking violations are suspected; and
(d) how an individual can create a reporting plan including a method of reporting sex abuse or human trafficking.
(7) A third-party provider that is sent to the Board for final approval shall make all application materials available to the Board for review and Board members shall be bound to keep the materials confidential;
(8) If the Board denies an application for approval, the Board shall notify the third-party provider within 30 days of the Board's determination the reason for the denial.
(9) A third-party provider that has been denied may reapply for approval if the reasons for the denial have been shown by the third-party provider to be remediated.
(10) An approved third-party provider shall reapply for approval of materials or trainings every three years and when updates to the approved materials or trainings are made.

KEY: child sex abuse, human trafficking, prevention
Date of Last Change: 2022
Authorizing and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-9-207

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Rule or Section Number:	**R277-911**	**Filing ID: 55000**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R277-911. Secondary Career and Technical Education

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Rule R277-911 is being repealed and reenacted to create new definitions that are more consistent with current practices and to better outline the processes followed for a local education agency (LEA) to qualify for varying streams of funding for the state Career and Technical Education (CTE) appropriation. The changes are extensive in relation to cleaning up verbiage and reordering items for better of ease of understanding.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments include changes to how funding is awarded and provide more streamlined requirements that align with current practice including how the multiple opportunities for funding are calculated. This rule also provides the criteria (referred to as standards in state code) for qualifying for each different opportunity for funding disbursements. This rule also outlines the requirements of an LEA that chooses to run an approved CTE program including being subject to an annual review and what must be provided for that annual review process.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. This will not impact the Utah State Board of Education (USBE) budgets but simply changes how funds are awarded to LEAs.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. This rule change disallows CTE directors from qualifying for administrative Weighted Pupil Units (WPUs) who are still in the process of licensure, and reduces the number of pathways required to qualify for high school CTE WPUs. This may slightly impact CTE funding for certain LEAs, but will not have a large impact on any CTE program overall and the cost is inestimable as the number of directors working on licensure is unknown.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects USBE and LEAs.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and LEAs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons. This only applies to distribution for courses and does not change compliance requirements.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Article X, Section 3	Section 53E-3-507	Section 53F-2-311
Section 53G-6-708		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	10/14/2022

R277. Education, Administration.
R277-911. Secondary Career and Technical Education.
R277-911-1. Authority and Purpose.

[~~(1) This rule is authorized by:~~

~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~

~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law;~~

~~(c) Section 53E-3-507, which allows the Board to establish minimum standards for CTE programs in the public education system; and~~

~~(d) Sections 53F-2-311 and 53G-6-708, which direct the Board to distribute specific amounts and percentages for specific CTE programs and facilitate administration of various programs.~~

~~(2) This rule establishes standards and procedures for LEAs seeking to qualify for funds administered by the Board for CTE programs in the public education system.~~

~~**R277-911-2. Definitions.**~~

~~(1) "Aggregate membership" means the sum of all days in membership during a school year for:~~

~~(a) the student;~~

~~(b) the program;~~

~~(c) the school;~~

~~(d) the LEA; or~~

~~(e) the state.~~

~~(2) "Approved program" means a program annually approved by the Board through the consent calendar process that meets or exceeds the state program standards or outcomes for career and technical education programs.~~

~~(3) "Bureau of Apprenticeship and Training" means a branch office for apprenticeship administered by the United States Department of Labor and located in Salt Lake City.~~

~~(4)(a) "Career and technical education" or "CTE" means organized educational programs that:~~

~~(i) prepare individuals for a wide range of high-skill, high-demand careers;~~

~~(ii) provide all students with a seamless education system from public education to post-secondary education, driven by a Plan for College and Career Readiness; and~~

~~(iii) provide students competency-based instruction, hands-one experiences, and certified occupational skills, culminating in further education and meaningful employment.~~

~~(b) CTE areas of study include:~~

~~(i) agriculture;~~

~~(ii) business;~~

~~(iii) family and consumer sciences;~~

~~(iv) health science;~~

~~(v) information technology;~~

~~(vi) marketing;~~

~~(vii) skilled and technical sciences; and~~

~~(viii) technology and engineering education.~~

~~(5)(a) "CTE pathway" means a planned sequence of courses within a program of study to assure strong academic and technical preparation connecting high school course work to work beyond high school.~~

~~(b) A CTE pathway ensures that a student will be prepared to take advantage of the full range of post-secondary options, including:~~

~~(i) on-the-job training;~~

~~(ii) certification programs; and~~

~~(iii) two- and four-year college degrees.~~

~~(6)(a) "Course" means an individual CTE class structured by state-approved standards.~~

~~(b) An approved course may require one or two periods for up to one year.~~

~~(c) Courses may be completed by demonstrated competencies or by course completion.~~

~~(7)(a) "Entry-level" means a set of tasks identified and validated by workers and employers in an occupation as those of a beginner in the field.~~

~~(b) Entry-level skills are a limited subset of the total set of tasks performed by an experienced worker in the occupation.~~

~~(c) Competent performance of entry-level tasks enhances employability and initial productivity.~~

~~(8) "Extended year program" means CTE programs no longer than 12 weeks in duration, offered during the summer recess, and supported by extended-year or other CTE funds.~~

~~(9) "CTE Maintenance of Effort" or "MOE" means the expenditure plan outlined in Subsection R277-911-4(1).~~

~~(10) "Program" means a combination of CTE courses that:~~

~~(a) provides the competencies for specific job placement or continued related training; and~~

~~(b) is outlined in the Plan for College and Career Readiness using all available and appropriate high school courses.~~

~~(11) "Program completion" means the student completion of a sequence of approved courses, work-based learning experiences, or other prescribed learning experiences as determined by the Plan for College and Career Readiness.~~

~~(12) "Regional consortium" means the LEAs, applied technology colleges, colleges and universities within the regions that approve CTE programs.~~

~~(13) "Registered apprenticeship" means a training program that:~~

~~(a) includes on-the-job training in a specific occupation combined with related classroom training; and~~

~~(b) has approval of the Bureau of Apprenticeship and Training.~~

~~(14) "Related training" means a course or program that is:~~

~~(a) directly related to an occupation;~~

~~(b) compatible with apprenticeship training;~~

~~(c) taught in a classroom; and~~

~~(d) approved by the Bureau of Apprenticeship and Training.~~

~~(15) "Scope and sequence" means the organization of all CTE courses and related academic courses into programs within the high school curriculum that lead to:~~

~~(a) specific skill certification;~~

~~(b) job placement;~~

~~(c) continued education; or~~

~~(d) training.~~

~~(16)(a) "Skill certification" means a verification of competent task performance.~~

~~(b) Skills certification is provided by an approved state or national program certification process.~~

~~(17) "Weighted pupil unit" or "WPU" means the basic unit used to calculate the amount of state funds for which an LEA is eligible.~~

~~(18) "Work-based learning" or "WBL" means a continuum of awareness, exploration, preparation, and training activities that combine structured learning and authentic work experiences implemented through industry and education partnerships.~~

~~R277-911-3. CTE Program Approval.~~

~~(1)(a) The Superintendent shall approve CTE programs based on verified training needs of the area and the competencies necessary to provide occupational opportunities for students.~~

~~(b) Programs are supported by a data base, including:~~

~~(i) local, regional, state, and federal manpower projections;~~

~~(ii) student occupational/interest surveys;~~

~~(iii) regional job profile;~~

~~(iv) advisory committee information; and~~

~~(v) follow-up evaluation and reports.~~

~~(2) LEA CTE directors shall meet the requirements specified in R277-911.~~

~~(3) Within available resources, instructional materials, including textbooks, reference materials, and media, shall reflect current technology, processes, and information for the CTE programs.~~

~~(4)(a) An LEA shall provide CTE guidance, counseling, and Board approved testing for students enrolled in CTE programs.~~

~~(b) An LEA shall develop a written plan for placement services with the assistance of local advisory committees, business and industry, and the Department of Workforce Services.~~

~~(c) An LEA shall develop a Plan for College and Career Readiness for all students, which shall include:~~

~~(i) a student's education-occupation plans (grades 7-12), including job placement when appropriate;~~

~~(ii) all Board, local board and local charter board graduation requirements;~~

~~(iii) evidence of annual parent, student, and school representative involvement;~~

~~(iv) attainment of approved workplace skill competencies; and~~

~~(v) identification of a CTE post-secondary goal and an approved sequence of academic and CTE courses.~~

~~(5)(a) An LEA shall use curricula and instruction that is directly related to business and industry validated competencies.~~

~~(b) An LEA shall use a valid skill certification process to verify successful completion of competencies.~~

~~(c) An LEA shall provide instruction in proper and safe use of any equipment required for skill certification within the approved program.~~

~~(6) An LEA shall provide and safely maintain equipment and facilities, consistent with the validated competencies identified in the instruction standard and applicable state and federal laws.~~

~~(7)(a) Counselors and instructional staff shall hold valid Utah teaching licenses with endorsements appropriate for the programs they teach.~~

~~(b) Licenses and endorsements required under Subsection (7)(a) may be obtained through an institutional recommendation or through occupational and educational experience verified by the Board's licensure process.~~

~~(c) CTE program instructors shall keep technical and professional skills current through business and industry involvements in order to ensure that students are provided accurate state-of-the-art information.~~

~~(8) An LEA shall conduct CTE programs consistent with Board policies and state and federal laws and regulations on access that prohibit discrimination on the basis of:~~

~~(a) race;~~

~~(b) creed;~~

~~(c) color;~~

~~(d) national origin;~~

~~(e) religion;~~

~~(f) age;~~

~~(g) sex; and~~

~~(h) disability.~~

~~(9)(a) An LEA shall establish an active advisory council to review all CTE programs annually.~~

~~(b) An advisory council may serve several LEAs or a region.~~

~~(c) An advisory council reviews:~~

~~(i) program offerings;~~

~~(ii) quality of programs; and~~

~~(iii) equipment needs.~~

~~(10) A program advisory committee made up of individuals who are working in the occupational area shall support each state-funded approved CTE program at the LEA or regional level.~~

~~(11) LEAs are encouraged to make training available through nationally-chartered CTE student leadership organizations in each area of study.~~

~~(12) An LEA, with oversight by local program advisory committee members, shall make an annual evaluation of its CTE programs.~~

~~**R277-911-4. Disbursement and Expenditure of CTE Funds -- General Standards.**~~

~~(1) To be eligible for state CTE program funds, an LEA shall first expend for CTE programs an amount equivalent to the regular WPU for students in approved CTE programs, grades nine through twelve, based on prior year aggregate membership in funded CTE programs, times the current year WPU value, less the amount for:~~

~~(a) college and career awareness;~~

~~(b) work-based learning; and~~

~~(c) comprehensive counseling and guidance.~~

~~(2) An LEA may thereafter expend State CTE program funds only for approved CTE programs, grades nine through twelve.~~

~~(3) An LEA that does not meet MOE may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with R277-114.~~

~~**R277-911-5. Disbursement of Funds -- Added Cost Funds.**~~

~~(1)(a) WPUs shall be allocated for the added instructional costs of approved CTE programs operated or contracted by an LEA.~~

~~(b) Programs and courses provided through technical colleges and higher education institutions do not qualify for added cost funds except for specific contractual arrangements approved by the Board.~~

~~(2)(a) Computerized or manually produced records for CTE programs shall be kept by:~~

~~(i) teacher;~~

~~(ii) class; and~~

~~(iii) core code.~~

~~(b) Records described in Subsection (2)(a) shall show clearly and accurately the entry and exit date of each student and whether a student has been absent from a CTE class ten consecutive days.~~

~~(3) Added cost funds shall not be generated:~~

~~(a) during bus travel;~~

~~(b) until a student starts attending an approved CTE course;~~

~~(c) when a student has been absent, without excuse, for the previous 10 days.~~

~~(4) Approved CTE programs shall receive funds determined by prior year hours of membership for approved programs.~~

~~(5) Allocations under this R277-911-5 are computed using grades nine through twelve aggregate membership in approved programs for the previous year with a growth factor applied to LEAs experiencing growth of one percent or greater in grades nine through twelve except as provided by R277-462 and R277-916.~~

~~(6) Added cost funds shall be used to cover the added CTE program instructional costs of LEA programs.~~

~~(7) An LEA that does not comply with the requirements of this Subsection may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with R277-114.~~

~~**R277-911-6. Disbursement of Funds -- Skill Certification.**~~

~~(1) An LEA that demonstrates approved student skill certification may receive additional compensation.~~

~~(2)(a) To be eligible for skill certification compensation, an LEA shall show its student completer has demonstrated mastery of standards, as established by the Board.~~

~~(b) An authorized test administrator shall verify student mastery of the skill standards.~~

~~(3) The Superintendent may only disburse skill certification compensation if an approved skill certification assessment is developed for the program.~~

~~**R277-911-7. Disbursement of Funds -- CTE Leadership Organization Funds.**~~

~~(1) Participating LEAs sponsoring CTE leadership organizations shall be eligible for a portion of funds set aside for these organizations.~~

~~(2) Qualifying CTE leadership organizations shall be nationally chartered and include:~~

~~(a) SkillsUSA (an association of Skilled and Technical Sciences Education students);~~

~~(b) DECA (Distributive Education Clubs of America);~~

~~(c) FFA (Future Farmers of America);~~

~~(d) HOSA (Health Occupations Students of America);~~

~~(e) FBLA (Future Business Leaders of America);~~

~~(f) FCCLA (Family, Career and Community Leaders of America); and~~

~~(g) TSA (Technology Students Association).~~

~~(3) Up to 1% of the state CTE appropriation for LEAs shall be allocated to eligible LEAs based on documented prior year student membership in approved CTE leadership organizations.~~

~~(4)(a) A portion of funds allocated to an LEA for CTE leadership organizations shall be used to pay the LEA's portion of statewide administrative and national competition costs.~~

~~(b) An LEA shall use the remaining amount available for the LEA's CTE leadership organization expenses.~~

~~**R277-911-8. Disbursement of Funds -- School District and Charter School WPUs.**~~

~~(1) The Superintendent shall allocate WPUs for costs of administration of CTE programs as described in this section.~~

~~(2)(a) The Superintendent shall distribute Twenty (20) WPUs to a school district for costs associated with the administration of CTE.~~

~~(b) To qualify, a school district shall employ a minimum one-half time CTE director.~~

~~(3)(a) To encourage multidistrict CTE administrative services, the Superintendent shall distribute 25 WPUs to a school district that consolidates CTE administrative services with one or more other school districts;~~

~~(b) To qualify, a participating school district shall employ a full-time CTE director.~~

~~(4)(a) The Superintendent shall distribute Twenty-five (25) WPUs to a single charter school acting as fiscal agent, to provide CTE administrative services to a group of at least 10 charter schools offering CTE pathways, grades 9-12.~~

~~(b) If more than 10 charter schools offer CTE pathways, the Superintendent shall distribute an additional 5 WPUs for each additional charter school over 10.~~

~~(c) To qualify, the charter school acting as fiscal agent must employ a full-time CTE director.~~

~~(5)(a) A district or charter school receiving additional WPUs under Subsection (3)(a) or (4)(a) shall annually submit to the Superintendent a Memorandum of Understanding with each partnering district or school, which shall include:~~

~~(i) a scope of work to be performed by the full-time CTE director for each LEA or school involved;~~

~~(ii) provisions for sharing data under the agreement, including provisions for protecting the privacy of student education records under FERPA;~~

~~(iii) maintenance of effort requirements; and~~

~~(iv) other information as directed by the Superintendent.~~

~~(b) The Superintendent may withhold funds from a district or charter school under Rule R277-114 for failure to submit a memorandum of understanding as required by this rule.~~

~~(6)(a) The Superintendent shall distribute 10 WPUs to a small school district consisting of only necessarily existent small high school(s), where multi-district CTE administration is not feasible.~~

~~(b) To qualify, a small school district shall assign a CTE director to a minimum of part-time CTE administration.~~

~~(7) To qualify for 10, 20 or 25 CTE administrative WPUs as provided in this Subsections (1) through (6), a CTE director shall:~~

~~(a) hold or be in the process of completing requirements for a Education Leadership License Area of Concentration described in R277-505;~~

~~(b) have an endorsement in at least one career and technical area listed in Rule R277-518; and~~

~~(c)(i) have four years of experience as a full-time career and technical educator; or~~

~~(ii) complete a prescribed professional development program provided by the Superintendent within a period of two years following board appointment as an LEA CTE director.~~

~~(8) In addition to WPUs appropriated under Subsections (1) through (6), the Superintendent shall allocate funds to each approved high school as described in Subsections (9) through (16):~~

~~(9) The Superintendent shall distribute 10 WPUs to a high school that:~~

~~(a) conducts approved programs in a minimum of two CTE areas specified in Subsection R277-911-1(4)(b);~~

~~(b) conducts a minimum of six different state-approved CTE courses including at least one CTE pathway; and~~

~~(c) has at least one approved career and technical student leadership organization.~~

~~(10) Consolidated courses in small schools may count as more than one course as approved by the Superintendent.~~

~~(11) The Superintendent shall distribute 15 WPUs to a high school that:~~

~~(a) conducts approved programs in a minimum of three CTE areas specified in Subsection R277-911-2(4)(b);~~

~~(b) conducts a minimum of nine different state-approved CTE courses including at least one CTE pathway; and~~

~~(c) has at least one approved CTE student leadership organization.~~

~~(12) Consolidated courses in small schools may count as more than one course as approved by the Superintendent.~~

~~(13) The Superintendent shall distribute 20 WPUs to a high school that:~~

~~(a) conducts approved programs in a minimum of four CTE areas specified in Subsection R277-911-2(4)(b);~~

~~(b) conducts a minimum of twelve different state-approved CTE courses including at least two CTE pathways; and~~

~~(c) has at least two approved CTE student leadership organization.~~

~~(14) Consolidated courses in small schools may count more than one course as approved by the Superintendent.~~

~~(15) The Superintendent shall distribute 25 WPUs to a high school that:~~

~~(a) conducts approved programs in a minimum of five CTE areas specified in Subsection R277-911-2(4)(b);~~

~~(b) conducts a minimum of fifteen different state-approved CTE courses including at least two CTE pathways; and~~

~~(c) has at least three approved CTE student leadership organizations.~~

~~(16) Consolidated courses in small schools may count more than one course as approved by the Superintendent.~~

~~(17)(a) A maximum of one approved alternative high school, as outlined in Rule R277-730, per school district may qualify for funds under Subsection (12).~~

~~(b) LEAs sharing an alternative school shall receive a prorated share.~~

~~(18) Programs and courses provided through school district technical centers may not receive funding under this section.~~

~~R277-911-9. Disbursement of Funds -- School District Technical Centers.~~

~~(1)(a) The Superintendent may award a maximum of forty WPUs for each school district operating an approved school district center.~~

~~(b) To qualify under the approved school district technical center provision, the school district shall:~~

~~(i) provide at least one facility other than an existing high school as a designated school district technical center;~~

~~(ii) employ a full-time CTE administrator for the center;~~

~~(iii) enroll a minimum of 400 students in the school district technical center;~~

~~(iv) prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, applied technology colleges, and higher education institutions;~~

~~(v) centralize high cost programs in the school district technical center;~~

~~(vi) conduct approved programs in a minimum of five CTE areas specified in Subsection R277-911-1(4)(b); and~~

~~(vii) conduct a minimum of fifteen different state-approved CTE courses.~~

~~R277-911-10. Disbursement of Funds -- Summer CTE Agriculture Programs.~~

~~(1)(a) To receive state summer CTE agriculture program funds, an LEA shall submit to the Superintendent, an application for approval of the LEA's program.~~

~~(b) An LEA shall submit its application prior to the annual due date specified by the Superintendent each year.~~

~~(c) The Superintendent shall send notification of approval of an LEA's program within ten calendar days of receiving the application.~~

~~(2) A teacher of a summer CTE agriculture program shall:~~

~~(a) hold a valid Utah teaching license, with an endorsement in agriculture, as outlined in Subsection R277-911-3(7);~~

~~(b) develop a calendar of activities which shall be approved by LEA administration and reviewed by the Superintendent;~~

~~(c)(i) work a minimum of eight hours a day in the summer CTE agriculture program;~~

~~(ii) An LEA may approve exceptions which shall be reflected in the calendar of activities;~~

~~(d) not engage in other employment, including self-employment, which conflicts with the teacher's performance in the summer CTE agriculture program;~~

~~(e) develop and file a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with:~~

~~(i) the school principal;~~

~~(ii) the LEA CTE director; and~~

~~(iii) the Superintendent; and~~

~~(f) visit the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students.~~

~~(3) College interns may be approved to conduct summer CTE agriculture programs upon approval by the Superintendent.~~

~~(4) Students enrolled in the summer CTE agriculture program shall:~~

~~(a) have on file in the LEA office the student's Plan for College and Career Readiness goal related to agriculture;~~

~~(b) in conjunction with the student's parent or employer and the teacher, develop an individual plan of activities, including a supervised occupational experience program;~~

~~(c) have completed the eighth grade; and~~

~~(d) have not have graduated from high school.~~

~~(5)(a) The Superintendent shall collect data from the program and staff of each LEA to ensure compliance with approved standards.~~

~~(b) An LEA shall submit to the Superintendent a final program report, on forms provided by the Superintendent on the annual due date specified by the Superintendent.~~

~~(6)(a) The Superintendent shall allocate Summer CTE agricultural funding to each LEA conducting an approved program for a minimum of 35 students lasting nine weeks.~~

~~(b) An LEA may receive funding for no more than nine weeks or 35 students.~~

~~(7) An LEA operating a program with fewer than 35 students per teacher or for fewer than nine weeks may only receive a prorated share of the summer CTE agricultural allocation.~~

~~R277-911-11. Disbursement of Funds - Comprehensive Counseling and Guidance; College and Career Awareness, and Work-Based Learning Programs.~~

~~(1) The Superintendent shall distribute funds to LEAs consistent with Section 53F-2-311.~~

~~(2) An LEA shall spend funds distributed for comprehensive guidance consistent with Subsection 53E-2-304(2)(b) and R277-462, which explain the purpose and criteria for student Plans for College and Career Readiness.~~

~~(3) An LEA may spend funds allocated under this section to fund work-based learning programs consistent with Rules R277-915 and R277-916.~~

~~(4) An LEA may spend funds allocated under this section to fund College and Career Awareness programs consistent with Rule R277-916.~~]

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah constitution and state law;

(c) Section 53E-3-507, which allows the Board to establish minimum standards for CTE programs in the public education system; and

(d) Sections 53F-2-311, which directs the Board to distribute specific amounts and percentages for specific Career and Technical Education (CTE) programs and facilitate administration of various programs.

(2) This rule establishes standards and procedures for an LEA to qualify for funds administered by the Board for CTE programs in the public education system.

R277-911-2. Definitions.

(1) "Added instructional costs," "add-on funds," or "CTE add-on funds" means program expenses beyond those normally encountered at the secondary level resulting from higher program operations, maintenance, and improvement expenses and may not include:

(a) direct charges that would otherwise be incurred by the LEA if CTE programs were not offered;

(b) direct charges required by other non-CTE state or federal programs, rules or laws;

(c) charges that have been submitted as part of the LEA's indirect cost rate calculation; and

(d) charges that are used to supplant other LEA funding sources.

(2) "Advisory committee" means a group of individuals working in the occupational area which provides industry feedback for each state funded and approved CTE program at the LEA or regional level.

(3) "Aggregate CTE membership" means the sum of all days in membership during a school year for:

(a) the student;

(b) the course;

(c) the program;

(d) the school;

(e) the LEA; or

(f) the state.

(4) "Approved program" means a program annually approved by the Board through the consent calendar process that meets or exceeds the state program standards or outcomes for career and technical education programs.

(5) "Career and technical education" or "CTE" means organized educational programs that:

(a) prepare students for a wide range of high-skill, high-demand or emerging careers;

(b) provide all students with a seamless education system from public education to postsecondary education, driven by a Plan for College and Career Readiness as defined in Rule R277-462; and

(c) provide students competency-based instruction, hands-one experiences, and certified occupational skills, culminating in meaningful employment.

(6) "CTE career cluster" means approved CTE programs with related knowledge and skills organized into industry sectors.

(7) "CTE pathway" means a planned sequence of courses within a program of study structured to assure strong academic and technical preparation while connecting high school course work including:

(a) concurrent enrollment opportunities to employment beyond high school; and

(b) other postsecondary options, including:

(i) on-the-job training;

(ii) certification opportunities; and

(iii) two- and four-year college degrees.

(8) "Course" means an individual CTE class structured by state-approved core codes and standards which may require one or two periods for up to one year and may be completed by demonstrated competencies or by course completion.

(9) "Maintenance of Effort" or "MOE" means the expenditure plan outlined in Subsection R277-911-4(1).

(10) "Pathway completion" means a student has met all course and credit requirements of a CTE pathway and is on track to graduate from high school.

(11) "Program" means a combination of CTE courses within a pathway and cluster that provides the competencies needed for specific certifications, job placement, or continued postsecondary training.

(12) "School District Technical Center" means a career and technical education center that meets the requirements in Section R277-911-7 and is not a comprehensive high school.

(13) "Skill certification" or "competency attainment" means a verification of industry standard knowledge and skills including both state or nationally approved program certifications and is an integral part of a CTE program.

(14) "Spend Plan" means an application submitted to the USBE requesting the use of local CTE carryforward funds as described in Section R277-911-4.

(15) "Summer Agriculture Program" means a teacher or college intern supervised, intensive, individualized educational experience that is the practical application of instructional competencies in agriculture education.

(16) "Weighted pupil unit" or "WPU" means the same as the term is defined in Subsection 53F-2-102(5).

(17) "Work-based learning" or "WBL" means the same as the term is defined in Section R277-915-2.

R277-911-3. CTE Program Approval and LEA CTE Program Annual Review or Initial Application Review.

(1) The Superintendent shall forward to the Board a comprehensive list of proposed secondary CTE programs for the Board to approve as the approved programs.

(2) The Superintendent shall determine if a secondary CTE program offering shall be forwarded to the Board based upon needs in a specific area including:

(a) a program need supported by data, including:

(i) local, regional, state, and federal workforce projections;

(ii) advisory committee recommendations for a program or program update in the related program area;

(iii) a need for new or updated technical training and marketable job skills for the related program area; or

(iv) a need related to an industry upgrade or upskill specifications to keep a program current or relevant; and

(b) new or emerging economic need with occupational opportunities for a student in a program area with clear competencies.

(3) An LEA shall qualify for a funding disbursement pursuant to Section 53F-2-311 and this rule only for approved programs and subsequently be subject to the requirements for an annual review or application as described in Subsection (5).

(4) An LEA that implements an approved program and applies for a funding disbursement shall be provide all necessary materials required by the Superintendent to conduct an annual review or initial application review by May 1.

(5) The annual review or initial application review shall include:

(a) the LEA's Plan for College and Career Readiness consistent with Sections 53E-2-304 and R277-462-5;

(b) the LEA's results of an annual placement survey for grade 12 CTE pathway concentrators from the prior school year;

(c) adherence to current industry standards for each implemented CTE program including a demonstration of the industry standards being reflected in:

(i) available resources for the program; and

(ii) program instructional materials including:

(A) textbooks;

(B) reference materials; and

(C) additional media.

(d) a demonstration the LEA:

(i) used curricula and instruction that is directly related to business and industry validated competencies;

(ii) provided approved certification opportunities for students enrolled in each CTE program to verify successful completion of competencies;

(iii) provided instruction in proper and safe use of equipment required within each CTE program and maintained a local safety plan;

(iv) provided and safely maintained equipment and facilities, consistent with the validated competencies identified in:

(A) the instruction standard for the CTE program;

(B) state risk management; and

(C) other applicable state and federal laws;

(v) employed instructional staff in each CTE program that:

(A) holds a valid Utah teaching licenses with appropriate endorsements pursuant to Rule R277-301 for the CTE program; and

(B) maintains technical and professional skills current through professional learning, business and industry partnerships to ensure that students are provided current industry standard programs.

(vi) conducted a local needs assessment with stakeholder engagement;

(vii) performed an annual CTE program self-evaluation by the CTE director;

(viii) conducted CTE programs consistent with Board policies and state and federal laws pertaining to CTE program access that prohibit discrimination as required by law; and

(ix) established an active advisory committee to inform CTE programs annually as described in Subsection (6); and

(e) any other requirements identified by the Superintendent.

(6) An LEA implementing an approved program shall:

(a) create an advisory committee that includes education and industry stakeholders which may serve several LEAs or a region; or

(b) utilize an existing advisory committee created by an LEA that is implementing an approved CTE program.

(7) An advisory committee described in Subsection (6) shall review and make recommendations to an LEA that is implementing an approved CTE program regarding:

(a) program offerings;

(b) quality of programs;

(c) equipment needs; and

(d) work-based learning opportunities.

(8) An LEA may make the LEA's CTE leadership opportunities available through Career and Technical Student Organization (CTSOs) for each career cluster offered by the LEA.

R277-911-4. Disbursement and Expenditure of CTE Funds -- General Standards for Qualification.

(1) To be eligible for any funding disbursement pursuant to Section 53F-2-311 and this rule, an LEA shall first expend for an approved CTE program, an amount equivalent to the regular WPU for students in the approved CTE programs, grades 9 through 12, based on prior year aggregate membership in funded CTE programs, multiplied by the current year WPU value and minus the amount for:

(a) college and career awareness;

(b) work-based learning; and

(c) school counseling.

(2) An LEA shall expend the amount required in Subsection (1) to remain eligible for a funding disbursement for approved programs in grades 9 through 12.

(3) Expenses charged to state CTE add-on funds must use the unrestricted indirect cost rate and be directly related to approved CTE programs.

R277-911-5. Disbursement of Funds -- Administrative WPUs for School Districts and Charter Schools.

(1) Except as provided for in Subsection (3), pursuant to Subsection 53F-2-311(3)(a), the Superintendent shall distribute 20 WPUs to a school district for costs associated with the administration of a CTE program.

(2) To qualify for an administrative WPU disbursement, an LEA shall:

(a) employ a minimum one-half time CTE director; and

(b) place the administrative assignment for CTE in the educator licensing system.

(3) Except as provided for in Subsection (10) and pursuant to Subsection 53F-2-311(3)(a), the Superintendent shall distribute 25 WPUs to a school district that consolidates CTE administrative services with one or more other school districts.

(4) To qualify for the consolidated CTE administrative WPU disbursement described in Subsection (3), the school district consolidating the administrative services shall employ a full-time CTE director.

(5) The Superintendent shall distribute 25 WPUs to a single charter school acting as fiscal agent, to provide CTE administrative services.

(6) To quality for the administrative WPU described in Subsection (5), a charter school shall:

(a) provide CTE administrative services to a group of at least 10, but not more than 15, charter schools offering approved CTE programs to students in grades 9 through 12; and

(b) if the charter school services 11 through 15 charter schools the Superintendent shall distribute an additional five administrative WPUs for each charter school up to 25 additional administrative WPUs.

(7) To qualify for the charter school administrative WPU described in Subsection (6), the charter school acting as fiscal agent shall employ a full-time CTE director.

(8) An LEA receiving additional WPUs under Subsection (3) or (6) shall annually submit to the Superintendent a memorandum of understanding with each partnering LEA, which shall include:

(a) a scope of work to be performed by the full-time CTE director for each LEA involved;

(b) provisions for sharing data under the agreement, including provisions for protecting the privacy of student education records under FERPA 20 USC 1232g;

(c) maintenance of effort requirements; and

(d) other information as directed by the Superintendent.

(9) The Superintendent may withhold funds from an LEA for failure to submit a memorandum of understanding as required by Subsection (8).

(10) The Superintendent shall distribute 10 WPUs to a small school district consisting only of necessarily existent small high schools as described in Section 53F-2-304, where multi-district CTE administration described in Subsection (3) is not feasible.

(11) To qualify for the administrative WPU described in Subsection (10) a small school district shall assign a CTE director to a minimum of part-time CTE program administration.

(12) To qualify for any administrative WPUs as provided in Subsections (1) through (11) an LEA shall ensure a CTE director:

(a) hold requirements for a School Leadership License Area of Concentration described in Rule R277-301;

(b) have an endorsement in at least one career and technical area listed in Subsection R277-309-4(8)(a); and

(c) one of the following:

(i) have four years of experience as a full-time career and technical educator; or

(ii) complete a prescribed professional development program provided by the Superintendent within a period of two years following board appointment as an LEA CTE director.

R277-911-6. Disbursement of Funds -- High School WPUs.

(1) Pursuant to Subsection 53F-2-311(3)(b), the Superintendent shall allocate funds to each high school offering approved CTE programs as described in this section.

(2) The Superintendent shall distribute 10 WPUs to an LEA for each high school that:

(a) conducts approved programs in a minimum of two CTE career cluster areas;

(b) conducts a minimum of six different state approved CTE courses including at least the ability to concentrate in two CTE pathways and complete one pathway; and

(c) has at least one approved career and technical student leadership organization that aligns with the pathways offered by the LEA.

(3) The Superintendent shall distribute 15 WPUs to an LEA for each high school that:

(a) conducts approved programs in a minimum of three CTE career cluster areas.

(b) conducts a minimum of nine different state approved CTE courses including at least the ability to concentrate in three CTE pathways and complete one pathway; and

(c) has at least one approved CTE student leadership organizations that aligns with a pathway offered by the LEA.

(4) The Superintendent shall distribute 20 WPUs to an LEA for each high school that:

(a) conducts approved programs in a minimum of four CTE career cluster areas.

(b) conducts a minimum of 12 different state approved CTE courses including at least the ability to concentrate in four CTE pathways and complete two pathways; and

(c) has at least two approved CTE student leadership organizations that alignwith the pathways offered by the LEA.

(5) The Superintendent shall distribute 25 WPUs to an LEA for each high school that:

(a) conducts approved programs in a minimum of five CTE career cluster areas.

(b) conducts a minimum of 15 different state approved CTE courses including the ability to concentrate in at least five CTE pathways and complete three pathways; and

(c) has at least three approved CTE student leadership organizations that align with the pathways offered by the LEA.

(6) A maximum of one alternative high school per LEA may qualify for funds under this section.

(7) Exceptions for advanced pathway completion requirements may be approved annually for an LEA that has a sponsorship or partnership with a degree granting public higher education institution by the Superintendent through specific contractual agreements.

(8) Programs and courses provided through school district technical centers may not receive funding under this section.

R277-911-7. Disbursement of Funds -- School District Technical Centers.

(1) Pursuant to Subsection 53F-2-311(3)(c), the Superintendent shall disburse 40 WPUs to a school district operating an approved school district technical center.

(2) Except as provided in Subsection (4), to qualify for the school district technical center WPU disbursement, the school district, schools shall:

(a) provide at least one facility other than an existing high school as a designated school district technical center;

(b) employ a full-time CTE administrator for the center in addition to the district CTE director;

(c) enroll a minimum of 400 students grades 9 through 12 in the school district technical center courses;

(d) prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, and partnering higher education institutions;

(e) centralize high-cost programs in the school district technical center;

(f) conduct approved programs in a minimum of five CTE career cluster areas;

(g) conduct a minimum of 15 different state approved CTE concentrator and completer courses; and

(h) submit verification of all requirements stated in this section annually or as requested to the Superintendent.

(3) A district that serves 18,000 students or more in grades 9-12 may qualify for up to two district technical center locations through an application process prescribed by the Superintendent.

(4) To qualify for the school district technical center WPU disbursement, a district serving rural and necessarily existent small schools, as described in Section 53F-2-304 shall:

(a) provide at least one facility other than an existing high school as a designated school district technical center;

(b) employ a full-time CTE administrator for the center in addition to the district CTE director;

(c) enroll a minimum of 300 students in the school district technical center courses;

(d) prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, and partnering higher education institutions;

(e) centralize high-cost programs in the school district technical center;

(f) conduct approved programs in a minimum of four CTE career cluster areas;

(g) conduct a minimum of 12 different state approved CTE concentrator and completer courses; and

(h) submit verification of all requirements stated in this section annually and as requested to the Superintendent.

R277-911-8. Disbursement of Funds -- Skill Certification.

(1) Pursuant to Subsection 53F-2-311(2)(c), an LEA may receive additional disbursement for competency attainment of student achievement on approved program certifications.

(2) To be eligible for skill certification compensation, an approved LEA shall demonstrate the LEA's students have demonstrated mastery of established standards for the CTE program.

(3) The LEA shall demonstrate the mastery through an authorized test administrator that shall follow test administration and ethics requirements identified in Rule R277-404.

(4) An LEA shall keep records of the certification and skill verification tests or processes used to demonstrate mastery as described in Subsection (3) for monitoring and auditing purposes.

(5) The Superintendent shall distribute funds to an LEA by the following formula:

(a) an amount determined by using a count of total points of skill certification weight points determined by the Superintendent from a student's skill certification earned by June 15 annually; and

(b) a proportionate amount of the available funding based on the LEA's number of skill certification points earned proportionate to the total number of skill certification points earned statewide for the prior year.

R277-911-9. Disbursement of Funds -- CTE Leadership Organization Funds.

(1) Pursuant to Subsection 53F-2-311(2)(d), an LEA may receive an additional disbursement for student participation costs in approved student leadership organizations also known as Career and Technical Student Organizations (CTSO) as described in Subsection (4).

(2) The Superintendent shall distribute funds to an LEA with:

(a) an approved CTE program; and

(b) evidence of student participation in CTSOs with related expenses.

(3) The Superintendent shall distribute funds to an LEA that meets the criteria listed in Subsection (2) using the following formula:

(a) an amount using a count of the LEA's total CTSO student members by March 15 annually; and

(b) a proportionate amount of the available funding based on the LEA's number of CTSO members proportionate to the total number of student members in the state for the prior year.

(4) An LEA shall use the student leadership disbursement for qualifying CTE leadership organizations that are nationally and state chartered by March 15 annually and include:

(a) SkillsUSA;

(b) DECA;

(c) FFA;

(d) HOSA - Future Health Professionals;

(e) FBLA - Future Business Leaders of America;

(f) FCCLA;

(g) TSA (Technology Student Association); and

(h) Other organizations that may be approved by the Superintendent that meet qualifications identified in Subsection R277-914-2(3).

(5) An LEA shall use the funds disbursed under this section only for the LEA's CTE leadership organization expenses.

R277-911-10. Disbursement of Funds -- Summer CTE Agriculture Programs.

(1) Pursuant to Subsection 53F-2-311(3)(d), an LEA shall receive a 5 WPU disbursement for a qualifying summer CTE agriculture program as described in this section.

(2) To receive state summer CTE agriculture program funds, an LEA shall apply using a form and timeline specified by the Superintendent each year.

(3) If approved, the LEA shall:

(a) provide evidence or assure that a teacher of the summer CTE agriculture program:

(i) holds a valid Utah teaching license, with an endorsement in agriculture, as outlined in Subsection R277-911-3(5)(d)(v);
(ii) has developed a calendar of activities which shall be approved by the LEA's administration and reviewed by the Superintendent;
(iii) has or will work a minimum of 360 hours in the summer CTE agriculture program;
(iv) has or will not engage in other employment, including self-employment, which conflicts with the teacher's performance in the summer CTE agriculture program;
(v) has developed and filed a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with:
(A) the school principal;
(B) the LEA CTE director; and
(C) the Superintendent; and
(vi) has a minimum of 35 students enrolled in the summer CTE agriculture program; and
(vii) visits the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students; and
(b) provides evidence or assures that a student enrolled in the summer CTE agriculture program:
(i) has on file in the LEA office the student's Plan for College and Career Readiness goal related to agriculture;
(ii) in conjunction with the student's parent or employer and the teacher, has a developed individualized plan of activities, including a supervised occupational experience program;
(iii) has completed the eighth grade; and
(iv) has not graduated from high school.
(4) A college intern may be approved to be the instructor of a summer CTE agriculture program upon approval by the Superintendent.
(5) To be approved as an instructor, the LEA shall provide evidence or assure that the college intern shall:
(a) be enrolled in an approved postsecondary Agricultural Education-Teacher Preparation program, minimally at the junior or senior level;
(b) under the guidance of the supervising teacher, develop a calendar of activities which shall be approved by LEA administration and reviewed by the Superintendent;
(c) work a minimum of 360 hours in the CTE summer agriculture program;
(d) not engage in other employment, including self-employment, which conflicts with the intern's performance in the CTE summer agriculture program;
(e) under the guidance of the supervising teacher, develop and file a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with:
(i) the school principal;
(ii) the LEA CTE director; and
(iii) the Superintendent; and
(g) enroll a minimum of 20 students in the summer CTE agriculture program; and
(h) visit the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students.
(6) The Superintendent shall collect data from the program and staff of each LEA to ensure compliance with approved standards.
(7) An LEA shall submit to the Superintendent a final program report through the funding application due August 31 annually.
(8) The Superintendent shall allocate Summer CTE agricultural funding to each LEA conducting an approved program for no more than 360 hours and 35 students.
(9) An LEA operating a program with a supervising teacher and college intern shall receive a combined total of seven WPUs of the summer CTE agricultural allocation.

R277-911-11. Disbursement of Funds -- School Counseling, College and Career Awareness, and Work-Based Learning Programs.
(1) Pursuant to Subsection 53F-2-311(2)(b)(ii), the Superintendent shall distribute funds to an LEA as described by each respective provision listed in Subsection (2).
(2) An LEA shall use the distributed funds for school counseling consistent with Subsection 53E-2-304(2)(b) and Rule R277-462.
(3) An LEA may use funds distributed under this section for:
(a) work-based learning programs consistent with Rule R277-915; and
(b) Career Awareness programs consistent with Rule R277-916.

R277-911-12. Disbursement of Funds -- Added Cost Funds.
(1) Subject to remaining funds and pursuant to Subsection 53F-2-311(4), an LEA may receive an additional distribution for added costs of a CTE program after all other distributions have been allocated pursuant to Subsections 53F-2-311(2) and (3) as further described in this rule.
(2) An LEA's added cost distribution shall be a proportionate amount of the remaining funds calculated by:
(a) using the LEA's grades 9 through 12 aggregate membership in approved CTE programs from the previous school year to calculate a CTE average daily membership (ADM); and
(b) determining the LEA's proportionate amount of CTE ADM compared to the statewide CTE ADM.
(3) An LEA may not utilize the following for purposes of generating CTE ADM:
(a) travel time, except as described in Subsection R277-419-8(9)(b);
(b) a student who has yet to attend an approved CTE course;
(c) a student who has been absent, without excuse, for the previous 10 days; and
(d) for student enrollment in courses taken outside of the regular school day or school year.
(4) Except as provided for in Rules R277-462, R277-915, and R277-916, an LEA that experiences CTE membership growth of 1-10% from the LEA's previous CTE ADM shall qualify for a growth factor equivalent to the growth percentage to be applied to the LEA's added cost distribution amount described in Subsection (2).
(5) An LEA that receives an added cost distribution shall maintain records to accurately demonstrate:
(a) the entry and exit date of each student; and
(b) whether a student has been absent from a CTE course ten consecutive days.
(6) An LEA shall maintain electronic records, including data system records, for each CTE program which shall include:

(a) LEA name;
(b) school name;
(c) teacher of each CTE course;
(d) each CTE course name;
(e) each CTE course core code;
(f) each CTE course section;
(g) semester each CTE course is offered;
(h) period the student had each CTE course;
(i) student membership;
(j) total enrollments; and
(k) total membership.
(7) An LEA that receives an added cost distribution shall only use the funds for the following expenditures:
(a) instructional and program materials and supplies;
(b) equipment necessary to the program above and beyond equipment provided to non-CTE classrooms;
(c) CTE Instructor salaries;
(d) contracted services for equipment service and specialized program needs; and
(e) professional expenses for CTE-related professional learning, professional organizations, and CTSOs.
(8) Programs and courses provided through technical colleges and degree granting institutions may not qualify for an added cost distribution unless approved by the Superintendent.

R277-911-13. Corrective Action.
An LEA that does not comply with the requirements of this Rule R277-911, including not providing MOE of CTE programs, may be subject to a corrective action plan and potential reduction of funds or penalty in accordance with Rule R277-114.

KEY: career and technical education
Date of Last Change: 2022[~~August 7, 2017~~]
Notice of Continuation: May 16, 2022
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-507; 53F-2-311; 53G-6-708

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R277-919**	**Filing ID: 54995**

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200
City, state and zip:	Salt Lake City, UT 84114-4200

Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R277-919. Regulatory Sandbox Innovation Schools

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule was created as a result of S.B. 191, passed in the 2022 General Session, that established the Education Regulatory Sandbox program allowing a local education agency (LEA) to create an innovation school with an innovation plan and seek approval from the Board to use up to 35% of the LEA's restricted funds to pay for the innovation plans.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments specifically clarify that the LEA is required to report on the impacts of using restricted funds outside of the originating program that the funds were designated for, as the funds are repurposed for the innovation plan instead of predicting potential impacts as a requirement for approval. The predicted impact requirement would then only apply to programs with delineated minimums outlined in code or rule. The other change would require these reports happen annually as opposed to regularly.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impact on state government revenues or expenditures. The amendments apply to LEAs and do not impact the Utah State Board of Education (USBE) budgets.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. The amendments clarify LEA reporting requirements for funds used with an innovation plan. At this time, it is uncommon for LEAs to use restricted funds to pay for an innovation plan. This does allow for LEAs to have some flexibility with existing funds, and it is estimated that no additional costs

will be incurred by LEAs due to the clarified reporting requirements.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects LEAs and the USBE.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This only affects USBE and LEAs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons. Reporting requirements are clarified, but should not add measurable costs to LEAs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Article X, Section 3	Subsection 53G-7-221(9)	Subsection 53G-7-222(4)
Subsection 53E-3-401(4)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	Date:	10/14/2022

R277. Education, Administration.
R277-919. Regulatory Sandbox Innovation Schools.
R277-919-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53G-7-221(9), which requires the Board to make rules establishing the reporting and monitoring requirements for an approved innovation school program;

(c) Subsection 53G-7-222(4), which requires the Board to make rules establishing the approval criteria and process for the use of restricted funds in funding an approved innovation school program; and

(d) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to provide:

(a) criteria the state board will use to:

(i) evaluate an innovation plan's progress; and

(ii) terminate an innovation plan;

(b) requirements and process for reporting on a plan's progress; and

(c) the approval process for a plan's funding if using the flexible funds option outlined in Section 53G-7-222.

R277-919-2. Definitions.

(1) "Approved innovation plan" or "plan" means the same as the term is defined in Subsection 53G-7-221(1).

(2) "Innovation school" means the same as the term is defined in Subsection 53G-7-221(1).

(3) "Local approving body" means the same as the term is defined in Subsection 53G-7-221(1).

R277-919-3. Reporting Requirements, Progress Monitoring, and Plan Termination.

(1) A local approving body that submits an approved innovation plan to the Board as described in Subsection 53G-7-221(7) shall:

(a) provide the information in a form and method prescribed by the Superintendent;

(b) include the information described in Subsection 53G-7-221(3) and a detailed budget for successful implementation;

(c) provide a detailed plan of benchmarked progress including the projected timeline for each benchmark that has been agreed upon by the innovation school and local approving body;

(d) provide a suggested reporting schedule between the approved innovation school and the Superintendent; and

(e) provide additional information as requested by the Superintendent at the time of plan submission.

(2) The Superintendent may request changes to the reporting scheduled described in Subsection (1)(d) if a different schedule is needed to facilitate adequate monitoring of all approved innovation school plans.

(3) The Superintendent shall use the following to determine if sufficient progress is being made:

(a) data and metrics described in Subsection 53G-7-221(3)(e);

(b) the agreed upon benchmarks and performance outcome measures; and

(c) appropriate use of funds if budgetary flexibility has been granted pursuant to this rule and Section 53G-7-222.

(4) If the Superintendent determines sufficient progress is not being made, a notice of remediation will be sent to the local approving body and the approved innovation school.

(5) The notice of remediation shall include:

(a) the benchmarks or general progress that has not been made and how that determination was made using the approved performance metrics and agreed upon benchmarks;

(b) the required corrections needed to no longer be in remediation and a remediation timeline which may not be shorter than 180 days; and

(c) the form and method in which the remediation monitoring shall be reported to the Superintendent.

(6) If an approved innovation school fails to meet the requirements and timeline outlined in the notice of remediation, the approved innovation school and the local approval body will be notified within 15 days after the required remediation deadline and be subject to an innovation plan termination review by the Board.

(7) The Board's innovation plan termination review shall take place in a Board meeting no later than 30 days after the approved innovation school has been notified of the innovation school's failure to remediate.

(8) The Board shall consider all elements of the innovation plan when conducting its review including:

(a) the approved innovation plan application including outcomes and performance metrics;

(b) the agreed upon benchmarks and timelines;

(c) implementation efforts of the innovation school for the plan;

(d) efforts made to adhere to the remediation requirements and timelines;

(e) any efforts made by the innovation school to amend the plan; and

(f) any waived Board rule or LEA policies that were intended to facilitate successful implementation of the plan.

(9) As part of the innovation plan termination review, the Superintendent shall provide a recommendation to the Board to:

(a) provide an additional remediation period with additional or new requirements and timelines; or

(b) terminate the approved innovation school's plan including a timeline for the innovation school to return to regular compliance and budgetary requirements that may have been waived or made flexible as part of the innovation plan.

(10) The Superintendent shall provide notice of the Board's decision to the innovation school and the local approving body within 10 days of the decision being made.

(11) The local approving body shall ensure that the approved innovation school returns to regular compliance and budgetary requirements in the timeline approved by the Board and notify the Board when this has been achieved.

R277-919-4. Flexibility of Restricted Funds.

(1) An innovation school with an approved innovation plan may apply to the Board for budgetary flexibility as described in Section 53G-7-222.

(2) The application for budgetary flexibility shall be created by the Superintendent and include:

(a) an itemized budget detailing the expenditures needed to fund the innovation plan;

(b) the current restricted funds that will be used including how much of each fund will be used for the innovation plan; and

[~~(c) a detailed description of how the originating programs supported by the restricted funds will remain in operation and not be unduly hindered by the budgetary flexibility;~~

~~(d) if the innovation plan will positively impact any outcomes related to the originating programs the restricted funds support; and~~]

([~~e~~]c) a plan for [~~regular~~]annually reporting to the Superintendent regarding budgetary expenditures from restricted funds to ensure compliance.

(3) The Board shall approve an application for budgetary flexibility unless the application is in violation of state law on budget and funding matters.

(4) If an approved innovation school receives approval from the Board for budgetary flexibility, the approved innovation school shall report expenditures and evidence in form prescribed by the Superintendent including any unlawfully adverse effect on an originating program.

(5) The Board may terminate an innovation plan for violation of the approved budget including:

(a) the failure of any originating program from which restricted funds have been diverted as defined by state law;

(b) failure to match expenditures with approved budget; and

(c) failure to provide evidence of expenditures in the format required by the Superintendent.

KEY: innovation; regulatory sandbox; restricted funds
Date of Last Change: [~~October 11,~~] 2022
Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53G-7-221(9); 53G-7-222(4); 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R277-925**	**Filing ID: 54996**

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state and zip:	Salt Lake City, UT 84114-4200	
Contact persons:		
Name:	**Phone:**	**Email:**
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R277-925. Effective Teachers in High Poverty Schools Incentive Program

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Rule R277-925 is being amended due to the passage of H.B. 315 in the 2022 General Session, Effective Teachers in High Poverty Schools Incentive Program Amendments, which included kindergarten teachers as eligible for the incentive.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendments specifically clarify that the Superintendent will identify eligible teachers in kindergarten or grade 1, 2, or 3, where at least 85% of the teacher's students assess as typical or better on an end of year benchmark assessment.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have fiscal impacts on state government revenues or expenditures. The change prioritizes funding for schools with under 1,000 students. Program allocations are unchanged, but kindergarten teachers are now eligible to be included in the program. This will not affect the Utah State Board of Education (USBE) budgets.

B) Local governments:

This rule change is not expected to have fiscal impact on local governments' revenues or expenditures. Local education agencies (LEAs) can now also apply for the program on behalf of kindergarten teachers in addition to 1-3 grade teachers. Approved teachers receive a salary bonus supplied by the program allocation and there are thus not major fiscal impacts for LEAs.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is not expected to have fiscal impact on small businesses' revenues or expenditures. This only affects the USBE and LEAs.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses, and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This rule change is not expected to have fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This does impact kindergarten teachers, but the impact was already captured in the Fiscal Note to H.B. 315 (2022). No other individuals should be impacted by the change.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs for affected persons. There are no additional costs for including kindergarten teachers.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The State Superintendent of the Utah State Board of Education, Sydnee Dickson, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-513

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Angie Stallings, Deputy Superintendent of Policy	**Date:**	10/14/2022

R277. Education, Administration.
R277-925. Effective Teachers in High Poverty Schools Incentive Program.
R277-925-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53F-2-513(2)(b), which requires the Board to make rules for the administration of the Effective Teachers in High Poverty Schools Incentive Program.

(2) The purpose of this rule is to:

(a) provide standards and procedures for the administration of the Effective Teachers in High Poverty Schools Incentive Program; and

(b) establish a method for determining teacher eligibility for salary bonuses awarded in the 2022-2023 school year for teachers in grade 4 as required in Subsection 53F-2-513(2)(b)(iv).

R277-925-2. Definitions.

(1) "Benchmark assessment" means the assessment described in Section 53E-4-307.

(2) "Eligible teacher" means:

(a) the same as that term is defined in Section 53F-2-513; and

(b) a teacher who is a regular or special education classroom teacher.

(3) "High poverty school" means the same as that term is defined in Section 53F-2-513.

(4) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(5) "Median growth percentile" or "MGP" means the same as that term is defined in Section 53F-2-513.

(6) "Program" means the Effective Teachers in High Poverty Schools Incentive Program.

(7) "Standards assessment" means the assessment described in Section 53E-4-303.

(8) "State-assessed subject" means English language arts, mathematics, or science.

R277-925-3. Administration of the Program.

(1) On or before December 1, the Superintendent shall:

(a) identify high poverty schools and eligible teachers in accordance with Subsection (2);

(b) distribute a list of eligible teachers to LEAs; and

(c) inform LEAs of program requirements and the timeline for applying on behalf of an eligible teacher.

(2) The Superintendent shall identify:

(a) high poverty schools based on the proportion of students who:

(i) qualify for free or reduced lunch in the current school year, based on:

(A) the most recent end of school year enrollment headcounts for existing schools; or

(B) the October 1 enrollment headcounts for new schools; and

(ii) are classified as children affected by intergenerational poverty, as determined by the Utah Department of Workforce Services, for the most recent year data is available; and

(b) eligible teachers by determining:

(i) whether the teacher's MGP was greater than or equal to 70:

(A) for at least one state-assessed subject taught by the teacher;

(B) as measured by student performance on a standards assessment;

(C) two years before the current school year; and

(D) excluding subjects or teachers with less than ten tested students; or

(ii) for a teacher in kindergarten or grade 1, 2, or 3[~~grades 1-3~~], whether at least 85% of the teacher's students assess as typical or better on an end of year benchmark assessment.

(3) An eligible teacher who is part-time in a regular or special education classroom assignment in the current year shall receive a partial salary bonus based on the number of hours worked in the classroom assignment.

(4) To receive matching funds for the program, on or before January 15, an LEA shall:

(a) apply on behalf of an eligible teacher; and

(b) provide assurances that the LEA will pay half of the:

(i) teacher salary bonus; and

(ii) employer-paid benefits described in Section 53F-2-513.

(5)(a) Subject to legislative appropriations, on or before June 1, the Superintendent shall:

(i) ensure that a teacher who was determined eligible under Subsections (1) and (2) taught at a high poverty school for the full school year; and

(ii) distribute to an LEA that meets the criteria described in Subsection (4) half of the:

(A) teacher salary bonus; and

(B) employer-paid benefits described in Section 53F-2-513.

(b) Consistent with Section 53F-2-513, the Superintendent may distribute the funds on a pro rata basis if the number of eligible applicants exceeds the amount of available funds.

(6)(a) An LEA or an eligible teacher may appeal eligibility to the Superintendent on the basis that the teacher:

(i) is teaching at a high poverty school;

(ii) is an eligible teacher; or

(iii) has less than ten tested students, but can demonstrate extenuating circumstances that merit an exception.

(b) An LEA or eligible teacher shall provide documentation to the Superintendent to assist the Superintendent in deciding on the appeal.

(7) For purposes of determining whether a teacher who teaches grade 4 is
eligible for a salary bonus in the 2022-2023 school year, a teacher is eligible if at least 85% of the teacher's students' progress is assessed as typical or better based on the beginning of year to end of year benchmark assessment described in Section 53F-2-503 for 2020-21 school year.

(8) An LEA that intends to apply on behalf of an eligible teacher who teaches grade 4 for a salary bonus for the 2022-2023 school year, shall provide the Superintendent grade 4 benchmark assessment data necessary to determine whether the LEA's grade 4 teachers meet the criteria described in Subsection (7).

KEY: teachers, poverty schools, incentives, student growth
Date of Last Change: [~~January 11,~~] 2022
Notice of Continuation: November 5, 2021
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-513

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R357-14**	**Filing ID: 53055**

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	**Phone:**	**Email:**
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R357-14. Electronic Meetings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

H.B. 22, passed during the 2022 General Session, requires a public body to establish the conditions under which a remote member of the meeting is calculated in establishing a quorum. This rule is meeting the statutory requirement.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This rule amendment establishes how a remote public body member is included when establishing a quorum during an electronic meeting.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no new aggregate anticipated cost or savings to the state budget because this rule is merely procedural.

B) Local governments:

There is no new aggregate anticipated cost or savings to local governments because this rule is specific to office procedures.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no new aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no new aggregate anticipated cost or savings to non-small businesses because this proposed amendment does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no new aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no new compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**

State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 52-4-207

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Dan Hemmert, Executive Director	**Date:**	11/01/2022

R357. Governor, Economic [~~Development~~]Opportunity.
R357-14. Electronic Meetings.
R357-14-101. Purpose and Procedure.

In accordance with Section 52-4-207, the following shall apply to electronic meetings held by any [~~"~~]public body[~~"~~], as defined in S[~~ubs~~]ection 52-4-103[~~(9)~~], within Title 63N, Economic Opportunity Act.

(1)(a) [~~An agency director or designee~~]Office staff may establish an electronic meeting; and

(b) a member of a public body may request [~~an agency director or designee~~]Office staff to establish an electronic meeting[~~;~~] and the Office staff may determine whether such request should be granted.

[~~(i) a request shall be made not less than three business days prior to a meeting; and~~

~~(ii) the agency director or designee may determine whether such a request should be granted based on budget, public policy, or logistical considerations.~~]

(2) A quorum of the public body is not required to be present at a single anchor location for an electronic meeting.

(3) A public body member who participates in the electronic meeting remotely shall be included when calculating a quorum if the public body member:

(a) can be visually identified; or

(b) verbally confirms participation.

KEY: electronic meetings, open and public meetings
Date of Last Change: 2022[~~August 24, 2021~~]
Notice of Continuation: September 4, 2020
Authorizing, and Implemented or Interpreted Law: 52-4-207

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Rule or Section Number:	**R380-350**	**Filing ID: 55025**

Agency Information

1. Department:	Health and Human Services
Agency:	Administration
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Contact persons:

Name:	**Phone:**	**Email:**
Christine Espinel	385-239-2733	cespinel@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R380-350. Community Health Worker Certification

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Per S.B. 104, passed in the 2022 General Session) the Department of Health and Human Services (Department) is establishing rules to implement the state certification for community health workers.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This rule establishes the state certification standards for community health workers by:
1) defining the 300 hours of community involvement and establishing;

2) a procedure to notify each state certified community health worker when the certification is due for renewal;

3) a renewal process for the certification;

4) continuing education requirements; and

5) standards of professional conduct.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The state budget will incur the following costs to operationalize the Community Health Worker (CHW) Certification service.

Acquire My Licensing Office (MLO) training and testing for staff to track, store, and update CHW certifications and renewals: $9,000. Calculation includes estimate from vendor for training and testing. Years 2024 and 2025 are estimated at no cost, CHW certification costs will be absorbed by current Department programs license users.

A full time employee to implement and oversee the program for the following three years, totaling $270,000, calculated at $90,000 per fiscal year.

New email as required by the administrative rule, totaling $340.56, calculated at the current rate of $113.52 per fiscal year.

New website portal for information, application instructions, and application submissions: $648 for implementation only. Website portal maintenance as provided by a Division of Technology Services (DTS) annual contract. Calculated at the current contracted rate of $648, per fiscal year for 6 hours of work. Current rate is $108/hour.

Fee collection waived for the first fiscal year, equal to 6 months, January 2023 through June 2023, calculated at: Current CHW Certification eligibility of 350 CHWs who have completed Core Skills training divided by 2 = 175 CHWs $50 application waived fee for 175 CHWs who may be certified in Year 2023. Total $8,750.

The Department also anticipates that it will have the following fiscal benefits:
1) Fiscal note as stated in S.B. 104 of $25,000 annually, a total of $75,000 for fiscal years 2023, 2024, and 2025.

2) Fees from applicants for the CHW Certification for fiscal years 2024 and 2025, after the end of the fee waiver for the implementation year. $13,125 for fees collected from CHWs for certification and certification renewal.

3) Renewal fee set at $25 every 2 years for recertification. Calculated at current number of CHWs eligible to apply for certification divided by 2 = 175.

B) Local governments:

The 13 local health departments of Utah will have an inestimable direct non-fiscal benefit from the CHW Certification. Certified CHWs could provide LHDs with additional skills when engaging in community health work. LHDs will not incur direct costs because CHW certification is optional. However, LHDs could potentially incur costs via increased salaries from a certified CHW workforce overall.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

A review of 18 NAICS Industry Codes and a count of 14 of those applicable NAICS Codes revealed that the number of small businesses were inestimable. Small businesses in Utah could be affected by CHW certification in that they could potentially incur costs via increased salaries from a certified CHW workforce overall. Small businesses would also benefit from the CHW Certification by having a more skilled workforce overall.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

A review of 18 NAICS Industry Codes and a count of 14 of those applicable NAICS Codes revealed that the number of potentially affected non-small businesses in Utah is 295. Non-small businesses could have a direct non-fiscal benefit from the CHW Certification because certified CHWs could provide non-small businesses with additional skills when engaging in community health work. Non-small businesses will not incur direct costs because CHW certification is optional. However, they could potentially incur costs via increased salaries from a certified CHW workforce overall. These costs are inestimable.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Persons other than small businesses, non-small businesses, state, or local government entities in Utah will have a direct fiscal cost and inestimable fiscal benefit. There are currently 500 CHW members of the Utah Public Health Association CHW Section who will incur a direct fiscal cost of $20,625. This calculation includes:
1) The Department waived fees for fiscal Year 2023 for 175 CHWs.

2) The application fees of $50 for (500 - 175 = 325) CHWs in Year 2024 and the renewal fees of $25 for 175 CHWs in Year 2025.

A review of 5 Occupation and Labor Statics Codes estimated there are 152,720 individuals working in healthcare and healthcare related fields. Because a CHW is a new, community-level field, numbers for health care professions were not included in the calculation for direct fiscal cost because they do not realistically reflect the number of practicing CHWs in Utah.

Persons other than small businesses, non-small businesses, state, or local government entities will have an inestimable benefit by the CHW Certification via potential increased salaries from a certified CHW workforce overall.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Ongoing in 2024, if an applicant is certified as a CHW, or renews their CHW certification, they will accrue the $50 application fee.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$108,511.52	$90,761.52	$90,761.52
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$16,250	$4,375
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$25,000	$33,750	$29,375
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-71-102	Section 26B-1-202	

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Code of Ethics of the Utah Community Health Workers Association
Publisher	The American Community Health Worker Association
Issue Date	Adopted by the CHW Coalition (HEAL Program) on 7/7/2016

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	Date:	10/31/2022

R380. Health and Human Services, Administration.
R380-350. Community Health Worker Certification.
R380-350-1. Authority and Purpose.

(1) Sections 26B-1-202 and 26-71-102 authorizes this rule.
(2) This rule establishes the state certification standards for community health workers by:
(a) defining the 300 hours of community involvement;
(b) establishing a procedure to notify each state certified community health worker when the certification is due for renewal;
(c) establishing a renewal process for the certification;
(d) establishing continuing education requirements; and
(e) establishing standards of professional conduct.

R380-350-2. Definitions.

(1) "Applicant" means an individual applying for the community health worker certification.
(2) "Capacity building" has the same meaning as provided in Section 26-71-101.
(3) "Community health worker" has the same meaning as provided in Section 26-71-101.
(4) "Core-skill education" has the same meaning as provided in Section 26-71-101.
(5) "Core-skill training" has the same meaning as provided in Section 26-71-101.
(6) "Department" means the Utah Department of Health and Human Services.
(7) "State certified" has the same meaning as provided in Section 26-71-101.

R380-350-3. Community Involvement.

(1) A community health worker seeking to become a state certified Community Health Worker shall complete the following:
(a) 90 hours of core-skill training; and
(b) 300 hours of community involvement.
(2) The requirement for 300 hours of community involvement shall be completed through the submission of a portfolio to the department with the certification application by the applicant.
(a) The portfolio shall include:
(i) a detailed resume or curriculum vitae; and
(ii) a cover letter.
(b) The portfolio shall include at a minimum two additional elements:
(i) three letters of recommendation;
(ii) a summary sheet of research projects;
(iii) a list and description of publications, presentations, reports, or projects authored by the applicant;
(iv) a statement of professional experience by the applicant;
(v) a list of achievements and awards received by the applicant; or
(vi) a recent performance evaluation.
(c) The portfolio shall demonstrate the setting, the communities served, and the services provided, this includes:
(i) the setting of the experience, this includes:
(A) churches;
(B) schools;
(C) community organizations;
(D) neighborhoods;
(E) clinics;
(F) health centers; or
(H) work in the public sector;
(ii) communities or populations served, this includes:
(A) low-income communities;
(B) lesbian, gay, bisexual, transgender, queer, intersex, and asexual individuals and individuals with other sexual identities;
(C) people experiencing homelessness;
(D) rural communities;
(E) individuals with chronic disease;
(F) individuals with disabilities;
(G) people with visual impairments;
(H) older adults;
(I) immigrant or refugee communities;
(J) people without health insurance;
(K) racial and ethnic minorities; or
(L) individuals with complex health needs;
(iii) services provided include:
(1) community organizing;
(2) community presentations;
(3) community projects;
(4) community coalitions;
(5) health fairs;
(6) community mapping;
(7) community programming;
(8) workshops;
(9) resource coordination;
(10) outreach; and
(11) promotion;
(3) An applicant who has 4,000 hours or more experience as a community health worker shall:
(a) complete an application as designed by the department;
(b) sign a statement agreeing to abide by national standards of practice and ethics for community health workers; and
(c) pay the established certification fee set by the department;

R380-350-4. Notification of Expiring Certification.

(1) In accordance with Section 26-71-107, the department shall notify each state certified community health worker through the email on file with the Office of Health Equity when the certification is due for renewal.
(2) The department shall inform certified community health workers via email six months before their certification expires with an additional reminder one month before their certification expires.
(3) It shall be the responsibility of a certified community health worker to ensure that a valid and up to date email address is provided to the department through the application portal. A certified community health worker, or applicant, shall update their email address within 30 days of a change.

R380-350-5. Renewal Process.

(1) In accordance with Section 26-71-107, a certified community health worker shall file an application for recertification within six months of the printed date of expiration on their certification.
(2) The department shall issue a recertification to a community health worker if the community health worker has:
(a) submitted an application for recertification;
(b) paid the established renewal fee set by the department;

(c) established current Utah residency; and
(d) submitted proof of completion of 15 continuing education units within the past two years of the current certification period.
(3) The department shall not accept applications for recertification if the application is submitted six months after the printed expiration date on the certification certificate. Certifications that have expired for longer than six months shall require the individual to resubmit an application for the community health worker certification.
(4) The department shall date the new certificate of state certification for two years from the original expiration date.

R380-350-6. Continuing Education.
(1) Certified Community Health Workers shall complete 15 hours of continuing education units every two years, or during the duration of the certification, to qualify for the renewal of the certification.
(a) One continuing education unit equals one hour of training that focuses on capacity building, an element of core-skill training, or improves the knowledge or skills of a certified community health worker within the purview of their work.
(b) An event must be approved as a continuing education event by:
(i) the department through the Office of Health Equity; or
(ii) a state professional association that:
(A) is associated with the Community Health Worker profession; and
(B) is aligned with a national Community Health Worker professional association;

R380-350-7. Professional Conduct.
(1) "Unprofessional conduct" includes:
(a) engaging in or aiding or abetting conduct or practices that are dishonest, deceptive or fraudulent;
(b) engaging in or aiding or abetting deceptive or fraudulent billing practices;
(c) failing to establish and maintain professional boundaries with a client or former client;
(d) engaging in dual or multiple relationships with a client or former client in which there is a risk of or potential harm to the client;
(e) engaging in sexual activities or sexual contact with a client with or without client consent;
(f) engaging in or aiding or abetting sexual harassment or any conduct that is exploitive or abusive with respect to a student, trainee, employee, or colleague;
(g) failing to exercise professional discretion and impartial judgment required for the performance of professional activities, duties and functions;
(h) failing to provide impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health or any other determination concerning an individual's civil or legal rights;
(i) exploiting a client or former client for personal gain;
(j) exploiting a person who has a personal relationship with a client for personal gain;
(k) failing to protect the confidences of other persons named or contained in the client records; and
(l) failing to abide by the Code of Ethics of the Utah Community Health Workers Association (UCHWA) approved by the 2022 UCHWA board, which is incorporated by reference.
(2) Violations in ethics, professional conduct, or misrepresentation of credentialing shall be reported to the department through the Office of Health Equity.
(3) If the department, through the Office of Health Equity, finds a violation has occurred, they shall revoke the state certification, or in circumstances outlined in Section 26-69-104, issue a fine.

KEY: health care, community health worker
Date of Last Change: 2022
Authorizing, and Implemented or Interpreted Law: 26B-1-202, 26-71-102

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R386-702**	**Filing ID: 54983**

Agency Information

1. Department:	Health and Human Services	
Agency:	Disease Control and Prevention, Epidemiology	
Room number:	Second Floor	
Building:	Cannon Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 142104	
City, state and zip:	Salt Lake City, UT 84114	
Contact persons:		
Name:	**Phone:**	**Email:**
Cindy Burnett	801-538-6692	cburnett@utah.gov
Rachelle Boulton	801-538-6185	rboulton@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R386-702. Communicable Disease Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The purpose of this rule change is to modify COVID-19 reporting requirements in response to changes in surveillance needs as the pandemic has evolved.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This rule change will eliminate reporting of negative COVID-19 rapid antigen and antibody lab results and will change COVID-19 from immediately reportable to reportable within three working days from the time of identification. In addition, it will add a requirement that all positive NAAT samples be submitted to UPHL from medium to high complexity laboratories.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

Change to reporting requirements: The DPH Informatics Program will save significant staff time since they will no longer need to process the large volume of negative results. Of reports received electronically, approximately 5% require manual resolution.

Calculation: 522,000 negative tests x 5% (the percent that need manual resolution) / 100 (the number of manual resolutions we can complete in an hour) x $15 (the salary for an intern) = $4,000 cost savings.

Change to sample submission requirements: UPHL will incur additional costs of $5,850 per year.

Calculations: Sample will be packed with other samples and transported by routine currier service from sites around the state. An additional currier service will be required every 4 weeks from 1 of 10 sites. Contractor courier services chare $33 for each regularly scheduled pick-up. 13 additional pickups x10 sites x $33 = $4,290.

Samples will be processed alongside those already being tested and will add 2 hours of intern staff time each week. 2 hours x $15 (salary for inter) x 52 weeks = $1,560.

B) Local governments:

There will be a benefit to local health department staff due to reduced volume of reports; however, it is not possible to calculate the cost savings. There is no expected cost change for the sample submission requirement.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

Change to reporting requirements: It is estimated there will be cost savings to small businesses from decreased volume of reporting.

Calculation: 522,000 negative tests x 9% (the proportion of reporters that are small businesses) / 60 (assume it takes 1 minute to enter a result) x $20 (the salary for med tech) = $15,660 cost savings.

Change to sample submission requirements: These laboratories will need to identify positive samples and pack them for shipment. The Department of Health and Human Services (Department) expect small laboratories will submit 20 samples a week, for a total of an additional 30 minutes of time. This will result in a cost of $520 for the typical small laboratory. A search on DWS Firm Find cross-matched with a list of Utah laboratories that reported COVID results in the last year identified approximately 54 small businesses that would be impacted for a total cost of $28,080 per year.

Calculation: 0.5 hours x 52 weeks x $20 (the salary for technologist) = $520 x 54 small businesses = $28,080.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

Change to reporting requirements: It is estimated there will be a cost savings to large businesses from decreased volume of reporting, although an initial investment of time will be needed to change electronic laboratory reporting automation.

Calculation: 522,000 negative tests x 90% (the proportion of reporters that are non-small businesses) / 120 (assume it takes 30 seconds to enter a result) x $20 (the salary for med tech) = $78,000 cost savings. 93 organizations x 2 hours of programming x $75/hour to configure electronic laboratory reporting systems x = $13,950 investment in system configuration changes.

Change to sample submission requirements: These laboratories will need to identify positive samples and pack them for shipment. The Department expects non-small laboratories will submit 200 samples a week, for a total of an additional 2 hours of time. This will result in a cost of $2,080 for the typical non-small laboratory. A search on DWS Firm Find identified 6 non-small businesses that would be affected for a total cost of $12,480.

Calculation: 2 hours x 52 weeks x $20 (the salary for technologist) = $2,080 x 6 non-small business = $12,480

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Change to reporting requirements: It is estimated there will be cost savings to other organizations that perform COVID testing from decreased volume of reporting.

Calculation: 522,000 negative tests x 1% (the proportion of reporters that are small businesses) / 60 (assume it takes 1 minute to enter a result) x $20 (the salary for data entry personnel) = $1,740 cost savings.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Electronic laboratory reporting feeds from laboratories and other testing facilities will need to be reconfigured. This is estimated to cost a total of $13,950 for one-time system configurations across all affected facilities.

Laboratories will need to identify positive samples and pack them for shipment. This is estimated to cost $28,080 for small businesses and $12,480 for non-small businesses.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$5,850	$5,850	$5,850
Local Governments	$0	$0	$0
Small Businesses	$28,080	$28,080	$28,080
Non-Small Businesses	$12,480	$12,480	$12,480
Other Persons	$0	$0	$0
Total Fiscal Cost	**$46,410**	**$46,410**	**$46,410**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$4,000	$4,000	$4,000
Local Governments	$0	$0	$0
Small Businesses	$17,400	$17,400	$17,400
Non-Small Businesses	$78,000	$78,000	$78,000
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$99,400**	**$99,400**	**$99,400**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber has reviewed and approved this fiscal analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26-6-3	Title 26, Chapter 23b	Section 26B-1-202

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds, updates, or removes the following title of materials incorporated by references :

Official Title of Materials Incorporated (from title page)	Control of Communicable Diseases Manual
Publisher	American Public Health Association
Issue Date	2022
Issue or Version	21st Edition

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Human Rabies Prevention – United States, 2008: Recommendations of the Advisory Committee on Immunization Practices
Publisher	Centers for Disease Control and Prevention
Issue Date	May 23, 2008
Issue or Version	57

C) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Compendium of Animal Rabies Prevention and Control, 2016
Publisher	National Association of State Public Health Veterinarians Committee
Issue Date	October 18, 2016

D) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Red Book 2021-24 Report of the Committee on Infectious Diseases
Publisher	American Academy of Pediatrics
Issue Date	2021
Issue or Version	32nd Edition

E) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017
Publisher	National Association of State Public Health Veterinarians Animal Contact Compendium Committee
Issue Date	2017
Issue or Version	243

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	10/10/2022

R386. Health and Human Services, Disease Control and Prevention, Epidemiology.
R386-702. Communicable Disease Rule.
R386-702-1. Purpose Statement.

(1) [~~The Communicable Disease Rule is adopted under authority of~~]Sections 26-6-3, 26B-1-2-2, and [~~26-1-30, 26-6-3, and~~]Title 26, Chapter 23b, Detection of Public Health Emergencies Act authorize this rule.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment, and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases such as Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world, made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

R386-702-2. Definitions.

(1) "Carrier" means the same as that term is defined in Section 26-6-2.

(2) "Communicable disease" means the same as that term is defined in Section 26-6-2.

(3) "Contact" means the same as that term is defined in Section 26-6-2.

(4) "Epidemic" means the same as that term is defined in Section 26-6-2.

(5) "Infection" means the same as that term is defined in Section 26-6-2.

(6) "Schools" means the same as that term is defined in Section 26-6-2.

(7) "Health care provider" means the same as that term is defined in Section 26-6-6.

(8) "Assisted living facilities" means the same as that term is defined in Section 26-21-2.

(9) "Nursing care facilities" means the same as that term is defined in Section 26-21-2.

(10) "Bioterrorism" means the same as that term is defined in Section 26-23b-102.

(11) "Childcare programs" means the same as that term is defined in Section 26-39-102.

(12) "Health care facilities" means the same as that term is defined in Section 78B-3-403.

(13) "Mental health facilities" means the same as that term is defined in Section 62A-15-602.

(14) "Local health department" means the same as that term is defined in Section R386-80-2.

(15) In addition, for purposes of this rule:

(a) "Blood and plasma center" is defined as a blood bank, blood storage facility, plasma center, hospital, any facility where blood or blood products are collected, or any facility where blood services are provided.

(b) "Care facilities licensed through the Department of Health and Human Services" is described as any facility licensed through the [~~Utah~~]Department of Health and Human Services, and includes adult day care facilities, adult foster care facilities, crisis respite facilities, domestic violence shelters and treatment programs, foster care homes, mental health treatment programs, residential treatment and day treatment facilities for persons with disabilities, substance abuse treatment programs, and youth treatment programs.

(c) "Case" is defined as any person, living or deceased, identified as having a communicable disease, condition, or syndrome that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(d) "Clinic" is defined as any facility where a health care provider practices.

(e) "Condition" is defined as an abnormal state of health that may interfere with a person's regular feelings of wellbeing.

(f) "Correctional facility" is defined as a facility that forcibly confines an individual under the authority of the government, including prisons, detention centers, jails, juvenile detention centers.

(g) "Department" is defined as the Utah Department of Health and Human Services.

(h) "Diagnostic facility" is defined as the facility where the case or suspect case was seen and evaluated by a healthcare provider.

(i) "Dispensary" is defined as an office in a school, hospital, industrial plant, or other organization that dispenses medications or medical supplies.

(j) "Electronic case reporting" is defined as the transmission of clinical, diagnostic, laboratory, and treatment related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 CDA(reg trademark) R2 Implementation Guide: Public Health Case Report, Release 2 - US Realm - the Electronic Initial Case Report (eICR). Electronic Initial Case Reporting is a form of electronic reporting.

(k) "Electronic laboratory reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using HL7 ORU-R01 2.3.1 or 2.5.1, LOINC, and SNOMED standard message structure and vocabulary. Electronic laboratory reporting is a form of electronic reporting.

(l) "Electronic reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 messaging.

(m) "Encounter" is defined as an instance of an individual presenting to a health care facility.

(n) "Event" is defined as any communicable disease, condition, laboratory result, syndrome, outbreak, epidemic, or other public health hazard that meets criteria for being reportable under this rule.

(o) "Good Samaritan" is defined as a person who gives reasonable aid to strangers in grave physical distress.

(p) "Invasive disease" is defined as infection occurring in parts of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(q) "Laboratory" is defined as any facility that receives, refers, or analyzes clinical specimens.

(r) "Manual reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using processes that require hand keying for data to be incorporated into Department databases.

(s) "Normally sterile site" is defined as a part of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(t) "Outbreak" is defined as the increased occurrence of any communicable disease, health condition, or syndrome in a community, institution, or region; or two or more cases of a communicable disease, health condition, or syndrome in persons with a common exposure.

(u) "Public health hazard" is defined as the presence of an infectious organism or condition in the environment that endangers the health of a specified population.

(v) "Suspect case" is defined as any person, living or deceased, who a reporting entity, local health department, or the Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(w) "SARS-CoV-2 NAAT" is any SARS-CoV-2 Nucleic Acid Amplification Test (NAAT) conducted in a facility certified under CLIA to perform moderate- or high-complexity tests.

(x)[~~(w)~~] "Syndrome" is defined as a set of signs or symptoms that often occur together.

R386-702-3. Reportable Events.

(1) The Department declares the following events to be of concern to public health and reporting of all instances is required or authorized by Section[~~s~~] 26-6-6 and Title 26, Chapter 23b, Detection of Public Health Emergencies Act.

(2) Events reportable by each entity are as follows:

(a) acute flaccid myelitis;

(b) adverse event resulting from smallpox vaccination (vaccinia virus, orthopox virus);

(c) anaplasmosis (Anaplasma phagocytophilum);

(d) anthrax (Bacillus anthracis) or anthrax-like illness caused by Bacillus cereus strains that express anthrax toxin genes;

(e) antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli; or

(D) Klebsiella species; or

(ii) Resistant to vancomycin in Staphylococcus aureus (VRSA); or

(iii) demonstrated carbapenemase production in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species; or

(E) any other Enterobacteriaceae species;

(f) arbovirus infection, including:

(i) chikungunya virus infection;

(ii) West Nile virus infection; and

(iii) Zika virus infection; including congenital;

(g) babesiosis (Babesia spp.);

(h) botulism (Clostridium botulinum);

(i) brucellosis (Brucella spp.);

(j) campylobacteriosis (Campylobacter spp.);

(k) Candida auris or Candida haemulonii from any body site;

(l) Chagas disease (Trypanosoma cruzi);

(m) chancroid (Haemophilus ducreyi);

(n) chickenpox (varicella zoster virus, VZV, human herpesvirus 3, HHV-3);

(o) chlamydia (Chlamydia trachomatis);

(p) coccidioidomycosis (Coccidioides spp.), also known as valley fever;

(q) Colorado tick fever (Colorado tick fever virus, Coltivirus spp.), also known as American mountain tick fever;

(r) novel coronavirus disease including Middle East respiratory syndrome (MERS-CoV), and Severe acute respiratory syndrome (SARS-CoV)[~~, and COVID-19 (SARS-CoV-2)~~];

(s) COVID-19 (SARS-CoV-2);

(t)[~~(s)~~] cryptosporidiosis (Cryptosporidium spp.);

(u)[~~(t)~~] cyclosporiasis (Cyclospora spp., including Cyclospora cayetanensis);

(v)[~~(u)~~] dengue fever (dengue virus);

(w)[~~(v)~~] diphtheria (Corynebacterium diphtheriae);

(x)[~~(w)~~] ehrlichiosis (Ehrlichia spp.);

(y)[~~(x)~~] encephalitis (bacterial, fungal, parasitic, protozoan, and viral);

(z)[~~(y)~~] Shiga toxin-producing Escherichia coli (STEC) infection;

(aa)[~~(z)~~] giardiasis (Giardia lamblia), also known as beaver fever;

(bb)[~~(aa)~~] gonorrhea (Neisseria gonorrhoeae), including sexually transmitted and ophthalmia neonatorum;

(cc)[~~(bb)~~] Haemophilus influenzae, invasive disease;

(dd)[~~(cc)~~] hantavirus infection (Sin Nombre virus);

(ee)[~~(dd)~~] hemolytic uremic syndrome, postdiarrheal;

(ff)[~~(ee)~~] hepatitis, viral including:

(i) hepatitis A;

(ii) hepatitis B (acute, chronic, and perinatal);

(iii) hepatitis C (acute, chronic, and perinatal);

(iv) hepatitis D; and

(v) hepatitis E;

(gg)[~~(ff)~~] human immunodeficiency virus (HIV) infection, including acquired immune deficiency syndrome (AIDS)[~~diagnosis~~];

(hh)[~~(gg)~~] influenza virus infection:

(i) associated with a hospitalization;

(ii) associated with a death in a person under 18 years of age; or

(iii) suspected or confirmed to be caused by a non-seasonal influenza strain;

(ii)[~~(hh)~~] Legionellosis (Legionella spp.), also known as Legionnaires' disease;

(jj)[~~(ii)~~] leptospirosis (Leptospira spp.);

(kk)[~~(jj)~~] listeriosis (Listeria spp., including Listeria monocytogenes);

(ll)[~~(kk)~~] Lyme disease (Borrelia burgdorferi, Borrelia mayonii);

(mm)[~~(ll)~~] malaria (Plasmodium spp.);

(nn)[~~(mm)~~] measles (measles virus), also known as rubeola;

(oo)[~~(nn)~~] meningitis (bacterial, fungal, parasitic, protozoan, and viral);

(pp)[~~(oo)~~] meningococcal disease (Neisseria meningitidis), invasive;

(qq)[~~(pp)~~] mumps (mumps virus);

(rr)[~~(qq)~~] mycobacterial infections, including:

(i) tuberculosis (Mycobacterium tuberculosis complex);

(ii) leprosy (Mycobacterium leprae), also known as Hansen's disease; or

(iii) any other mycobacterial infections (Mycobacterium spp.);

(ss)[~~(rr)~~] pertussis (Bordetella pertussis);

(tt)[~~(ss)~~] plague (Yersinia pestis);

(uu)[~~(tt)~~] poliomyelitis (poliovirus), paralytic and nonparalytic;

(vv)[~~(uu)~~] psittacosis (Chlamydophila psittaci), also known as ornithosis;

(ww)[~~(vv)~~] Q fever (Coxiella burnetii);

(xx)[~~(ww)~~] rabies (rabies virus), human and animal;

(yy)[~~(xx)~~] relapsing fever (Borrelia spp.), tick-borne and louse-borne;

(zz)[~~(yy)~~] rubella (rubella virus), including congenital syndrome;

(aaa)[~~(zz)~~] salmonellosis (Salmonella spp.);

(bbb)[~~(aaa)~~] shigellosis (Shigella spp.);

(ccc)[~~(bbb)~~] smallpox (Variola major and Variola minor);

(ddd)[~~(ccc)~~] spotted fever rickettsioses (Rickettsia spp.), including Rocky Mountain spotted fever (Rickettsia rickettsii);

(eee)[~~(ddd)~~] streptococcal disease, invasive, due to:

(i) Streptococcus pneumoniae;

(ii) group A streptococcus (Streptococcus pyogenes); or

(iii) group B streptococcus (Streptococcus agalactiae);

(fff)[~~(eee)~~] Syphilis (Treponema pallidum), including:

(i) any stage;

(ii) congenital; and

(iii) syphilitic stillbirths;

(ggg)[~~(fff)~~] tetanus (Clostridium tetani);

(hhh)[~~(ggg)~~] toxic shock syndrome, staphylococcal (Staphylococcus aureus) or streptococcal (Streptococcus pyogenes);

(iii)[~~(hhh)~~] transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;

(jjj)[~~(iii)~~] trichinellosis (Trichinella spp.);

(kkk)[~~(jjj)~~] tularemia (Francisella tularensis);

(lll)[~~(kkk)~~] typhoid (Salmonella typhi), cases and carriers;

(mmm)[~~(lll)~~] vibriosis (Vibrio spp.), including cholera (Vibrio cholerae);

(nnn)[~~(mmm)~~] viral hemorrhagic fevers including:

(i) Ebola virus disease (Ebolavirus spp.);

(ii) Lassa fever (Lassa virus); and

(iii) Marburg fever (Marburg virus);

(ooo)[~~(nnn)~~] yellow fever (yellow fever virus).

(3) Pregnancy is a reportable event for a subset of communicable diseases, and reporting is required even if the communicable disease was reported to public health [~~prior to~~]before the pregnancy. Perinatally transmissible conditions reportable by each entity are as follows:

(i) hepatitis B infection;

(ii) hepatitis C infection;

(iii) HIV infection;

(iv) listeriosis;

(v) rubella;

(vi) syphilis infection; and

(vii) Zika virus infection.

(4) Antimicrobial susceptibility tests reportable by each entity are as follows:

(a) Full panel antimicrobial susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:

(i) Candida auris or Candida haemulonii from any body site;

(ii) Mycobacterium tuberculosis;

(iii) Neisseria gonorrhoeae;

(iv) Salmonella species;

(v) Shigella species; and

(vi) Streptococcus pneumoniae;

(vii) organisms resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli; or

(D) Klebsiella species;

(viii) organisms resistant to vancomycin in Staphylococcus aureus (VRSA).

(b) Individual carbapenemase test results including positive, negative, equivocal, indeterminate and the method used, are reportable when performed on organisms resistant to a carbapenem, or with demonstrated carbapenemase, in:

(i) Acinetobacter species;

(ii) Enterobacter species;

(iii) Escherichia coli; and

(iv) Klebsiella species.

(c) Antiviral susceptibility test results, including nucleotide sequencing, genotyping, or phenotypic analysis, are reportable when performed on:human immunodeficiency virus (HIV).

(5) Unusual events reportable by each entity include one or more cases or suspect cases of a communicable disease, condition, or syndrome considered:

(a) rare, unusual, or new to Utah;

(b) previously controlled or eradicated;

(c) caused by an unidentified or newly identified organism;

(d) due to exposure or infection that may indicate a bioterrorism event with potential transmission to the public; or

(e) any other infection not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(6) Outbreaks, epidemics, or unusual occurrences of events reportable by each entity are as follows :

(a) Entities shall report two or more cases or suspect cases, with or without an identified organism, including:

(i) gastrointestinal illnesses;

(ii) respiratory illnesses;

(iii) meningitis or encephalitis;

(iv) infections caused by antimicrobial resistant organisms;

(v) illnesses with suspected foodborne or waterborne transmission;

(vi) illnesses with suspected ongoing transmission in any facility;

(vii) infections that may indicate a bioterrorism event; or

(viii) any other infections not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.

(b) Entities shall report increases or shifts in pharmaceutical sales that may indicate changes in disease trends.

(7) Laboratory results reportable by electronic reporters are as follows:

(a) In addition to laboratory results set forth in Subsections R386-702-3(2) through R386-702-3(6), entities reporting electronically shall include the following laboratory results or laboratory results that provide presumptive evidence of the following communicable diseases:

(i) influenza virus;

(ii) norovirus infection;

(iii) Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase production;

(iv) Staphylococcus aureus from a normally sterile site with methicillin testing performed, reported as either methicillin-susceptible Staphylococcus aureus (MSSA) or methicillin-resistant Staphylococcus aureus (MRSA); and

(v) Streptococcal disease, invasive due to all species.

(b) Entities reporting electronically shall include any laboratory results including positive, negative, equivocal, indeterminate, associated with the following tests or conditions:

(i) CD4+ T-Lymphocyte tests, regardless of known HIV status;

(ii) chlamydia;

(iii) Clostridium difficile;

(iv) novel coronavirus COVID-19 (SARS-CoV-2), [~~including IgM and IgG serology~~]detected by a SARS-CoV-2 NAAT;

(v) cytomegalovirus (CMV), congenital (infants less than or equal to 12 months of age);

(vi) gonorrhea;

(vii) hepatitis A;

(viii) hepatitis B, including viral loads;

(ix) hepatitis C, including viral loads;

(x) HIV, including viral loads and confirmatory tests;

(xi) liver function tests, including ALT, AST, and bilirubin associated with a viral hepatitis case;

(xii) Lyme disease;

(xiii) respiratory syncytial virus (RSV);

(xiv) syphilis;

(xv) tuberculosis; and

(xvi) Zika virus.

(c) Entities reporting electronically shall report full panel antibiotic susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase.

(d) The Department may, by authority granted through Title 26, Chapter 23b, Detection of Public Health Emergencies Act, identify additional reporting criteria when deemed necessary for the management of outbreaks or identification of exposures.

(e) Non-positive laboratory results reported for the events identified in Subsection R386-702-3(7)(b) will be used for the following purposes[~~ as authorized in Subsections 26-1-30(2)(e), 26-1-30(2)(d), and 26-1-30(2)(f)~~]:

(i) to determine when a previously reported case becomes non-infectious;

(ii) to identify newly acquired infections through identification of a seroconversion window; or

(iii) to provide information critical for assignment of a case status.

(f) Information associated with a non-positive laboratory result will be kept by the Department for a period of 18 months.

(i) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ii) The de-identified result will be added to a de-identified, aggregate [~~dataset~~]data set.

(iii) The [~~dataset~~]data set will be kept for use by public health to analyze trends associated with testing patterns and case distribution, and identify and establish prevention and intervention efforts for at-risk populations.

(8) Authorized reporting of syndromes and conditions are as follows:

(a) Reporting of encounters for the following syndromes and conditions is authorized by Title 26, Chapter 23b, Detection of Public Health Emergencies Act, unless made mandatory by the declaration of a public health emergency:

(i) respiratory illness, including:

(A) upper or lower respiratory tract infections;

(B) difficulty breathing; or

(C) adult respiratory distress syndrome;

(ii) gastrointestinal illness, including:

(A) vomiting;

(B) diarrhea; or

(C) abdominal pain;

(iii) influenza-like constitutional symptoms or signs;

(iv) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(v) rash illness;

(vi) hemorrhagic illness;

(vii) botulism-like syndrome;

(viii) lymphadenitis;

(ix) sepsis or unexplained shock;

(x) febrile illness (illness with fever, chills or rigors);

(xi) nontraumatic coma or sudden death; and

(xii) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

(b) Reporting of encounters for syndromes and conditions not specified in Subsection R386-702-3(8)(a) is also authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency.

(c) Information included in the reporting of the events identified in Subsections R386-702-3(8)(a) and R386-702-3(8)(b) will be used for the following purposes:

(i) to support early identification and ruling out of public health threats, disasters, outbreaks, suspected incidents, and acts of bioterrorism;

(ii) to assist in characterizing population groups at greatest risk for disease or injury;

(iii) to support assessment of the severity and magnitude of possible threats; or

(iv) to satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

(9) Reporting exceptions:

(a) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall seek written approval of reporting exemption from the Department institutional review board [~~prior to~~]before the study commencement.

(b) The university or hospital shall submit the following to the HIV Epidemiologist within 30 days of Department institutional review board approval:

(i) a summary of the research protocol, including funding sources and justification for requiring anonymity; and

(ii) written approval from the Department institutional review board.

(c) The university or hospital shall submit a report that includes each of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist annually during an ongoing research study.

(d) The university or hospital shall submit a final report that includes each of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist within 30 days of the conclusion of the research study.

(e) Documents can be submitted to the HIV Epidemiologist by fax at (801) 538-9923 or by mail to 288 North 1460 West Salt Lake City, Utah 84116.

R386-702-4. Entities Required to Report.

(1) Section 26-6-6 lists those entities required to report cases or suspect cases of the reportable events set forth in Section R386-702-3. This includes:

(a) health care providers, as defined in Section 78B-3-403;

(b) health care facilities, as defined in Section 78B-3-403;

(c) health care facilities operated by the federal government;

(d) mental health facilities, as defined in Section 62A-15-602;

(e) care facilities licensed through the Department of Health and Human Services;

(f) nursing care facilities and assisted living facilities, as defined in Section 26-21-2;

(g) dispensaries;

(h) clinics;

(i) laboratories;

(j) schools, as defined in Section 26-6-2;

(k) childcare programs, as defined in Section 26-39-102; and

(l) any individual with a knowledge of others who have a communicable disease.

(2) In addition, the following entities are required to report cases or suspect cases of the reportable events set forth in Section R386-702-3:

(a) blood and plasma donation centers; and

(b) correctional facilities.

(3) When more than one entity is involved in the processing of a clinical specimen[~~ (receiving, forwarding, or analyzing)~~]; or the diagnosis, treatment, or care of a case or suspect case; each entity involved [~~is required to~~]shall report, even when diagnosis or testing is done outside of Utah.

(4) Health care entities may designate a single person or group of persons to report the events identified in Section R386-702-3 to public health on behalf of their health care providers or medical laboratories, as long as reporting complies with requirements in this rule.

R386-702-5. Mandatory Submission of Clinical Material.

(1) Laboratories shall submit clinical material from cases identified with organisms listed in Subsection R386-702-5(3) to the Utah Department of Health and Human Services, Utah Public Health Laboratory (UPHL) within three working days of identification.

(a) Clinical material is defined as:

(i) A clinical isolate containing the organism for which submission of material is required; or

(ii) If an isolate is not available, material containing the organism for which submission of material is required, in the following order of preference:

(A) a patient specimen;

(B) nucleic acid; or

(C) other laboratory material.

(2) Laboratories submitting clinical material from cases identified with organisms designated by UPHL as potential bioterrorism agents shall first notify UPHL via telephone immediately during business hours at (801) 965-2400, or after hours at (801) 560-6586.

(3) Organisms mandated for standard clinical submission include:

(a) antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) resistant to a carbapenem in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species; or

(E) Pseudomonas aeruginosa;

(ii) resistant to vancomycin in Staphylococcus aureus (VRSA);

(iii) demonstrated carbapenemase production in:

(A) Acinetobacter species;

(B) Enterobacter species;

(C) Escherichia coli;

(D) Klebsiella species;

(E) any other Enterobacteriaceae species; or

(F) Pseudomonas aeruginosa;

(b) Campylobacter species;

(c) Candida auris or Candida haemulonii from any body site;

(d) Corynebacterium diphtheriae;

(e) Shiga toxin-producing Escherichia coli (STEC), including enrichment or MacConkey broths that tested positive by any method for Shiga toxin;

(f) Haemophilus influenzae, from normally sterile sites;

(g) influenza A virus, unsubtypeable;

(h) influenza virus (hospitalized cases only);

(i) Legionella species;

(j) Listeria monocytogenes;

(k) measles (rubeola) virus;

(l) Mycobacterium tuberculosis complex;

(m) Neisseria meningitidis, from normally sterile sites;

(n) Salmonella species;

(o) SARS-CoV-2 NAAT-positive samples;

(p)[~~(o)~~] Shigella species;

(q)[~~(p)~~] Vibrio species;

(r)[~~(q)~~] West Nile virus;

(s)[~~(r)~~] Yersinia species;

(t)[~~(s)~~] Zika virus; and

(u)[~~(t)~~] any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(v) mandatory submission requirements may be temporarily suspended or modified by the Department.

(4) Organisms mandated for bioterrorism clinical submission include:

(a) Bacillus anthracis;

(b) Brucella species;

(c) Clostridium botulinum;

(d) Francisella tularensis; and

(e) Yersinia pestis.

(5) Submission of clinical material does not replace the requirement for laboratories to report the event to public health as defined in Sections R386-702-6 and R386-702-7.

(6) For additional information on this process, contact UPHL at (801) 965-2400.

R386-702-6. Reporting Criteria.

(1) Manual reporting criteria is as follows:

(a) Reporting timeframes are as follows:

(i) Entities shall report immediately reportable events by telephone as soon as possible, but no later than 24 hours after identification. Events designated as immediately reportable by the Department include cases and suspect cases of:

(A) anthrax or anthrax-like illness;

(B) botulism, excluding infant botulism;

(C) cholera;

(D) novel coronavirus disease including: Middle East Respiratory Syndrome (MERS), and severe acute respiratory syndrome (SARS)[~~, and COVID-19 (SARS-CoV-2)~~];

(E) diphtheria;

(F) Haemophilus influenzae, invasive disease;

(G) hepatitis A;

(H) influenza infection suspected or confirmed to be caused by a non-seasonal influenza strain;

(I) measles;

(J) meningococcal disease, invasive;

(K) plague;

(L) poliovirus, paralytic and nonparalytic;

(M) rabies, human and animal;

(N) rubella, excluding congenital syndrome;

(O) smallpox;

(P) Staphylococcus aureus from any clinical specimen that is resistant to vancomycin;

(Q) transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;

(R) tuberculosis;

(S) tularemia;

(T) typhoid, cases and carriers;

(U) viral hemorrhagic fevers;

(V) yellow fever; or

(W) any event described in Subsection[~~s~~] R386-702-3(5) or R386-702-3(6).

(ii) Entities shall report events in Subsections R386-702-3(2) through R386-702-3(6) not required to be reported immediately within three working days from the time of identification.

(b) Methods for reporting are as follows:

(i) Entities reporting manually shall send reports to either a local health department or the Department by phone, secured fax, secured email, or mail.

(ii) Contact information for the Department is as follows:

(A) phone: (801) 538-6191 during business hours, or 888-EPI-UTAH (888-374-8824) after hours;

(B) secured fax: (801) 538-9923;

(C) secured email: reporting@utah.gov [~~(~~]contact the Department at (801) 538-6191 for information on this option[~~)~~]; and

(D) mail: 288 North 1460 West Salt Lake City, Utah 84116.

(iii) A confidential morbidity report form is available at: http://health.utah.gov/epi/reporting/.

(iv) The Department incorporates by reference version 2.2 of the Utah Reporting Specifications for Communicable Diseases, that identifies individual laboratory tests that shall be reported to the Department by manual reporting entities.

(2) Electronic reporting criteria is as follows:

(a) Reporting timeframes are as follows:

(i) Entities that report electronically shall report laboratory results within 24 hours of finalization.

(A) Entities can choose to report in real-time (as each report is released) or batch reports.

(B) Entities reporting electronically shall report preliminary positive results for the immediately reportable events specified in Subsection R386-702-6(1)(a)(i).

(b) Methods for reporting are as follows:

(i) Laboratories that identify cases or suspect cases shall report to the Department through electronic laboratory reporting, in a manner approved by the Department. Reportable events shall be identified by automated computer algorithms.

(A) Laboratories may substitute electronic reporting if electronic laboratory reporting is not available, with permission from the Department, and in a manner approved by the Department.

(B) Hospitals reporting electronically shall use HL7 2.5.1 message structure, and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations.

(C) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure, and appropriate LOINC codes designating the test performed.

(D) Entities reporting electronically shall submit local vocabulary codes with translations to the Division of Disease Control and Prevention Informatics Program, if applicable.

(E) The Department incorporates by reference version 1.3 of the Utah Electronic Laboratory Reporting Specifications for

Communicable Diseases, that identifies individual laboratory tests that shall be reported to the Department by electronic reporting entities.

(F) For additional information on this process, refer to https://health.utah.gov/phaccess/public/elr/ or contact the Division of Population Health[~~Disease Control and Prevention~~] Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(ii) Electronic case reporting is an authorized method of reporting to the Department. For additional information on this process, contact the Division of Population Health[~~Disease Control and Prevention~~] Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(A) Entities reporting via electronic case reporting may send any clinical information for an encounter that meets criteria for reporting to public health.

(3) Syndromic reporting criteria is as follows:

Entities reporting syndromes or conditions identified in Subsection R386-702-3(8) shall report as soon as practicable using a schedule approved by the Department.

-For information on reporting syndromic data, refer to https://health.utah.gov/phaccess/public/SS/ or contact the Division of Population Health[~~Disease Control and Prevention~~] Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

R386-702-7. Required Information.

(1) Entities shall include the following information when reporting events specified in Subsections R386-702-3(2) through R386-702-3(6) to public health:

(a) Patient information:

(i) full name;

(ii) date of birth;

(iii) address, including street address, city, state, and zip code;

(iv) telephone number;

(v) gender;

(vi) race and ethnicity;

(vii) date of onset;

(viii) hospitalization status and date of admission; and

(ix) pregnancy status and estimated due date.

(b) Diagnostic information:

(i) name of the diagnostic facility;

(ii) address, including street address, city, state, and zip code; of the diagnostic facility;

(iii) telephone number of the diagnostic facility;

(iv) full name of the ordering or diagnosing health care provider;

(v) address, including street address, city, state, and zip code; of the ordering or diagnosing health care provider; and

(vi) telephone number of the ordering or diagnosing health care provider.

(c) Reporter information:

(i) full name of the person reporting;

(ii) name of the facility reporting; and

(iii) telephone number of the person or facility reporting.

(d) Laboratory testing information:

(i) name of the laboratory performing the test;

(ii) the laboratory's name for, or description of, the test;

(iii) specimen source;

(iv) specimen collection date;

(v) testing results;

(vi) laboratory test date;

(vii) test reference range; and

(viii) test status including preliminary, final, amended, or corrected.

(2) Entities shall submit reports that are clearly legible and do not contain any internal codes or abbreviations to the Department.

(3) Entities submitting or forwarding a specimen for testing using a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall include the patient's full name, date of birth, gender, race, ethnicity, address, and telephone number, so that the performing laboratory can report results to the appropriate public health agency.

(a) If the patient's address is not known by the submitting or forwarding entity, the submitting or forwarding entity shall provide the performing laboratory with the name and address of the facility where the specimen originated.

(4) Entities shall reference http://health.utah.gov/epi/reporting, or contact the Department at (801) 538-6191, for additional reporting specifications, including technical documents, reporting forms, and protocols.

(5) Full reporting of relevant patient information is authorized when reporting events listed in Subsection R386-702-3(8) to public health.

(a) Entities shall include in reports at least the following information, if known:

(i) name of the facility;

(ii) a patient identifier;

(iii) date of visit;

(iv) time of visit;

(v) patient's age;

(vi) patient's gender;

(vii) zip code of patient's residence;

(viii) chief complaint[~~(s)~~], reason for visit, or diagnosis; and

(ix) whether the patient was admitted to the hospital.

R386-702-8. Confidentiality of Reports.

(1) Reports required by this rule are confidential and are not open to public inspection. Information collected pursuant to this rule shall not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(2) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

(3) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a Good Samaritan when that medical provider submits a request to the Department or local health department.

(a) The request must include:

(i) information regarding the occurrence of the accident, fire, or other life-threatening emergency;

(ii) a description of the exposure risk to the Good Samaritan; and

(iii) contact information for the Good Samaritan and their medical provider.

(b) The Department or local health department will ensure that the disclosed information:

(i) includes enough detail to allow for appropriate education and follow-up to the Good Samaritan; and

(ii) ensures confidentiality is maintained for the person who was aided.

(c) No identifying information will be shared with the Good Samaritan or their medical provider regarding the person who

was assisted. The Good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

R386-702-9. Non-Compliance with Reporting Regulations.

(1) Any person who violates [~~any provision of Section~~]Rule R386-702 may be assessed a penalty as provided in Section 26-23-6.

(2) Willful non-compliance may result in the Department working with other agencies to incur penalties that may include loss of accreditation or licensure.

(3) Records maintained by reporting entities are subject to review by Department personnel to assure the completeness and accuracy of reporting.

(4) If public health conducts a surveillance project, such as assessing the completeness of case finding or assessing another measure of data quality, the Department may, at its discretion, waive any penalties for participating entities if cases are found that were not originally reported for whatever reason.

R386-702-10. Information Necessary for Public Health Investigation and Surveillance.

(1) Reporting entities shall provide the Department or local health department with any records or other materials requested by public health that are necessary to conduct a thorough investigation.

(a) Subsection (1) includes medical records, additional laboratory testing results, treatment and vaccination history, clinical material, or contact information for cases, suspect cases, or persons potentially exposed.

(b) The Department or local health department shall be granted on-site access to a facility, when such access is critical to a public health investigation.

R386-702-11. General Measures for the Control of Communicable Diseases.

(1) The local health department shall maintain reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health and Human Services.

(2) General control measures for reportable diseases are as follows:

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services for assistance, and shall cooperate with the representatives of the Utah Department of Health and Human Services.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person shall be kept from contact with the public, the local health officer shall establish, maintain, and enforce involuntary treatment, isolation, and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services, or official reference listed in Section R386-702-18.

(d) The local health department shall take action and measures as may be necessary within [~~the provisions of~~]Section 26-6-4,[~~;~~] Title 26, Chapter 6b Communicable Diseases - Treatment, Isolation, and Quarantine Procedures,[~~;~~] and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition that pose a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

(e) A case; suspected case; carrier; contact; other person; or entity, including a facility, hotel, or other organization, shall, upon request of a public health authority, promptly cooperate during:

(i) an investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

(ii) the carrying out of measures for prevention, suppression, and control of a public health hazard, including procedures of restriction, isolation, and quarantine.

(5) Control measures for public food handlers and places where food or drink products are handled or processed are as follows:

A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing as prescribed by Rule R392-100.

If a local health department finds it is not able to completely comply with this rule, the local health officer or [~~his~~]their representative shall request the assistance of the Utah Department of Health and Human Services. In such circumstances, the local health department shall provide required information to the [~~Bureau of Epidemiology~~]Office of Communicable Diseases. If the local health officer fails to comply with [~~the provisions of~~]this rule, the Utah Department of Health and Human Services shall take action necessary to enforce this rule.

Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

R386-702-12. Special Measures for Control of Rabies.

(1) Rationale of treatment is as follows:

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) Management of biting animals is as follows:

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health and Human Services.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in Subsection R386-702-12(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in Subsection R386-702-12(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services shall be notified. [~~The provisions of s~~]Subsection R386-702-12(2)(e) may be waived by the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept [~~postexposure~~]post-exposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of four months for dogs and cats, and six months for ferrets. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies. The animal shall be placed in a strict quarantine for four months for dogs and cats, or six months for ferrets.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least four months for dogs and cats, and six months for ferrets. The animal shall be vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in [~~s~~]Subsection R386-702-12(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in [~~s~~]Subsection R386-702-12(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Testing fees at the Utah Public Health Laboratory [~~(UPHL)~~]are as follows:

(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing. Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.

(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:

(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including known bat bites, exposure to bat saliva, a bat found in a room with a sleeping

person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock, including skunks, foxes, coyotes, and raccoons, may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) UD[~~OH~~]HHS [~~Bureau of Epidemiology~~]Office of Communicable Diseases staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a $95 testing fee if testing is ordered for them through UPHL:

(i) Any dog, cat, or ferret, with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents including rats, mice, squirrels, chipmunks, voles, or moles; and lagomorphs including rabbits and hares.

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) UD[~~OH~~]HHS [~~Bureau of Epidemiology~~]Office of Communicable Diseases staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the submitting party feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health and Human Services, [~~Bureau of Epidemiology~~]Office of Communicable Diseases, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted electronically via email to: epi@utah.gov, with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist."[~~,~~]

(i) The submitting party has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) UD[~~OH~~]HHS and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) UD[~~OH~~]HHS [~~Bureau of Epidemiology~~]Office of Communicable Diseases staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

(4) Measures for standardized rabies control practices are as follows:

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as[~~ adopted and~~] incorporated by reference in Subsection R386-702-18(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report serious systemic neuroparalytic or anaphylactic reactions to rabies vaccine through the Vaccine Adverse Event Reporting System (VAERS).

(c) The Compendium of Animal Rabies Prevention and Control, as [~~adopted and~~]incorporated by reference in Subsection R386-702-18(5), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with [~~t~~]The Compendium of Animal Rabies Prevention and Control.

(f) Agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, that can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and Human Services and the Utah Department of Agriculture.

(5) Measures to prevent or control rabies outbreaks are as follows:

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination. Vaccination requirements include:

(i) any dog, cat, and ferret in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) local governments should establish effective programs to ensure vaccination of any dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health and Human Services determines that a rabies outbreak is present in an area of the state, the Utah Department of Health and Human Services may require that:

(i) any dog, cat, and ferret in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health and Human Services declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

R386-702-13. Special Measures for Control of Typhoid.

Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following:

(1) Standard precautions are required for cases during hospitalization. Use contact precautions for diapered or incontinent patients [~~for the duration of~~]during illness. Hospital care is desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative

cultures of feces, and of urine in patients with schistosomiasis, taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in Subsection R386-702-13(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in Subsection R386-702-13(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

(2) Administration of typhoid vaccine is recommended for household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

(3) If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services using the process described in Section R386-702-6. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with Subsection R386-702-13(4)(a) or R386-702-13(4)(b). Reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in Subsection R386-702-13(6).

(b) Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, Utah Department of Health and Human Services. If the person continues to excrete typhoid bacilli for more than 12 months, the person is a chronic carrier and may be released after satisfying the criteria for chronic carriers in Subsection R386-702-13(6).

([~~5~~]4) The local health department shall report typhoid carriers to the [~~Bureau of Epidemiology~~]Office of Communicable Diseases, and shall:

(a) require the necessary laboratory tests for release;

(b) issue written instructions to the carrier; and

(c) supervise the carrier.

(6) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or [~~his~~]their representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) for carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or [~~his~~]their representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or [~~his~~]their representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

R386-702-14. Special Measures for the Control of Ophthalmia Neonatorum.

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn [~~one percent~~]1% silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

R386-702-15. Special Measures for the Control of HIV/AIDS.

If an individual is tested and found to have an HIV infection, the Department or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

(1) Definitions:

(a) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(b) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period [~~prior to~~]before the diagnosis of HIV infection.

(c) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination within three months of HIV positive diagnosis.

(d) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination once within a 12-month period.

(3) Partner services include:

(a) confidential partner notification within 30 days of receiving a positive HIV result or when relevant additional information is found to aide in an investigation or case management;

(b) prevention counseling;

(c) testing for HIV;

(d) providing recommendations for testing for other sexually transmitted diseases;

(e) providing recommendations for hepatitis screening and vaccination;

(f) treatment or linkage to medical care on an ongoing basis, as needed; and

(g) linkage or referral to other prevention services and support.

(4) Re-engagement to care includes:

(a) linkage to medical care, on an ongoing basis, as needed;

(b) linkage or referral to other prevention services and support;

(c) confidential partner notification, as needed;

(d) prevention counseling;

(e) providing recommendations for testing for other sexually transmitted diseases;

(f) providing recommendations for hepatitis screening and vaccination;

(g) medication adherence counseling; and

(h) risk reduction counseling.

R386-702-16. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. [~~The provisions of t~~]This section [~~do~~]does not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care shall repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Department, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;

(b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours;

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth; and

(h) hepatitis B immune globulin [~~(HBIG)~~]administration and birth dose hepatitis B vaccine status of infants born to mothers who are [~~HBsAg positive~~]HBsAg positive are reported within 24 hours of delivery to the local health department and Utah Department of Health and Human Services Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) Females between the ages of 12 and 50 years [~~at the time~~]when an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in the "Red Book: 2021-2024 Report of the Committee on Infectious Diseases" 32nd Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021.[~~most current version of "The Red Book" as cited in R386-702-13 (4).~~]

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 12 months of age [~~(testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age)~~]to monitor the success of therapy and identify cases of perinatal hepatitis B infection. Testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age. Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in [~~(c)~~]this subsection receive three additional vaccine doses and are retested as specified in the "Red Book: 2021-2024 Report of the Committee on Infectious Diseases" 32nd Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021.[~~most current version of "The Red Book" as cited in R386-702-18 (4).~~]

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B. Identified acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) [~~The provisions of s~~]Subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) The Department defines a chronic hepatitis B case as a person that is HBsAg positive, total antibody against hepatitis B core antigen (anti-HBc) positive[~~ (if performed)~~], if performed, and IgM anti-HBc negative.

(b) An individual with chronic hepatitis B infection shall be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection shall be evaluated to determine

susceptibility to hepatitis B infection, and if determined to be susceptible, shall be offered or advised to obtain vaccination against Hepatitis B.

R386-702-17. Public Health Emergency.

(1) Declaration of Emergency: With the Governor's and Executive Director's, or in the absence of the Executive Director, [~~his~~]the Executive Director's designee[~~'s~~], concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in [~~sections~~]Section R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and [~~for the duration of~~]during the public health emergency, the following definitions apply.

(a) "Emergency center" means:

(i) a health care facility licensed under [~~the provisions of Chapter 26-21~~]Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "Encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in Subsection R386-702-3(2).

(c) "Diagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in Section R386-702-6.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day;

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9[~~:00~~] a.m. the following day;

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in Section R386-702-6 and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex; and

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected. However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

R386-702-18. Official References.

Treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, that are [~~adopted and~~]incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual."[~~.~~] 21st[~~0th~~] ed., Heymann, David L., editor, 2022[~~15.~~];

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." Morbidity and Mortality Weekly Report. 57 (RR03) (2008):1-26, 28[~~.~~];

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2016." Nasphv.org. National Association of State Public Health Veterinarians, 18 October 2016. Web. http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf;

(4) American Academy of Pediatrics. "Red Book: 2021-2024[~~18-2021~~] Report of the Committee on Infectious Diseases" 32nd[~~0th~~] Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2021[~~18.~~]; and

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2017. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017." Journal of the American Veterinary Medicine Association 243 (2017): 1269-292.

KEY: communicable diseases, quarantines, rabies, rules and procedures
Date of Last Change: 2022[~~September 8, 2020~~]
Notice of Continuation: March 10, 2021
Authorizing, and Implemented or Interpreted Law: [~~26-1-30;~~]26-6-3; 26-23b; 26B-1-202

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R414-520**	**Filing ID: 55021**

Agency Information

1. Department:	Health and Human Services
Agency:	Health Care Financing, Coverage and Reimbursement Policy
Building:	Cannon Health Building
Street address:	288 N 1460 W

City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R414-520. Admission Criteria for Medically Complex Children's Waiver

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this change is to provide waiver services for children with complex medical needs in accordance with H.B. 200, passed in the 2022 General Session.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment includes level-of-care requirements to prioritize waiver participation, as increased funding allows for more children to receive waiver services. Criteria is based on scores derived from dependence on medical devices, treatments, therapies, subspecialty services, and impact on parents or guardians. This amendment also includes technical changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department of Health and Human Services (Department) expects an increase of about $1,000,000 to the state budget to provide waiver services to additional children who qualify for the Medically Complex Children's Waiver. This amount is based on gross expenditures of $3,505,600 versus gross revenues of $2,505,600 to provide these services.

B) Local governments:

Local education agencies will see an initial cost due to this legislation. This cost, however, will be offset by funding to provide Medicaid-eligible services in school settings to children with complex medical needs. After costs, these agencies will see net funding of about $350,000. This amount is based on $180,000 in total costs offset by $530,000 in total funding.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There is no impact on small businesses as this change will not result in additional costs, fees, taxes, or revenue.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There is no impact on non-small businesses as this change will not result in additional costs, fees, taxes, or revenue.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Up to 130 children who qualify for the waiver, with their families, may see a share of about $1,000,000 in out-of-pocket savings. Additionally, service providers may see an increase in revenue, but there is no data to estimate an amount.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs to a single person or entity as this change will not result in additional costs, fees, taxes, or revenue.

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$1,000,000	$1,000,000	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$1,000,000**	**$1,000,000**	**$0**

Fiscal Benefits	FY2023	FY2023	FY2025
State Government	$0	$0	$0
Local Governments	$350,000	$350,000	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$1,000,000	$1,000,000	$0
Total Fiscal Benefits	**$1,350,000**	**$1,350,000**	**$0**
Net Fiscal Benefits	**$350,000**	**$350,000**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this fiscal analysis. Businesses will not see additional costs, fees, taxes, or revenue.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26-18-3	Section 26-18-410

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	10/31/2022

R414. Health and Human Services, Health Care Financing, Coverage and Reimbursement Policy.
R414-520. Admission Criteria for Medically Complex Children's Waiver.

R414-520-1. Introduction and Authority.

(1) This rule outlines the criteria used to evaluate initial and ongoing eligibility for the Medically Complex Children's Waiver.

(2) [~~This rule is authorized by~~]Section 26-18-3 authorizes this rule. Waiver services are optional and provided in accordance with 42 CFR 440.225.

R414-520-2. Definitions.

[~~(1)~~]"Waiver" means the Medically Complex Children's Waiver.

R414-520-3. Eligibility Requirements.

(1) The Department uses the following criteria to determine waiver eligibility:

(a) [~~A~~]an assessment of a child's ability to perform age-appropriate activities of daily living and that child's level of independence in the performance of the activity; and

(b) [~~A~~]an evaluation to determine whether a child meets nursing facility level-of-care in accordance with Section R414-502-3.

(2) For a child who meets the criteria in Subsection [~~R414-520-3~~](1), a point value is attributed to the initial application and annual re-evaluation that includes the following:

(a) [~~C~~]current medical providers;

(b) [~~C~~]condition or diagnosis;

(c) [~~D~~]date of last medical visit;

(d) [~~D~~]documentation of more than three months of dependence on medical devices, treatments, therapies, or subspecialty services to reach a minimum medical score; and

(e) [~~A~~]an evaluation of the impact on the parent[~~s~~] or guardian[~~s~~] who ha[~~ve~~]s provided care to the [~~medically complex~~]child with complex medical needs during the last 12 months.

R414-520-4. Waiver Access.

(1) The Department periodically assesses funding for the waiver to determine the number of children it[~~who~~] may [~~be~~]serve[~~d~~]. [~~It~~]The Department also derives a point value associated with the criteria found in Subsections R414-520-3(2)(d) through (e) to determine which children to enroll. In the event of multiple applications with the same point value, the Department [~~will~~]uses the point value derived from Subsection R414-520-3(2)(d) to make its determination.[~~ In the event of multiple applications with the same point value derived from Subsection R414-520-3(2)(d), the Department will create a randomized list to determine which children are served.~~]

(2) The Department enrolls applicants who meet the level-of-care requirements using the scoring process described in Subsection (1) until the waiver reaches the maximum number of children it may serve. Once the waiver reaches the maximum number of children it may serve, the Department uses a waitlist to monitor interest in the program and to enroll additional children when attrition creates vacancies. The Department attributes a score to children who are enrolled and on the waitlist in accordance with Subsections R414-520-3(2)(d) through (e), and enrolls children based on the highest scores. In the event of multiple enrollees or applicants with the same point value derived from Subsection R414-520-3(2)(d), the Department enrolls children based on the order in which it receives applications until the maximum number of children the waiver may serve is reached.

(3) Each calendar quarter, the Department reviews level-of-care annual re-certifications of current enrollees that were completed in the preceding quarter to determine a new minimum

qualifying score for entrance or continued enrollment in the waiver. Participants who no longer meet the minimum qualifying score are disenrolled from the waiver.

([~~2~~]4) An applicant who is not admitted to the waiver, or a child who is disenrolled from the waiver, may appeal the decision in accordance with 42 CFR 431[~~.~~] Subpart E.

R414-520-5. Service Coverage.

Services and limitations are found in the State Implementation Plan for the Medically Complex Children's Waiver.

KEY: Medicaid
Date of Last Change: 2022[~~January 4, 2019~~]
Authorizing, and Implemented or Interpreted Law: 26B-1-[~~5~~]213; 26-18-3; 26-18-410

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R426-3**	**Filing ID: 55026**

Agency Information

1. Department:	Health and Human Services	
Agency:	Family Health and Preparedness, Emergency Medical Services	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Guy Dansie	801-560-1544	gdansie@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R426-3. Licensure

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

Following H.B. 441, passed in the 2022 General Session and the consolidation of the Department of Health and Human Services (Department), the Department is updating Rule R426-3 to reflect the statutory requirements for community paramedicine.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment updates the scope of operations to allow for a ground ambulance provider to provide arranged patient care services through a community paramedicine program. It also updates language and subsections not currently compliant with the Utah Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department does not anticipate that this rule will result in a fiscal impact to the state budget. This rule amendment serves as authorization for an EMS provider to provide local services to patients. The Department's role in the process is receiving notification that they are providing the service. The Department simply documents their information as part of their existing license or designation record.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because this rule does not impose any additional requirements upon them.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

If a small business chooses to provide these EMS services it may result in a fiscal benefit due to the collection of fees for the service. It is inestimable how many businesses will provide this service.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

If a non-small business chooses to provide these EMS services it may result in a fiscal benefit due to the collection of fees for the service. It is inestimable how many businesses will provide this service.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

This proposed rule will not result in a fiscal impact to persons other than small businesses, non-small businesses, state, or local government entities because this amendment does not fiscally impact the requirements for persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There are no compliance costs associated with this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 26-8a-105(5)(a)	Title 26, Chapter 8a	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	10/31/2022

R426. Health and Human Services, Family Health and Preparedness, Emergency Medical Services.
R426-3. Licensure.
R426-3-1[~~00~~]. Authority and Purpose.

(1) Subsection 26-8a-105(5)(a) authorizes this rule.[~~This Rule establishes standards for the licensure of ground ambulance and paramedic services.~~]

(2) The purpose of this rule is to set forth ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.

R426-3-2[~~00~~]. Requirement for Licensure.

[~~(1)~~]A provider of ground ambulance, paramedic ground ambulance, or paramedic services shall obtain a license from the Department of Health and Human Services before providing these services.[~~A person who provides or represents that it provides ground ambulance, paramedic ground ambulance, or paramedic services shall first be licensed by the Department.~~]

R426-3-3[~~00~~]. Licensure Types.

(1) The Department may issue exclusive ground ambulance transport licenses for the following types of service[~~ at the given levels~~]:

(a) emergency medical technician (EMT);
(b) advanced emergency medical technician (AEMT); and
(c) paramedic.

(2) The Department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service[~~ at the given levels~~]:

(a) emergency medical technician (EMT);
(b) advanced emergency medical technician (AEMT); and
(c) paramedic.

(3) The Department may issue exclusive paramedic, non-transport licenses.

(4) The Department may issue a paramedic tactical license that is a function not tied to a specific geographical location.

R426-3-4[~~00~~]. Scope of Operations.

(1) A ground ambulance or paramedic licensed provider may only provide service to its specific licensed geographic service area and is responsible to provide all services to its entire specific geographic service area except as provided by aid agreements. It will provide emergency medical services for its category of licensure.

(2) A ground ambulance provider or paramedic service provider shall provide services 24 hours a day, every day of the year.

(3) A ground ambulance provider or paramedic service provider shall provide all standby services for any special event that requires ground ambulance or paramedic services within its geographic service area. The licensed provider may arrange for those services through aid agreements. Designated quick response units may also support licensed ground ambulance or paramedic services at special events. If a licensed provider refuses to provide service, or is non-responsive in a timely manner to a request for a special event, the event organizer may use a licensed or designated provider of their choice.

(4) A ground ambulance provider may provide arranged patient care services through a community paramedicine program. The licensed ground ambulance provider shall submit a description of the community paramedicine program to the Department to be included with the operations plan for licensure.

(5) Pilot projects involving community paramedicine initiated and approved before May 4, 2022 shall be granted a grace period to come into compliance with the billing requirements as outlined in Subsection 26-8a-212(3). This grace period will terminate on December 31, 2022.

R426-3-5[~~00~~]. Minimum Licensure Requirements Ground Ambulance and Paramedic Services.

A licensed provider shall meet the following minimum requirements:

(1) sufficient ground ambulances, emergency response vehicle[~~(~~]s[~~)~~], equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensed provider;

(2) locations or staging areas for stationing its vehicles;

(3) a current written dispatch agreement with a designated emergency medical dispatch center;

(4) ground ambulances may have current written aid agreements with other ground ambulance licensed providers to give assistance in times of unusual demand;

(5) a Department certified EMS training officer that is responsible for continuing education;

(6) a current plan of operations;

(7) a description of how the licensed provider or applicant proposes to interface with other licensed and designated EMS providers;

(8) demonstrate fiscal viability;

(9) medical personnel roster which includes level of licensure to ensure there is sufficient trained and licensed staff for operational procedures;

(10) all proposed permitted vehicles;

(11) a current written agreement with a Department[-] certified off-line medical director or a medical director certified in the state where the service is based;

(12) provide a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the manner and following minimum amounts:

(a) liability insurance in the amount of $1,000,000 for each individual claim;[~~ and~~]

(b) liability insurance in the amount of $1,000,000 for property damage from any one occurrence; and

(c) obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(i) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section; and

(ii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days;

(13) not be disqualified for disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state;

(14) a paramedic tactical service shall be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area;

(15) applicable fees and application on Department[-] approved forms to the Department;

(16) a detailed description and detailed map of the exclusive geographical areas that will be served;

(17) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(18) if an applicant is responding to a public bid, the applicant shall include detailed maps and descriptions for all geographical areas served;

(19) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;

(20) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(21) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to Department policies;

(22) applicant's plans for operations during times of unusual demand;

(23) a written assessment of field performance from the applicant's off-line medical director;

(24) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.

(25) written cost, quality, and access goals as described in Subsection R426-3-6[~~00~~], if available;

(26) response to a request for proposal;

(27) if, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application;

(28) award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review;

(29) after review and before issuing a license to a new service, the Department will inspect the ground vehicle[~~(s)~~], equipment, and required documentation; and

(30) a license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.

R426-3-6[~~00~~]. Cost, Quality, and Access Goals for Ground Ambulance Providers.

(1) A local government shall establish emergency medical service goals.

(2) The local government emergency medical service shall renew their [~~G~~]goals [~~shall be renewed~~]every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. All local governments in a licensed service area are required to participate.

(3) The local government may amend [~~G~~]goals [~~may be amended,~~]if necessary, due to:

(a) unforeseen changes in service delivery;

(b) community impacts; or

(c) significant unforeseen impact in the geographical service area.

(4) The local government shall write and approve the emergency medical service goals, and submit them to the Department with the licensure or re-licensure application by the EMS licensed ground ambulance provider for that geographical service area.[~~Goals shall be written, approved by local governments, and submitted to the Department with licensure and re-licensure application by the EMS licensed ground ambulance provider for the geographical service area.~~]

(5) Local governments may choose to recognize EMS providers who have achieved accreditation by a Department approved accreditation organization as meeting the cost, quality, and access goals.

(6) Cost goals shall indicate the expected financial cost to the local government[~~(s)~~] and patients for the level of service provided.

(7) Quality goals shall indicate the expected level of service plus any additional foreseen improvements or advancements in service expectations.

(8) Access goals shall indicate the local government's expectation for access to the EMS system by any individual within the local government's geographic area.

R426-3-7[~~00~~]. Medical Control.

(1) All licensed providers shall enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician shall be familiar with:

(a) the design and operation of the local pre-hospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;

(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner;[~~.~~]

(f) [~~T~~]the medical director shall notify the Department within one business day of the suspension;

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers; and

([~~g~~]3) [~~1~~]Licensed providers shall notify the Department if an off-line medical director is replaced, within 30[~~thirty~~] days.

R426-3-8[~~00~~]. Ground Ambulance or Paramedic Service Provider Aid Agreements.

(1) The Department and the surrounding ambulance providers expect a[~~A~~]ll licensed ground ambulance providers [~~are expected~~]to [~~render~~]provide mutual aid support for adjoined geographical service areas. Mutual aid support means that a licensed ground ambulance provider[~~they~~] may be called upon to provide assistance during times of unusual demand. The licensed ground ambulance provider shall submit [~~E~~]exceptions for the[~~is~~] mutual aid expectation [~~should be submitted~~]as part of a license application.

(2) Other types of aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of any aid agreement[~~(s)~~] except for mutual aid support to the Department and to the designated emergency medical dispatch center[~~(s)~~] that dispatch the licensed ground ambulance providers.

(4) When mutual aid support is given the licensed ground ambulance provider rendering support will be responsible for the following, unless otherwise stated in writing, and approved by the Department prior to the event:

(a) billing or other financial reimbursements;

(b) liability for EMS operations related to staff and patient care; and

(c) patient care protocols for licensure level.

R426-3-9[~~00~~]. Application Review and Award for Ground Ambulance Providers Selected by Public Bid.

(1) Upon receipt of an appropriately completed application, for ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.

(2) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application;

(b) issue a renewal license to an applicant;

(c) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision verified to the Department that the licensed provider has met all [~~of the~~]specifications of the original bid and requirements; or

(d) issue a second four-year renewal license to a licensed provider selected by a political subdivision if:

(i) the political subdivision verified to the Department that the licensed provider has met all [~~of~~]the specifications of the original bid and requirements; and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved

applicant desiring to submit a bid for ambulance or paramedic services.

(3) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

R426-3-10[~~00~~]. Criteria for Denial or Revocation of Licensure.

(1) The Department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license shall be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violations;

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required;

(k) a history of inappropriate billing practices;

(l) misuse of grant funds; or

(m) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) If a[~~A~~]n applicant or licensed provider [~~that~~]has been denied, revoked, suspended, or issued a restricted license by the Department, the applicant or licensed provider may appeal a denial by filing a written appeal within 30[~~thirty~~] calendar days of the receipt of the issuance of the Department's denial.

R426-3-11[~~00~~]. Change of Owner.

(1) A licensed provider cannot transfer their license and the vehicle permits [~~cannot be transferred~~]to another party.

(2) A new owner shall submit within [~~10 (~~]ten[~~)~~] calendar days [~~prior to~~]before the acquisition of property, applications and fees for a new license and vehicle permits.

KEY: emergency medical services, licensure
Date of Last Change: 2022[~~December 12, 2018~~]
Notice of Continuation: October 9, 2018
Authorizing, and Implemented or Interpreted Law: 26-8a

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R501-1**	**Filing ID: 55022**

Agency Information

1. Department:	Health and Human Services	
Agency:	Administration, Administrative Services, Licensing	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Janice Weinman	385-321-5586	jweinman@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R501-1. General Provisions for Licensing

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This proposed amendment brings this rule into compliance with the requirements of providers as outlined in H.B. 239 passed in the 2022 General Session.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

This amendment updates congregate care weekly voice to voice communication requirements to allow a modification plan to be submitted to the Office of Licensing (Office). This amendment also adds requirement for congregate care programs to only accept transport of youth to Utah if registered with Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to state budget, as the legislature built collection of fees into the statute to pass on to the registrants which will allow the Office to recover the costs associated with setting up a transportation company registry. This filing mirrors the emergency filing while the Office works to make comprehensive rule updates in the coming months.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because this rule does not impose any additional requirements upon them.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

The Office has determined that small business transportation companies will be impacted by this rule change. The Office has no idea how many transportation companies exist or how many employees each may have, which prevents the Office from providing an aggregate anticipated cost for them. These entities will be required to submit an application, pay a registration fee and complete the Utah Department Health and Human Services (DHHS) background clearances for all individuals transporting youth to Utah congregate care programs. The fees assessed will cover the following added tasks to our staff: creating applications and posting publicly, messaging to programs regarding the new requirement and registry process, manually processing applications, collecting proof of insurance and business licenses, entering applications and background clearances (via 2 databases), developing and monitoring databases, managing public inquiries and educating the registrants. An additional manual task will be enlisting the Management Information Center (MIC) to develop a means to collect data to inform the legislator of the outcome of this registry. Cost to each company during this first year of registrations will be $500 per agency application (as approved by the Executive Director's office of DHHS). Individual background clearances will already be covered by the already built-in $9 per application fee.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

The Office is unable to provide data for non-small businesses who may run or operate transportation companies. Any non-small business transportation companies would be required to submit an application, pay a registration fee and complete the Utah DHHS background clearances for all individuals transporting youth to Utah congregate care programs. The fees assessed will cover the following added tasks to our staff: creating applications and posting publicly, messaging to programs regarding the new requirement and registry process, manually processing applications, collecting proof of insurance and business licenses, entering applications and background clearances (via 2 databases), developing and monitoring databases, managing public inquiries and educating the registrants. An additional manual task will be enlisting the Management Information Center (MIC) to develop a means to collect data to inform the legislator of the outcome of this registry. Cost to each company during this first year of registrations will be $500 per agency application (as approved by the Executive Director's office of DHHS). Individual background clearances will already be covered by the already built-in $9 per application fee.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

Persons who may incur a cost would be employees of the transportation companies if the company does not pay for their background clearance. The Office does not have any data to reference to estimate how many companies exist or how many may absorb or pass on their fee costs to their employees. All clearances for employees and associates of licensees in Utah incur a $42.50 per application cost to cover Department of Public Safety ($33.50) and Office processing ($9).

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

Flat registration one-time fee of $500 per company, which could be an individual or a grouping of individuals, with $42.50 per employee for background clearances.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**

Net Fiscal Benefits	**$0**	**$0**	**$0**
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Health and Human Services, Tracy Gruber, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 62A-2-123		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	10/31/2022

R501. Health and Human Services, Administration, Administrative Services, Licensing.
R501-1. General Provisions for Licensing.
R501-1-1. Authority and Purpose.

(1) This rule is authorized by Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) This rule clarifies the standard for:

(a) rules applicable to programs licensed under Title R501; and

(b) licensing procedures to be followed by the office in the enforcement of rules under Title R501.

(3) This rule provides definitions for Title R501.

R501-1-2. Scope.

(1) Except as specifically stated in categorical rule, Rule R501-1 applies to any program subject to licensure.

(2) Each licensee and person associated with the licensee shall comply with:

(a) Rule R501-14;

(b) any applicable categorical rule in Title R501; and

(c) any federal, state, or local law, rule, or ordinance.

R501-1-3. Definitions.

[~~(1)~~]The terms used in this rule are defined in Section 62A-2-101. In addition, the following terms are defined:

([~~2~~]1) "Abuse" means the same as defined in Sections 62A-3-301, 62A-4a-101, 80-1-102, and R512-80-2.

([~~3~~]2) "Body cavity search" means a visual or manual inspection of the body cavity in search of prohibited material. An inspection of a client's mouth after taking medication is not considered a body cavity search.

([~~4~~]3) "Category" means the type of human service license described in Section 62A-2-101.

([~~5~~]4) "Chemical Restraint" means any drug that is used to restrict an individual's freedom of movement for discipline, convenience, or imminent safety and not required to treat the individual's medical symptoms.

([~~6~~]5) "Clinical" means treatment or services delivered by a mental health or medical professional that is licensed by the Division of [~~Occupational and~~]Professional Licensing.

([~~7~~]6) "Compliant" means adherence to governing rule and statute or only minor violations that do not rise to the level of a [~~corrective action~~]plan of correction or penalty.

([~~8~~]7) "Confidential communication" means communication between only the individuals referenced in Subsection 62A-2-123(6). Confidential communication does not allow for outside entities to have access to information contained in the confidential exchange.

([~~9~~]8) "Conflict of Interest" means a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

([~~10~~]9) "Critical Incident" means an incident that occurs while the program is providing a service or treatment and involves:

(a) abuse or suspected abuse;

(b) neglect or suspected neglect;

(c) exploitation or suspected exploitation;

(d) unexpected death;

(e) any client injury, including self-harm, requiring medical attention beyond basic first aid;

(f) any client injury that is a result of staff or client assault, restraint, or intervention;

(g) any prohibited practice as described in Section 62A-2-123;

(h) any restraint in a congregate care setting;

(i) any seclusion in a congregate care setting;

(j) any body cavity search;

(k) any strip search;

(l) except for a minor infraction, any illegal activity including significant criminal activity as defined in this section

(m) significant medical emergency as defined in this section, or any other protective service intervention;

(n) the unlawful or unauthorized presence or use of alcohol, substances, or harmful contraband items;

(o) the unauthorized presence or misuse of dangerous weapons;

(p) attempted self-directed violence;

(q) any on duty or client-involved staff sexual misconduct, any client unlawful sexual misconduct, or any consensual client sexual conduct between clients under the age of 16;

(r) client rights violations;

(s) department code of conduct violations;

(t) medication errors impacting client well-being, medical status, or functioning;

(u) the unauthorized departure of a client from a program;

(v) a contagious illness or situation requiring notification of or consultation with the local health department;

(w) any change to a client's environment compromising the immediate health or safety of the client including roof collapse, fire, flood, weather events, natural disasters, and infestations; or

(x) any other incident that compromises a client's immediate health or safety.

([~~11~~]10) "Direct Care Staff" means staff working directly with clients.

([~~12~~]11) "Direct Supervision" means in close physical proximity and actively supervising clients with the ability to immediately respond as necessary.

([~~13~~]12) "Director" means the same as defined in Section 62A-2-101 and does not mean a program director.

([~~14~~]13) "Emotional Mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation. Emotional mistreatment includes demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client.

([~~15~~]14) "Exploitation" includes:

(a) the use of a client's property, labor, or resources without the client's consent or in a manner that is contrary to the client's best interests, or for the gain of some person other than the client; such as expending a client's funds for the benefit of another;

(b) using the labor of a client without paying the client a fair wage or without providing the client with just or equivalent non-monetary compensation, where such use is inconsistent with therapeutic practices;

(c) engaging or involving a client in any sexual conduct; or

(d) sexual abuse of a minor or vulnerable adult as described in Sections 76-5b-201, 76-5b-202 and Subsection 76-5-111(4).

([~~16~~]15) "Fraud" means a false or deceptive statement, act, or
omission that causes, or attempts to cause, property or financial damages, or for personal or licensee gain. Fraud includes the offenses identified as fraud in Title 76, Chapter 6, Offenses Against Property.

([~~17~~]16) "Harm" means financial, physical, or emotional pain, damage, or injury.

([~~18~~]17) "Initial license" means the license issued to operate a human services program during the licensee's first year of licensure. This license is considered provisional and allows for the licensee to demonstrate sustained compliance with licensing rules before renewal. An initial license following a lapse in license is not considered provisional.

([~~19~~]18) "Inspection" means an announced or unannounced visit of the licensed site as described in Section 62A-2-118.

([~~20~~]19) "Medication-Assisted Treatment" means the use of medications with counseling and behavioral therapies to treat substance use disorders or prevent opioid overdose.

([~~21~~]20) "Mistreatment" means emotional or physical mistreatment.

([~~22~~]21) "Neglect" means abandonment or the failure to provide necessary care, including nutrition, education, clothing, shelter, sleep, bedding, supervision, health care, hygiene, treatment, or protection from harm. Neglect also means the same as defined in Sections 62A-3-301; 62A-4a-101; 76-5-110; and 80-1-102.

(22) "Office" means the Office of Licensing within the Department of Health and Human Services Division of Licensing and Background Checks.

(23) "On duty" means individuals counted in supervision ratios and charged with supervising clients as a primary job requirement.

(24) "Owner" means any licensee, person, or entity that:

(a) is defined as a member in Section 62A-2-108;

(b) is listed on a foster home license;

(c) possesses the exclusive right to hold, use benefit from, enjoy, convey, transfer, and otherwise dispose of a program;

(d) retains the rights, participates in, or is ultimately responsible for operations and business decisions of a program; or

(e) operates or has engaged the services of others to operate the program.

(25) "Parent program" means an applicant or licensee owning or directing multiple sites under the same general administrative organization.

(26) "Penalty" means an action taken by the office to deny, place a condition on, suspend, or revoke a human services license due to the licensee's non-compliance with statute or administrative rule. Penalty includes penalties as described in Section 62A-2-112. A penalty does not include [~~corrective action~~]plans of correction.

(27) "Person" means an individual, agency, association, partnership, corporation, business entity, or governmental entity.

(28) "Physical mistreatment" means conduct that results in pain, injury, or death.

(29) "Program" means a human services program as defined in Section 62A-2-101 and may also be referred to as "Provider" in rules under this title.

(30) "Program director" means an individual responsible for day-to-day operations of a program.

(31) "Regular business hours" are the hours that the program is available to the public or providing services to clients.

(32) "Renewal license" means a license issued to a continuing program based upon the program's compliance with administrative rule and statute.

(33) "Residential program" means a program providing overnight care and includes the following license categories:

(a) recovery residence;

(b) residential support;

(c) residential treatment;

(d) outdoor youth;

(e) therapeutic school; and

(f) social detoxification.

(34) "Restraint" means physically restricting a person's freedom of movement, physical activity, or normal access to their body; and includes passive, chemical and mechanical restraint used as a last resort as a means to prevent harm to self or others. Restraint does not mean an escort used to lead, guide, or direct a client.

(35) "Seclusion" means the same as defined in Section 62A-2-101 and includes social isolation. Seclusion is not a voluntary time-out or medical quarantine and isolation when approved by a medical professional.

(36) "Significant criminal activity" means any unlawful activity by or against one of the program's clients or by or against an on duty staff member that poses a serious threat to client or staff health, safety, or well-being that includes:

(a) possession of an illegal substance or weapon;

(b) illegal physical or sexual misconduct or assault;

(c) riot;

(d) suspected fraud;

(e) suspected exploitation; and

(f) any significant criminal activity relevant to a program's population as described in the program's policy and procedure manual.

(37) "Significant medical emergency" means an acute injury or illness posing an immediate risk to a person's life or health or requires emergency medical care.

(38) "Site" means a human services program identified by a single geographic location and must be linked to the parent program, if one exists.

(39) "Staff" means an individual who is associated with a licensee.

(40) "Strip search" means requiring a client to undress down to undergarments or complete nudity in view of another person.

(41) "Telehealth" means the use of digital information and communication technologies, such as computers and mobile devices, to remotely access behavioral or health care services.

(42) "Trauma informed" means overall practices that promote environments of healing and recovery rather than practices and services that may inadvertently re-traumatize.

(4[~~2~~]3) "Variance" means any authorized deviation from administrative rule as described in Section R501-1-8.

(4[~~3~~]4) "Violation" means an act or omission by a licensee, or any person associated with the licensee that is contrary to any administrative regulation, local, state, or federal law applicable to the program.

R501-1-4. Licensing Application Procedures.

(1) Initial and Renewal Application

(a) An applicant may not accept any fee, enter into any agreement to provide a client service, or provide any client service until licensed by the office.

(b) The office shall issue a license for a program only after verifying compliance with any applicable administrative rule or statute.

(c) An applicant or a licensee shall permit the office to have immediate, unrestricted access to:

(i) each site subject to licensing;

(ii) any on and off-site program and client records; and

(iii) each staff and client.

(d) An applicant may withdraw an application for a license at any time during the application process. The applicant must notify the office in writing.

(e) An applicant seeking an initial or renewal license to operate a human services program shall submit:

(i) an application as provided by the office;

(ii) except as described in Subsection R501-1-7(2), the fee required for each category of human service program license applied for;

(iii) except as described in Subsection 62A-2-120(13), a background clearance for each person associated with the licensee as described in Section 62A-2-120 and Rule R501-14;

(iv) any required policy and procedure;

(v) for renewal purposes, rather than submitting each program policy and procedure, the applicant may choose to only submit each policy and procedure that has been modified;

(vi) name and contact information for each responsible decision-maker, including any owner or program director; and

(vii) documentation that verifies the applicant's compliance with, or exemption from, any local government zoning, health, fire, safety, and business license requirement.

(f) A program may not change an approved policy without a new office approval as described in Section R501-1-9.

(g) If a program fails to submit a renewal application at least 30-days before the expiration date of the current license, the license may expire.

(h) A residential treatment program applying for an initial license shall submit proof that the program served notice of intent to operate as described in Section 62A-2-108.2.

(2) Application Expiration

(a) Except for a foster home application, an initial application that remains incomplete shall expire one year from the date of application.

(b) An initial application for a foster home that remains incomplete shall expire 90 days after the date of application unless extended by the office.

(c) An expired initial application is void. The program must submit a new initial application and applicable fees for each category of license requested.

(3) The office may deny the initial application or place a penalty on a renewal license if:

(a) the program failed to achieve or maintain compliance with each statue, rule, or ordinance related to the program;

(b) the office reasonably determines that the program is not likely to operate in compliance with any statute, rule, or ordinance;

(c) the office finds a program director, owner, or any individual involved in the program's billing process on the office of Inspector General's List of Excluded Individuals and Entities; or

(d) the office finds that a program maintains association with any individual with a license revoked by the office within the five-year period before to the date on the program's application.

(4) The office shall consider rule violation history when determining whether a program is likely to comply with any statute, rule, or ordinance.

(5) The office shall consider misleading information that has been presented by the program to the office, program clients, prospective clients, or public when determining whether a program is likely to comply with statute, rule, or ordinance.

(6) A denied applicant may not reapply for a minimum of a three-month period beginning on the date of denial.

R501-1-5. Licensing Determinations.

(1) The office may place an individualized parameter on a program license to promote the health, safety, and welfare of any client. Such parameters may include:

(a) an age restriction;

(b) an admission or placement restriction; or

(c) any other parameter specific to an individual site or program.

(2) A license certificate shall state the name, the site address, the license category, the maximum client capacity, any specific parameter, and the effective date of the license.

(3) The office may not issue an initial license to a site associated with a parent program if any other license associated with the parent program is under penalty or has a pending appeal.

(4) A program may apply for a two-year license if:

(a) the program is not a residential or foster care program;

(b) the program is in good standing with the office for the two consecutive licenses issued by the office immediately before the date of application;

(c) the office reasonably determines that the program is likely to maintain good standing for a two-year period; and

(d) the program submits twice the annual fee required for each category of license sought.

(5) License Expiration

(a) An expired license is void and may not be renewed unless an application and fees are submitted for an initial license. The program must be granted an initial license before providing any services, except as allowed in Subsection R501-1-[~~4(5)(c)~~]5(5)(c).

(b) A license expires at midnight on the last day of the same month the license was issued, one year after the effective date on the license, except when:

(i) the office revokes the license before expiration;

(ii) the office extends the license beyond the date of expiration;

(iii) the licensee relinquished the license;

(iv) the licensee requested a shortened license expiration time frame; or

(v) the license is issued as a two-year license. A two-year license expires at midnight on the last day of the same month the license was issued, two years after the effective date on the license.

(c) Except for an action necessary to maintain the health and safety of a client while transitioning out of the program or obtaining a new license to operate, a program with an expired license may not accept any client, fee, enter any agreement to provide a client service, or provide any client service.

(6) Except as described in Subsection R501-1-5(6)(c), the office may extend a current license for a maximum 90-day period after the license expiration date.

(a) A program must submit a renewal application and applicable fee before the expiration date on the license.

(b) Except as noted in Subsection R501-1-5(6)(c) [~~T~~]the office may extend a license only once.

(c) The office may extend a current or extended license that is not in good standing with a penalty.

(d) The office shall grant a renewal license if the program remedies any non-compliance to the satisfaction of the office.

(e) The office shall reduce the license period for any renewal license granted immediately after an extension equal to the time period of the extension.

(7) A licensee wishing to voluntarily relinquish a license shall submit a written notice to the office. Voluntary relinquishment of a license may not be accepted by the office if a notice of agency action revoking the license has been initiated.

R501-1-6. Program Changes.

(1) Name Change

(a) A licensee may not change the name of a program or site without a renewal application submitted to the office. A name change with no impact on clients, programming or daily operations will not require a renewal fee.

(b) The licensee shall submit updated program documentation reflecting the new name to the office before making the name change public.

(c) The office may link the former name of the program to the new name on the licensing database, on each license certificate, and public website, for a two-year period after the name change.

(2) Relocation

(a) A licensee may change the location of a program.

(b) The licensee may not serve a client at any new program location without a license.

(c) Before moving any program to a new location, the licensee shall submit a renewal application as described in Subsection R501-1-4(1) at least 30 days before moving and an updated license for the new site must be issued. The application shall also include proof of:

(i) a business license at the new site; and

(ii) insurance coverage at the new site.

(d) A foster home may transfer a current license a new site only after:

(i) submitting a request to relocate to the office at least 30 days before moving to the new site; and

(ii) the office inspects and approves licensure at the new site; which approval shall occur within two weeks if a foster child is placed in a foster home or within 30 days if there are no current foster placements.

(e) A program moving only an administrative site that does not serve clients shall only be required to submit a renewal application with no fees unless the office finds they meet requirements outlined in Subsection R501-1-6(7).

(f) If a foster child is placed in a foster home, it is the responsibility of the licensed foster parent to ensure the health and safety of the foster child during the transfer to the new site.

([~~f~~]g) Except as described in Subsection R501-1-6(2), moving from a licensed site voids that site's license.

(3) Capacity Change

(a) A licensee seeking to increase the maximum client capacity of a program shall submit a renewal application requesting the new capacity.

(b) The program may not serve additional clients until the program pays [~~the~~]renewal fee any additional capacity-based fees as outlined on the renewal application for a license renewal as required by the rules of the human service program category and the office issues an updated license.

(4) Add New License Category

(a) A program may request to add a new license category to an existing licensed site by submitting an initial application for the additional license and fees for an initial license.

(b) Each requirement for initial licensure must be verified.

(5) Add New Location

(a) A program may add an additional site of service by submitting an application and fees and receiving an initial license.

(b) Each requirement for initial licensure must be verified.

(6) Ownership Changes

(a) A program anticipating, or undergoing a change of ownership, shall submit in writing, before the change:

(i) any change to programming or service;

(ii) a declaration regarding responsibility for records and records retention to include an agreement, signed by both current and prospective owners and program directors, detailing how records will be retained and remain available to the office in accordance with licensing rules regardless of whether the program remains licensed;

(iii) names and contact information of any new directors or owners;

(iv) documentation of continuous insurance coverage; and

(v) an updated business license.

(b) The status of a license at the time of a change of ownership shall continue.

(7) The office may require a new initial application and fees for each license category for any substantial change under this section, which may include:

(a) a substantial change resulting in direct client impact;

(b) any change to programming;

(c) any change in the population served;

(d) any severed tie with a previous owner;[~~ or~~]

(e) any disruption in the continuity of record retention; or

(f) requirement of the office to perform an onsite inspection and complete a comprehensive compliance review.

R501-1-7. License Fees.

(1) The office shall collect licensing fees as described in Section 62A-2-106, and Title 63J, Chapter 5, Federal Funds Procedures Act.

(2) No licensing fee shall be required from a foster home or a division or office of the department.

(3) The office is not required to perform any on-site visit or document review until the person applying for a license pays the licensing fee.

(4) If a license is not granted by the office, a license application fee expires 12 months after the date of application.

(5) A fee paid by a licensee may not be transferred, prorated, reduced, waived, or refunded. Any cost incurred by the applicant in preparation for, or maintenance of licensure is the sole responsibility of the applicant.

(6) An applicant must pay an initial license fee for each category of human services program offered at each program site.

(7) An applicant must pay a renewal license fee and any capacity fee for each license that is renewed at each program site.

(8) A capacity fee is calculated based on the maximum licensed client capacity of the human service program.

(9) A license with more than one building, unit, or suite located at a single site may choose between the following methods of assessing a fee and issuing a license:

(a) each category of license includes each on-site building, unit, or suite; or

(b) each category of license is issued separately for each individual on-site building, unit, or suite.

R501-1-8. Variances.

(1) A licensee may not deviate from any administrative rule before receiving written approval signed by the director, or the director's designee.

(2) The director, or the director's designee, may grant a variance after determining that a variance is not likely:

(a) to compromise client health and safety; or

(b) provide an opportunity for abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) A licensee seeking a variance must submit a written request to their licensing specialist that includes:

(a) the rule for which the variance is requested;

(b) the reason for the request;

(c) how the variance provides for the best interest of the client;

(d) any procedures that will be implemented to ensure the health and safety of each client; and

(e) the proposed start date and end date of the variance.

(4) The written request described in Subsection R501-1-8(3) must be submitted at least 30 days before the proposed start date unless the licensee documents a need to expedite the request.

(5) The office shall review the variance and notify the licensee of the approval, approval with conditions, or denial of the variance, in writing, within 30 days from receipt of the request.

(6) The licensee shall comply with the terms of a written variance, including any conditions or modifications contained within the approved written variance.

(7) A variance expires on the end date specified in the approval notice. Terms of the variance are no longer permitted by the office after the end date.

(8) The office may renew a variance if the program justifies the request and ensures the ongoing health and safety of each client.

R501-1-9. Required Approvals.

(1) As described in Subsection 62A-2-106(1), the office shall review and approve the following policies and procedures before program implementation by each licensee:

(a) any sex and gender discrimination policy as described in Section 62A-2-124; and

(b) any behavior management, suicide prevention, restraint, or seclusion policy or procedure used in a congregate care program as described in Section 62A-2-123 and Rule R501-1.

(2) Each sex and gender discrimination policy must include the required content and language as described in Subsection R501-1-24(3)(s) as it pertains to both staff and client protections.

(3) The office shall:

(a) provide written approval or denial of any policy and curriculum within 30 days of the date of submission;

(b) provide written feedback on any denied policy;

(c) re-review any denied policy or curriculum within 14 days of re-submission; and

(d) issue a written approval for any policy requiring approval by this section.

(4) The licensee shall submit any change to a policy or curriculum that has been approved by the office to the office for approval before implementing the proposed change.

(5) The office may withdraw approval and deny any previously approved policy or curriculum at any time or by providing written feedback to the program as described in Subsection R501-1-9(3).

R501-1-10. Monitoring.

(1) Except as described in Section 62A-2-123 for a congregate care program, the office shall conduct at least one annual on-site inspection in each program.

(2) The office may conduct as many inspections, announced or unannounced, as necessary to monitor compliance, investigate alleged violations, monitor [~~corrective action~~]plans of correction or penalty compliance, or to gather information for license renewal.

(3) An on-site inspection shall take place during regular business hours.

(4) An applicant or licensee may not restrict the office's access to the site, client, staff, or any program records.

(5) A licensee and licensee's staff may not compromise the integrity of the office's information gathering process by withholding or manipulating information or influencing any specific response of staff or clients.

(6) The office shall consider each on-site inspection during the renewal or denial of the license application at the end of the license period.

(a) Pursuant to Subsection 62A-2-118(1), the office may accept another government entity's inspection results completed for a program during the effective license period or within the preceding

quarter to the current license period to identify compliance or non-compliance with relevant rules.

(b) The office may review and consider any report from an accreditation agency or any other entity for each inspection conducted during or before the effective license period to determine compliance or violation of licensing rule.

(c) If a conflict arises between an oversight entity's requirement and rule, the program shall request a rule variance from the office.

(7) Except for a foster home, the licensee shall make a copy of any inspection report available to the public upon request as described in Subsection 62A-2-118(5).

(8) The office may adopt a written inspection report from a local government, certifying entity, contracting entity, or accrediting entity if the report offers information about the licensee's compliance with a licensing requirement.

(9) The licensee shall allow the office to access any program record or staff at an administrative location that is not located at the licensed site.

R501-1-11. Investigations of Alleged Violations.

(1) Unlicensed Programs

(a) The office shall investigate each report of an unlicensed human service program.

(b) Investigation of an unlicensed human service program may include interviewing any individual or neighbor at the site or gathering information from any source that will aid the office in determining whether the site should be licensed.

(c) If an unlicensed human services program that requires licensure fails to become licensed within 30 days or other office approved time-frame and continues to operate, the office shall [~~be~~]refer the program to the office of the Attorney General, and the County Attorney for further action.

(d) The office may penalize each site operated by a licensed program if the program adds or operates an unlicensed site that requires licensure.

(2) Licensed Program Complaints and Critical Incidents

(a) The office may investigate any critical incident or complaint that alleges a licensing violation regarding a licensed human services program.

(b) The office accepts a complaint about a licensee from any source, including the office website or complaint email address.

(c) The office may decline to investigate a complaint that is anonymous; unrelated to a current condition of the program; or not an alleged violation of a rule or statute.

(d) A critical incident that involves a client or on duty staff that occurs in a licensed setting or under the direct responsibility and supervision of the program shall be reported by the licensee as follows:

(i) a report shall be made to the office within one business day;

(ii) a notification shall be made to legal guardian of the involved client within a 24-hour period that begins at the time of the incident; and

(iii) if the critical incident involves a client or service to a youth currently in the custody of the department, the licensee shall make an immediate live-person verbal notification to the involved division.

(e) An initial critical incident report shall be made in writing and include the following:

(i) name of provider and names or unique initials of each involved staff, witnesses and clients with the ability to identify each set of unique initials upon request by the office;

(ii) date, time, and location of the incident, and date and time of incident discovery, if different from time of incident;

(iii) descriptive summary of incident;

(iv) any action taken;

(v) any action that the program plans to take at the time of the report; and

(vi) identification of department contract status.

(f) Upon request by the office, the licensee shall collect, maintain, and submit original witness statements and supporting documentation, including video footage if available, regarding each critical incident.

(3) Investigative Process

(a) An in-person or electronic investigation may include:

(i) a review of any on or off-site record;

(ii) interview of each licensee, witness, client, or staff;

(iii) gathering information from any collateral party; and

(iv) a site inspection.

(b) The office shall prioritize an unlicensed program, a complaint regarding a licensed program, and a critical incident following an assessment of risk to client health and safety as follows:

(i) an allegation identified by the office as a potential imminent risk to the health and safety of a client requires an initial on-site contact by the office within three business days of the report date; or

(ii) any other allegations that require the office initiate an investigation within ten business days of the report date.

(c) The office may use law enforcement, Child or Adult Protective services, or any other protection agency to meet a priority on-site response.

(d) A licensee and staff shall cooperate in any investigation.

(e) The office may report any allegation or evidence of abuse, neglect, exploitation, mistreatment, illegal activity or fraud to a client, clients' legal guardian, or any entity determined necessary by the office.

(f) If a program sells or arranges for client insurance coverage, the program must:

(i) inform the client in writing of the program's role and responsibility;

(ii) provide the insurer with any program provider record;

(iii) contact and cooperate with the insurance department during any dispute regarding a service or supply billed; and

(iv) not provide unlawful substance abuse patient brokering as described in Subsection 62A-2-116(5).

R501-1-12. License Violations.

(1) When the office finds evidence of a violation of statute or rule, the office shall do one of the following:

(a) provide written notification of each violation requiring the licensee to correct each violation with a dated request for remediation, if applicable;

(b) provide written notification of each violation and request a licensee to submit a [~~corrective action~~]plan of correction in response to a written notification of a violation or pattern of similar violations over time; or

(c) issue a penalty if the office determines that a violation is serious enough to merit a penalty without first issuing a request for a [~~corrective action~~]plan of correction.

(2) The office may consider the chronicity, severity, and pervasiveness of a violation when determining one of the following agency actions:

(a) notification of a violation;

(b) request for a [~~corrective action~~]plan of correction; or

(c) issue a formal penalty.

(3) A repeated violation of rule or statute or failure to comply with a condition of a notice of agency action may elevate the penalty level assessed.

(4) When the office issues a request for a [~~corrective action~~]plan of correction, a licensee shall submit a written [~~corrective action~~]plan of correction to the office within ten business days from the date of the request and the [~~corrective action~~]plan of correction shall include:

(a) a statement of each violation identified by the office;

(b) a detailed description of how the licensee will correct each violation and prevent an additional violation;

(c) the date by which the licensee will achieve compliance with administrative rule and statute; and

(d) describe the involvement of each program owner and director, including each foster parent, if involving a licensed or certified foster home.

(5) The office shall review [~~corrective action~~]plans of correction submitted to the office and either inform the licensee that the [~~corrective action~~]plan of correction is approved or inform the licensee that the [~~corrective action~~]plan of correction is not approved and provide explanation.

(6) If a [~~corrective action~~]plan of correction is not approved, the office may permit a licensee to amend and resubmit its [~~corrective action~~]plan of correction within five additional business days.

(7) A notification of violation or a request for a [~~corrective action~~]plan of correction is not a penalty.

(8) A program may choose to refuse the notification of violation or [~~corrective action~~]plan of correction process and preserve the program's appeal rights by instead requesting a penalty.

(9) The office may issue a penalty for a violation if the licensee fails to submit and comply with an approved [~~corrective action~~]plan of correction.

(10) The office may provide a written notice of agency action issuing the following penalties:

(a) a conditional license;

(b) a suspended license for up to a three-year period; or

(c) a revoked license.

(11) A conditional license allows a program that is in the process of correcting a violation to continue operation, subject to each condition established by the office. Failure to meet each term, condition, and time frame outlined in the notice may result in further penalty action or denial of the renewal license application.

(12) When a license has been suspended, Subsection R501-1-12(14) applies, except as described in Subsection R501-1-12(13).

(13) If the placing department entity approves and elects to allow the foster child to remain in the placement, a suspended foster care provider may continue caring for a foster child currently placed at the time of suspension.

(14) A program that has had its license suspended or revoked shall:

(a) not accept new clients;

(b) only provide any service necessary to maintain client health and safety during the client's transition out of the program;

(c) subject to Subsection R501-1-12(13), develop and comply with a plan to transition each client out of the program and into an equivalent, safe, currently licensed programs or into the custody of the client's legal guardian; and

(d) maintain program staffing and health and safety needs of each client while an appeal of the suspension or revocation is pending.

(15) The office shall maintain a record of each licensee with a revoked license for a five-year period. An individual identified in the record [~~shall~~]may not associate with any other department licensed program during that five-year period.

(16) When a child placing agency's license is suspended or revoked, care and control of placed children shall be arranged in accordance with Subsection 62A-4a-602(2)(b).

(1[~~6~~]7) A licensee [shall]may not employ, contract with, or in any way associate with a person identified on the record created in Subsection R501-1-12(15). A program in violation of this provision shall be subject to immediate penalty.

(1[~~7~~]8) The office may place a condition in the notice of agency action to protect the health and safety of clients. A condition included in the notice of agency action takes effect on the date of notice.

(1[~~8~~]9) Except when instructed by the office, a licensee shall post the notice of agency action on-site, and on the home page of each of each program website, where it can be easily reviewed by each client, guardian of a client, and visitor within five business days, and shall remain posted until the resolution of the penalty.

([~~19~~]20) A licensee [shall]may notify each client, guardian, and prospective client of a notice of agency action issued by the office within five business days of receiving notice. Any prospective client must be notified for as long as the notice of agency action is in effect.

(2[~~0~~]1) If an appeal of a revocation, suspension or conditional license that restricts admission is pending, a licensee [~~shall~~]may not accept any new client as outlined on the notice of agency action without prior written authorization from the office.

R501-1-13. Program Administrative and Direct Service Requirements.

(1) A program shall transparently identify services to the office, public, potential client, parent, or guardian regarding:

(a) current and accurate contact information;

(b) the complaint reporting and resolution process;

(c) a description of each service provided;

(e) each program requirement and expectation;

(f) eligibility criteria outlining behavior, diagnosis, situation, population, and age that can be safely served, including:[~~;~~]

(i) an outline of which behaviors and presenting issues would be reason for discharge or exclusion from the program; and

(ii) the program may not take placement of a child whose needs exceed the scope or ability of the program to reasonably manage;

(g) each cost, fee, and expense for a service and refund policy; and

(h) identification of each non-clinical, extracurricular, or supplemental service offered or referred.

(2) The following shall be posted in conspicuous places where each visitor, staff, and client may view:

(a) abuse reporting laws as described in Sections 62A-4a-403 and 62A-3-305;

(b) civil rights notice;

(c) Americans with Disabilities Act notice;

(d) the program license;

(e) any office notice of agency action; and

(f) a client rights poster.

(3) Program administration shall maintain compliance with or documentation of an exemption from any of the following requirements:

(a) a food handler permits for any person preparing meals for any other person;

(b) business licenses;

(c) capacity determinations, which capacity shall include each staff and client on premises and may not exceed the capacity limits placed by local authorities;

(d) fire clearance, if conducted separately from a business license;

(e) licensure and registration of any vehicles used to transport clients.

(4) The office may not issue a license in good standing to a program whose local clearances are under dispute.

(5) Program administration shall maintain:

(a) proof of financial viability of the program as verified by a financial professional;

(b) general liability insurance;

(c) professional liability insurance;

(d) vehicle insurance;

(e) fire insurance; and

(f) additional insurance as required to cover each program activity.

(6) Program administration shall ensure:

(a) each entity associated with the licensee read, understand, sign, and follow the current department code of conduct;

(b) current staff and client lists are available at each licensed site;

(c) the organizational and governance structure of the program, this includes:

(i) line of authority and responsibility;

(ii) a job description, including each duty and qualification for each job title; and

(iii) notification to the office of any program changes as described in Section R501-1-6;

(d) the program implements and follows a quality improvement plan that incorporates, at a minimum, client and staff grievances, feedback, and trends in licensing violations and incident reports;

(e) the program provides an interpreter or refers each client to appropriate resources as necessary to communicate with the client;

(f) at least one CPR and First Aid trained or certified staff member is available when staff and clients are present together;

(g) the program maintains an opioid overdose reversal kit on-site with on duty staff trained in its use if the program is serving, or is likely to serve, a client with a substance use disorder; and

(h) the program provides trainings and monitors staff to ensure compliance regarding program policy and procedures including:

(i) the needs of each client;

(ii) licensing rule;

(iii) client rights as described in Section R501-1-27;

(iv) department code of conduct;

(v) incident reporting;

(vi) program emergency response plan; and

(vii) CPR and first aid.

(7) A program serving education entitled children, as that term is defined in Section 62A-2-108.1, shall comply with Section 62A-2-108.1 regarding coordination of educational services to include completion of youth education forms at initial and renewal licensure.

(8) A program providing school on-site shall:

(a) maintain the established staff to client ratio with behavioral intervention trained staff in the school setting;

(b) be recognized as in good standing by an educational accreditation organization such as the State Board of Education or the National School Accreditation Board; and

(c) ensure each youth is taught at grade level.

(9) Clinical and medical staff are licensed or certified in good standing and any unlicensed staff are appropriately supervised as described in Title 58, Occupations and Professions.

(10) A program that utilizes telehealth for treatment shall do so within the scope of their professional licensure in accordance with Title 2 Chapter 60 for health and Title 58, Chapter 60 and 60a for mental health and comply with each applicable rule.

(11) A non-residential program offering community-based services shall comply with each applicable rule, as determined by the office.

R501-1-14. Residential Program Additional Administration and Direct Services Requirements.

(1) A program providing residential service shall:

(a) demonstrate compliance with Section 62A-2-125;

(b) ensure each staff shift list remains current and available to the office upon request;

(c) ensure access to a medical clinic or a medical professional familiar with the program and population served; and

(d) provide a separate space for clients who are sick.

(2) A program providing residential service to youth who have been placed in Utah from outside of Utah shall demonstrate compliance with Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(3) A congregate care program serving youth may allow an individual turning 18 to remain in the program as described in Subsection 62A-2-106(1) if:

(a) the individual remains in the custody of a State entity or the individual was admitted and continuously resided in the program for at least 30 days before the individual's 18th birthday;

(b) the program has a documented need for the individual to remain in the program;

(c) the program maintains responsibility for discharge to an appropriate setting when clinically appropriate and no later than the day an individual reaches 19 years of age;

(d) the program outlines a policy regarding the protection of younger clients by supervising or separating 18-year-old individuals from youth who are more than two years younger; and

(e) the individual signs a consent document outlining:

(i) the individual is consenting to remain in the program voluntarily and understands the individual is not required to remain against their will;

(ii) that any criminal offenses committed may result in being charged as an adult; and

(iii) that if the individual is involved in any critical incidents posing a risk to the health and safety of other program residents they may be discharged from the program.

(4) A congregate care program shall ensure weekly confidential communication with family in accordance with Section 62A-2-123.

(a) A congregate care program may only modify the frequency or form of the confidential communication requirement if

the program submits a modification request that demonstrates the following to the office:

(i) the program operates in an area of limited or unreliable phone accessibility or coverage;

(ii) there is significant risk of harm or danger to client safety by providing youth with unsupervised telephone access;

(iii) the program offers an alternative that satisfies the requirement of weekly confidential two-way communication; or

(vi) extenuating circumstances exist outside the individual treatment plans that are prohibitive to offering voice to voice communication.

(b) A parent or guardian authorization shall be obtained to receive alternate means of confidential communication when voice to voice is unavailable.

(c) Voice to voice confidential communication will be offered as soon as can be safely offered.

(d) A modification to voice to voice communication is a program license-specific approval. Individual modifications may only be made in accordance with Section 62A-2-123 and require individualized documentation, or individualized client treatment plan. Individualized documentation is not permissible if it is a blanket statement or practice applied to all treatment plans.

(e) A modification plan for confidential communication is only permitted with written approval from the director of the office.

(f) If any of the provisions of the approved modification change, this modification must be re-approved.

(5) Before allowing a direct care staff to work unsupervised they must have an approved background clearance and be trained in the following:

(a) behavior management policy and curriculum including crisis intervention, appropriate use of restraint and seclusion, and de-escalation techniques;

(b) which practices are prohibited for congregate care programs by Section 62A-2-123;

(c) the clinical needs of each of the clientele;

(d) client rights;

(e) department code of conduct; and

(f) incident reporting.

(6) Direct care staff must be trained in the following within six months of hire:

(a) CPR; and

(b) first aid.

R501-1-15. Program Physical Facilities and Safety.

(1) Each program shall ensure the appearance and cleanliness of the building and grounds are maintained and free from health and fire hazards.

(2) Each program shall ensure that all appliances, plumbing, electrical, HVAC, and furnishings are maintained in operating order and in a clean and safe condition.

(3) Each program shall accommodate clients with disabilities as needed or appropriately refer to comparable services.

(4) Each program shall ensure that fire drills in non-outpatient programs shall be conducted and documented at least quarterly and program administration shall provide and document feedback regarding response time and process.

(5) Each program shall ensure that a 911 recognizable phone is always on-site with clients.

(6) Each program shall ensure that bathroom facilities for staff and clients allow for individual privacy and afford reasonable accommodation based on gender identity.

(7) Each program shall ensure that each bathroom shall be properly equipped with toilet paper, paper towels or a dryer, and soap.

(8) Each program shall ensure that each bathroom is ventilated by mechanical means or equipped with a window that opens.

(9) Each program shall maintain medications and potentially hazardous items on-site lawfully, responsibly, and with consideration of the safety and risk level of the population served. This shall include locked storage for each medication and hazardous chemical.

(10) Each program shall ensure that non-prescription medications, if stored on-site, are stored in original manufacturer's packaging together with the manufacturer's directions and warnings.

(11) Each program shall ensure that prescription medications, if stored on-site, are stored in original pharmacy packaging or individual pharmacy bubble pack together with the pharmacy label, directions, and warnings.

(12) Each program shall maintain a fully supplied first aid kit as recommended by the American Red Cross.

R501-1-16. Residential Program Additional Facilities and Safety Requirements.

(1) Each residential program shall ensure designated space is available for records, administrative work, and confidential phone calls for clients.

(2) Each residential program shall ensure bedroom assignments shall be made in accordance with each agency policy and individualized assessment described in Section 62A-2-124.

(3) Each residential program shall ensure that live-in staff have separate living spaces with a bathroom that is separate from client bathrooms.

(4) Each residential program shall ensure that each bedroom designated for clients shall be comparable to other similarly utilized bedrooms with similar access, location, space, finishings, and furnishings.

(5) Dormitory space is only allowed in an emergency homeless shelter or a program serving only adults.

(6) Each residential program shall ensure that each client is not locked in a bedroom.

(7) Each residential program shall ensure that each mirror or safety mirror is secured to the bathroom wall at a convenient height.

(8) Each residential program shall ensure that each bathroom is placed to allow access to each client without disturbing any other client during sleeping hours.

(9) Each residential program shall ensure that each bath or shower allows for individual privacy.

(10) Each residential program shall ensure that each client is supplied with hygiene supplies.

(11) Each residential program shall ensure that each sleeping area has a source of natural light and is ventilated by mechanical means or is equipped with a window that opens.

(12) Each residential program shall ensure that each bed is solidly constructed and non-portable.

(13) Each residential program shall ensure that each client is permitted to decorate and personalize the client's bedroom, while maintaining respect for each other resident and property.

(14) Each residential program that provides common laundry for towels, bedding, or clothing shall provide separate containers for soiled and clean laundry.

(15) Each residential program shall ensure that bedding and towels shall be laundered weekly and after each client is discharged.

(16) Each residential program permitting clients to do the client's own laundry shall provide equipment and supplies for washing and drying.

(17) Each residential program shall ensure that each individual is provided with at least 60 square feet in a multiple occupant bedroom and 80 square feet in a single occupant bedroom.

(18) Each residential program serving individuals with disabilities shall house no more than two persons in each bedroom.

(19) Each program utilizing seclusion rooms shall ensure the following:

(a) seclusion rooms measure a minimum of 75 square feet and have a minimum ceiling height of seven feet with no equipment, hardware or furnishings that obstruct staff's view of the client or present a hazard;

(b) seclusion rooms shall have either natural or mechanical ventilation with break resistant windows and either a break resistant two-way mirror or camera that allows for observation of the entire room;

(c) seclusion rooms may not have locking capability and may not be located in closets, bathrooms, unfurnished areas or other areas not designated as part of residential living space; and

(d) bedrooms may not be utilized as a seclusion room and a seclusion room may not be utilized as a bedroom.

R501-1-17. Food Service Requirements.

(1) Each residential program that provides meals for four or more, but less than 16, clients shall comply with a local health inspection as described in Rule R392-110, Food Service and Sanitation in Residential Facilities.

(2) Each program that provides meals shall ensure that meals are not used as incentive or punishment.

(3) Each program that provides meals shall provide nutritional counseling to staff and clients and designate staff responsible for food service. As part of these responsibilities, each program shall ensure that designated staff:

(a) maintain a current list of each client with special nutritional needs;

(b) ensure that each client with special nutritional needs has food storage and a preparation area that is not exposed to any identified allergen or contaminant; and

(c) except in a day treatment program serving clients for less than ten hours a day, or outpatient programs serving clients for less than six consecutive hours a day, provide a variety of three nutritious meals a day that is:

(i) served from [~~dietician~~]dietitian or nutritionist approved menus; or

(ii) for programs serving individuals experiencing homelessness, serve meals as required by USDA standard homeless settings.

(4) Each program that provides meals shall establish and post kitchen rules and privileges in a kitchen according to client needs and safe food handling practices.

(5) Each program that provides meals shall provide adequate dining space for each client that is maintained in a clean and safe condition.

(6) Each program that provides self-serve meals shall ensure that self-serve kitchen users are supervised, directed, and trained by a staff that has a Department of Health food handler's permit or is trained by Serv-Safe, USDA, or a comparable program.

R501-1-18. Program Staffing.

(1) Each program shall ensure adequate staffing such that the current population can be safely supervised including, where necessary, more staff than required by the usual staffing ratio.

(2) Each program shall identify a manager or qualified designee who shall be immediately available when the program is in operation or there shall be a qualified and trained substitute when the manager is absent or unavailable.

(3) Each program that offers clinical services shall employ or consult with licensed professional staff that include an individual who is familiar with the program and the needs of each client.

(4) Each program serving substance use disorder shall ensure each staff and client is screened for tuberculosis.

(5) Each program managing, storing, or administering client medication shall identify a medical professional to be responsible for the medication management policy, medication oversight, and staff training regarding medication management.

(6) Each program or person involved with the prescription, administration, or dispensing of controlled substances shall maintain appropriate medical or pharmacy licenses and DEA registration numbers as described in 21 CFR 1301.21.

R501-1-19. Program Personnel Record Requirements.

(1) Each program shall create and maintain personnel information for each staff member, contracted employee, and volunteer.

(2) Personnel information shall include:

(a) any applicable qualification, experience, certification, or license;

(b) any approved and current office background clearance, except as excluded in Section R501-14-17;

(c) a department code of conduct that is signed by the staff member, contracted employee, or volunteer;

(d) any training records with the date completed, topic, and the individual's signed acknowledgment of training completion to include:

(i) current CPR and First Aid certification;

(ii) current policy and procedure training; and

(iii) proof of annual department code of conduct and behavior management training;

(e) any grievances or complaints made by or against the individual and actions taken by the program; and

(f) each crisis intervention or critical incident report involving the individual.

R501-1-20. Program Client Record Requirements.

(1) A program shall maintain client information to include the following:

(a) client name, address, email address, phone numbers, date of birth and identified gender;

(b) emergency contact names, including legal guardian where applicable, and at minimum, the emergency contact's physical address, current email address or current phone numbers;

(c) a program serving substance use disorder clients shall maintain compliance with an initial and annual client tuberculosis screening results in each client record;

(d) any information that could affect health safety or well-being of the client including each medication, allergy, chronic condition or communicable disease;

(e) intake screening and assessment;

(f) discharge documentation;

(g) treatment or service plan;

(h) progress notes and services provided with date and signature of staff completing each entry;

(i) individualized assessment for restriction of access to on-site items that could be used as weapons for self-directed violence or as an intoxicant;

(j) any referral arrangements made by the program;

(k) client or guardian signed consent or court order of commitment to services in lieu of signed consent for each treatment and non-clinical service;

(l) summary of attendance and absences;

(m) any grievances or complaints made by or against the client and actions taken by the program;

(n) each crisis intervention or critical incident report involving the client; and

(o) any signed agreements and consent forms.

(2) A program shall document a plan detailing how each program staff and client file shall be maintained and remain available to the office and other agencies legally authorized to access the files for seven years regardless of whether the program remains licensed.

R501-1-21. Program Intake and Discharge Requirements.

(1) A program shall complete an intake screening before accepting a client into the program. Intake screening shall assess at minimum:

(a) verification that the client meets the eligibility requirements of the program;

(b) verification that the client does not meet any of the exclusionary criteria that the program identified in policy as unable to serve;

(c) description of presenting needs;

(d) suicide risk screening;

(e) a program serving substance use disorder clients may not admit anyone who is unresponsive or unable to consent to care because the individual is experiencing convulsions, in shock, delirium tremens, in a coma, or unconscious; and

(2) A program serving incarcerated or court mandated justice involved clients shall:

(a) conduct a criminogenic risk assessment;

(b) comply with Justice Reinvestment Initiative certification requirements in accordance with Title R523; and

(c) separate high and low criminogenic risk populations.

(3) Following determination of eligibility, the client or parent or guardian shall sign and receive copies of the following agreements to be maintained as client records:

(a) fee agreement outlining costs of services including program, client, parent, or guardian responsibility for payment; and

(b) signed consent for treatment that outlines:

(i) rules of the program;

(ii) expectations of clients, parents, and guardians;

(iii) services to be provided;

(iv) Medicaid number, insurance information, and identification of any other entities that are billed for the client's services;

(v) client rights; and

(vi) licensing contact information.

(4) A discharge plan shall identify resources available to a client and include:

(a) reason for discharge or transfer;

(b) aftercare plan;

(c) summary of services provided; and

(d) progress evaluation.

R501-1-22. Residential Additional Program Intake and Discharge Requirements.

(1) An intake assessment shall be completed following an approved intake screening and no later than seven days from the admission date. The assessment shall consider and contain:

(a) gender identity and individualized assessment for bedroom and bathroom assignments;

(b) cultural background;

(c) dominant language and mode of communication;

(d) family history and dynamics;

(e) current and past health and medical history;

(f) social, psychological, developmental, vocational, and, as appropriate, educational factors;

(g) suicide risk screening; and

(h) authorization to serve and obtain emergency care.

(2) A residential program serving children shall inform the parent or guardian and obtain signed verification of understanding that their child may be interviewed by a licensing representative in accordance with Subsection 62A-2-106-1(k).

(3) A program may not serve youth from out of state without a disruption plan as described in Section 62A-2-125 and, as applicable, Title 62A, Chapter 4a, Part 7, Interstate Compact Placement of Children.

([~~3~~]4) Each congregate care disruption plan must contain the following:

(a) program must retain jurisdiction and responsibility for the youth while the youth remains in Utah;

(b) a program must complete an individualized disruption plan at the time of intake for each out of state client to include:

(i) who is responsible for the child's return if placement at the facility disrupts;

(ii) current emergency contact information to include the name, address, phone and email address of the parent or responsible party;

(iii) a signed statement from parent or responsible party outlining the plan for the youth in the event of an unplanned disruption in care; and

(iv) a plan for safe transportation either to the state of origin, the responsible party identified in Subsection R501-1-22(3)(a) or to another licensed congregate care program.

([~~4~~]5) Each congregate care program may demonstrate compliance with Subsections R501-1-22(2) and R501-1-22(3) by producing the 100A and 100B forms and disruption plan as required by the Interstate Compact for the Placement of Children (ICPC).

([~~5~~]6) Each congregate Care program shall report private placements to the office as described in Section 62A-2-125 by completing the congregate care out of state placement survey on the office website no later than[~~by~~] the fifth business day of each month.

([~~6~~]7) Each congregate care program shall report each critical and non-critical restraint or seclusion to the office within one business day.

([~~7~~]8) Each congregate care program that fails to comply with Section 62A-2-125 shall be fined the actual cost of care incurred by entities maintaining the youth for purposes of locating, housing, and transporting the youth.

R501-1-23. Program Clinical Services.

(1) Each program providing clinical treatment shall assign a clinical director to ensure that assessment, treatment, and service planning practices are:

(a) regularly reviewed and updated;

(b) individualized; and

(c) designed to involve the participation of each client or each client's parent or guardian.

(2) Each program providing clinical treatment shall ensure that each person working directly with a client shall be informed of the client's individual treatment needs and advised of the best approach to working with that client.

(3) Each program providing clinical treatment shall ensure that client treatment plans are developed and signed by a licensed clinical professional within 30 days of admission.

(4) Each program providing clinical treatment shall ensure that discharge goals are identified in the initial treatment plan and treatment goals are structured around the identified discharge goals and objectives.

(5) Each program providing clinical treatment shall ensure that each client identified for treatment receives individual treatment at least weekly. A non-residential program providing clinical treatment may alter the weekly therapy requirement as designated in the client treatment plan.

(6) Each program providing group counseling, family counseling, skills development, or other treatment shall ensure the treatment is offered and documented as prescribed in the treatment plan.

R501-1-24. Program Policy and Procedure Requirements.

(1) A program shall develop, implement, and comply with policies and procedures sufficient to ensure client health and safety and meet the needs of the client population served.

(2) Before initial licensure and as updates are made, policies and procedures shall be:

(a) submitted electronically to the office;

(b) approved by the office as required; and

(c) trained to each staff.

(3) Policy and procedures shall address:

(a) client eligibility as outlined in Subsection R501-1-13(1)(f);

(b) intake and discharge processes;

(c) client rights as outlined in Rule R495-876 [~~and~~]to include client responsibilities;

(d) staff and client grievance procedures;

(e) behavior management, addressing:

(i) appropriate and inappropriate behaviors of clients;

(ii) appropriate and inappropriate staff responses to client behaviors; and

(iii) staff response to a client leaving a program without permission;

(f) if applicable, seclusion policy;

(g) if applicable, restraint policy outlining that restraint is:

(i) only used as a temporary means to prevent harm to the client or in protection of others;

(ii) only to be completed by an individual with documented training in nonviolent crisis intervention and de-escalation techniques; and

(iii) is a last resort emergency safety measure only;

(h) instructions to staff regarding how to report and respond to significant criminal activity and significant medical emergencies;

(i) program plan for the prevention or control of infectious and communicable disease to include coordination with and following any guidance of the state or local health authorities, Center for Disease Control, and the department;

(j) critical incident reporting in accordance with Subsection R501-1-11(2);

(k) emergency procedures to instruct staff how to address incident reporting, continuity of care, transport, relocation, and client health and safety during natural disasters, extreme weather events, fire, utility or structural failures, or other unexpected disruptions to the program service;

(l) if transportation of clients is provided, the program shall meet the following requirements:

(i) insurance;

(ii) valid driver license;

(iii) adherence to Title 41, Motor Vehicles;

(iv) the driver to have a cell phone for immediate contact;

(v) vehicle maintenance;

(vi) emergency contact postings in the vehicle to include program name, address, and phone number to be called by first responders if needed;

(vii) vehicles to be equipped with a first aid kit as recommended by the American Red Cross; and

(viii) a policy to ensure that all clients exit the vehicle upon arriving at the destination unless directly supervised by a staff member;

(m) firearm policy that does not restrict constitutional or statutory rights regarding concealed weapons permits as described in Title 53, Chapter 5, Part 7, Concealed Firearms Act;

(n) smoking policy in accordance with Title 26, Chapter 38, Utah Indoor Clean Air Act;

(o) policies and procedures if clients are present in the program for six or more consecutive hours to address:

(i) provision of client meals and whether meals will be program-prepared, catered, or self-provided; and

(ii) administration of required medication if a program manages, stores or administers medication;

(p) description of any supplemental or contracted services that may be provided unrelated to the treatment or service plan or outside the scope of the license to include:

(i) summer camp;

(ii) wilderness excursion;

(iii) transportation;

(iv) extended outing;

(v) travel out of the state or country;

(vi) any supplemental machines or equipment, including training on their utilization and maintenance;

(vii) gaining informed consent from each client or client's parent or guardian for voluntary participation in these supplemental services; and

(viii) securing each necessary license, certification, or state and local permission before offering these services or operating with clients in a temporary or satellite location;

(q) unplanned discharge policy;

(r) suicide prevention policy addressing how to manage clients who screen with elevated risk levels;

(s) non-discrimination policy that includes:

(i) a prohibition of abuse, discrimination, and harassment based on [~~race, color,~~]sex, gender identity, or sexual orientation[~~, religion, or national origin~~];

(ii) policy and procedure described in Section 62a-2-124;

(iii) a program requiring uniforms shall only permit gender neutral selection;

(iv) assurance that treatment practices and staff training are trauma informed to identify and eliminate triggers for re-traumatization;

(v) outline the consequences for staff or client [~~intolerance~~]abuse, or harassment, [~~or bullying~~]of staff or clients on the basis of gender identification or sexual orientation; and

[~~(vi) required policy approval in accordance with Section R501-1-9;~~

] (t) consequences for staff acting outside their training or policy and procedure; and

(u) record retention.

(4) Program-specific policies shall address any unique circumstances regarding physical facility, supervision, community safety and mixing populations.

(5) Record retention policy shall describe the program's plan and responsibility for retaining each client record for seven years or until a client turns 21 years of age, whichever comes later.

(6) Record retention policy shall describe the program's plan and responsibility for retaining each staff records for seven years.

(7) In accordance with Section 63G-2-309, a program may submit a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality for records the program submits to the office that the program believes should be protected under Subsection 63G-2-305(1) or 63G-2-305(2), including program policies and procedures.

R501-1-25. Additional Policy and Procedure Requirements for Residential Programs.

(1) A program that provides meals for clients shall have and follow a food service policy. The food service policy must include:

(a) staff and client training on the policy;

(b) procedures for identifying and accommodating clients with special dietary needs;

(c) allowances for nutritious snacks to be available during restricted hours if the program restricts access to food and kitchen equipment;

(d) if serving parents and their children, requirements for consenting adult clients to maintain full responsibility for their, and their children's', special dietary needs;

(e) a written policy for when meals are prepared by clients to include the following:

(i) rules and privileges of kitchen use;

(ii) menu planning and procedures;

(iii) sharing self-prepared food;

(iv) nutrition and sanitation requirements;

(v) schedule of responsibilities; and

(vi) shopping and storage responsibilities;

(f) a residential program, excluding residential treatment program, may allow for client independence and responsibility for their own supplies, food, laundry or transportation with policies that outline resources and responsibility for the provision of these items; a program shall assist clients on a limited basis if they are temporarily unable to provide these items or services for themselves.

(2) A program managing, storing, or administering client medications shall have and follow a medication management policy to require:

(a) program and client responsibility for medication including storage and administration of medications on-site and, as applicable, when staff and clients are off-site in program related activities;

(b) if applicable, medication self-administration policy;

(c) if storing and administering medications, training required to administer medication and the process to be followed;

(d) recording medication dosages according to prescriptions;

(e) monitoring and recording effects and side effects of medications; and

(f) [~~L~~]logging doses and recording and reporting medication errors.

(3) Policy to train staff to identify and address:

(a) clients who pose a risk of violence;

(b) clients in possession of contraband;

(c) clients who are at risk for suicide;

(d) managing clients with mental health concerns;

(e) identifying the signs and symptoms of clients presenting under the influence of substances or alcohol; and

(f) prescribed staff responses to any of the circumstances listed in Subsection R501-1-25(3), including ongoing monitoring and assessment for remaining in the program.

(4) Policy regarding the care, vaccination, licensure, and maintenance of any animals on-site to include:

(a) assessment of pet allergies for any clients interacting with animals in the program;

(b) maintenance of required examinations, registrations, and vaccinations; and

(c) supervision of clients in the presence of animals.

(5) Client belongings policy that addresses:

(a) initial and updated inventory signed by the client;

(b) storage and return of each client belonging to the client or client's guardian at the time of discharge; and

(c) program shall replace any lost or stolen items for which the program is responsible.

(6) A program managing funds for client allowances must document each expense.

(7) A residential program shall develop and follow a policy for providing separate space for sick clients

(8) A ratio of one staff to one client during transports is only permissible when the program has conducted a safety assessment that indicates that client and staff safety is reasonably assured.

R501-1-26. Congregate Care Program Additional Policy and Procedure Requirement.

(1) A Congregate Care Program may not utilize any behavior management technique, restraint, seclusion or curriculum unless it has been approved by the office.

(2) The program's licensed clinical professional shall conduct regular reviews of client restraints, seclusions, behavioral interventions, and time outs to inform processing discussions with clients and training for direct care staff.

(3) A congregate care program shall have a contraband policy including what constitutes contraband and how the program ensures restriction of client access to contraband and dangerous weapons or materials.

(a) Strip searches and body cavity searches are prohibited by Section 62A-2-123 without documented, individualized justification for protection of an individual's health and safety.

(b) Strip search and body cavity search policies may not allow for strip searches to be performed as a universal practice and may only allow these searches to be conducted with individualized justification, documentation, and in accordance with a detailed policy approved by the office.

(c) Strip searches and body cavity searches may only be performed in congregate care by a medical professional outside of the line of sight of direct care staff.

(4) A congregate care suicide prevention policy may only be approved by the office if it complies with Subsection 62A-2-123(5). A suicide prevention policy may not allow a blanket practice of placing beds in hallways or common areas for staff convenience, client dignity must be preserved and therapist or client authorization is required for displacing a child from normal sleeping arrangements.

(5) A congregate care behavior management policy may only be approved by the office if, in addition to complying with Section 62A-2-123, the policy reflects the following:

(a) each program staff shall [~~employ~~]use behavior management techniques that are trauma informed and appropriate for the client's age, behavior, needs, developmental level, and past experiences and shall defer to the least restrictive method of behavior management available to control a situation;

[~~(b) each program will ensure compliance with Section 62A-2-123 in each aspect of the program, including for a client who is under a contracted caregiver's supervision for transportation, outing, retreat, or similar activity;~~

] ([~~c~~]b) each program staff shall only use behavior management techniques that emphasize de-escalation and promote self-control, self-esteem, and independence; and

([~~d~~]c) each program shall identify a behavior management curriculum that emphasizes de-escalation and is compliant with Section 62A-2-123;

([~~e~~]d) only direct care staff familiar with the child and the child's needs shall conduct passive physical restraint;

([~~f~~]e) restraint will only be used if it will not cause undue physical discomfort, harm, or pain to the client;

([~~g~~]f) interventions that use painful stimuli are prohibited as a general practice;

([~~h~~]g) passive physical restraint shall be used only as an emergency, temporary means of physical containment to protect the consumer, other persons, or property from immediate harm;

([~~i~~]h) restraint may only continue as long as the client presents an immediate danger to self or others;

([~~j~~]i) passive physical restraint may not be used as a convenience to staff, a substitute for programming or associated with punishment in any way;

([~~k~~]j) clients, non-direct care staff, or other unauthorized individuals may not use any form of restraint;

([~~l~~]k) staff may not use physical work assignments or activities that inflict pain as behavior management techniques;

([~~m~~]l) appropriate de-escalation techniques and alternatives to restraint or seclusion;

([~~n~~]m) thresholds for restraints;

([~~o~~]n) the physiological and psychological impact of restraint;

([~~p~~]o) appropriate monitoring;

([~~q~~]p) staff [~~shall be trained~~]training to recognize the physical signs of distress, positional asphyxia, and obtaining medical assistance;

([~~r~~]q) staff [~~shall be trained~~]training on how to intervene if another staff member fails to follow correct procedures when using a restraint;

([~~s~~]r) staff [~~shall be trained~~]training on time limits for restraints;

([~~t~~]s) the process for obtaining clinical approval for continued restraints;

([~~u~~]t) the procedure for documenting and reporting restraints;

([~~v~~]u) the procedure for processing restraints with clients;

([~~w~~]v) the procedure for following up with staff after a restraint;

([~~x~~]w) how staff shall address injuries and complaints;

([~~y~~]x) department code of conduct; and

([~~z~~]y) client rights listed in the provider code of conduct.[~~Section R501-1-27.~~]

(6) A congregate care seclusion policy may only be approved by the office if it reflects the following:

(a) seclusion is only used to ensure the immediate safety of the child or others and must be terminated as soon as the risks have been mitigated, not to exceed four hours without clinical justification;

(b) staff who are familiar to the child must directly supervise the child dur[~~r~~]ing the seclusion;

(c) staff supervising seclusion shall ensure that any potentially harmful items or objects are removed from the seclusion environment;

(d) seclusion rooms shall measure a minimum of 75 square feet and have a minimum ceiling height of seven feet with no equipment, hardware or furnishings that obstruct staff's view of the client or present a hazard;

(e) seclusion rooms shall have either natural or mechanical ventilation with break resistant windows and either a break resistant two-way mirror or camera that allows for observation of the entire room;

(f) seclusion rooms may not have locking capability and may not be located in closets, bathrooms, unfurnished areas or other areas not designated as part of residential living space;

(g) bedrooms may not be utilized as a seclusion room and seclusion rooms may not be utilized as bedrooms;

(h) seclusion shall be documented in detail by the staff involved in initiating and supervising the seclusion episode;

(i) seclusion episodes of more than two in a 24-hour period require clinical review and documentation regarding client suitability for remaining in the program; and

(j) client time-out may be used when addressing behavioral issues if:

(i) a client in time-out is never physically prevented from leaving the time-out area;

(ii) it takes place away from the area of activity or from other clients, such as in the client's bedroom;

(iii) staff monitors the client while in time-out; and

(iv) the reason for and duration of time-out is documented by staff on duty when it occurs.

(7) Before a congregate care program may accept a client or send a discharging client who is transported by a youth transportation company as defined in Subsection 62A-2- 101(50), the program must:

(a) ensure that the transport company is registered with the office;

(b) ensure that the transporter has an office approved background clearance; and

(c) identify all out of state means of transport in the congregate care out of state monthly placement survey outlined in Subsection R501-1-22(5).

[~~R501-1-27. Client Rights.~~

~~(1) Clients have the right to:~~

~~(a) be treated with dignity;~~

~~(b) be free from potential harm or acts of violence;~~

~~(c) be free from discrimination;~~

~~(d) be free from abuse, neglect, mistreatment, exploitation, unusual or unnecessary consequences, and fraud;~~

~~(e) privacy of current and closed records;~~
~~(f) communicate and visit privately with family, attorney, clergy, physician, counselor, or case manager, unless therapeutically contraindicated or court restricted; and~~
~~(g) be informed of program policies and procedures that affect client or guardian's ability to make informed decisions regarding client care, to include:~~
~~(i) program expectations, requirements, mandatory or voluntary aspects of the program;~~
~~(ii) consequences for non-compliance;~~
~~(iii) reasons for involuntary termination from the program and criteria for re-admission;~~
~~(iv) program service fees and billing; and~~
~~(v) safety and characteristics of the physical environment where services will be provided.~~
~~(2) Clients shall be informed of these rights and an acknowledgment by the client or guardian shall be maintained in the client file.~~
]

R501-1-2~~8~~7[~~8~~]. Compliance.

[~~(1)~~]A licensee that is in operation on the effective date of this rule shall be [~~given 60 days to achieve compliance~~]immediately compliant with this rule.

KEY: licensing, human services
Date of Last Change: [~~April 5,~~] 2022
Notice of Continuation: October 3, 2022
Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R612-300-4**	**Filing ID: 55017**

Agency Information

1. Department:	Labor Commission	
Agency:	Industrial Accidents	
Room number:	3rd Floor	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	**Phone:**	**Email:**
Ron Dressler	801-530-6841	rdressler@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R612-300-4. General Method of Computing Medical Fees
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**
The purpose of this amendment is to adopt, with modifications, the Optum 2022 Essential Resource-Based Relative Value Schedule (RBRVS) 2022 1st Quarter Update and to adjust procedures for certain medical specialties, and increase conversion factors.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**
The amendment incorporates by reference current versions of the Resource-Based Relative Value Scale (RBRVS), and adjusts the conversion factors for reimbursement codes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be passed on to the state in increased workers' compensation premiums.
B) Local governments:
The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be passed on to local governments in increased workers' compensation premiums.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be passed on to small businesses in increased workers' compensation premiums.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be

passed on to non-small businesses in increased workers' compensation premiums.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be passed on in increased workers' compensation premiums.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The National Council on Compensation Insurance projects that overall workers' compensation costs will increase by 0.7% as a result of adoption of the new conversion factors. The Commission presumes that this increase will be passed on in increased workers' compensation premiums.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved the regulatory impact analysis of this rule change.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 34A-1-101	Section 34A-2-201	

Incorporations by Reference Information

7. Incorporations by Reference:

A) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Essential RBRVS Data File User Guide
Publisher	Optum
Issue or Version	2022 1st Quarter Update

B) This rule adds, updates, or removes the following title of materials incorporated by references:

Official Title of Materials Incorporated (from title page)	Current Procedural Coding Expert
Publisher	Optum360
Issue or Version	2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	**Date:**	10/28/2022

R612. Labor Commission, Industrial Accidents.
R612-300. Workers' Compensation Rules - Medical Care.
R612-300-4. General Method For Computing Medical Fees.

A. Adoption of "CPT" and "RBRVS." The Labor Commission [~~hereby adopts and by this reference incorporates~~]incorporates by reference:[~~————~~]_Optum[~~360~~] Essential RBRVS 20[~~21~~]22 annual 1st Quarter Update," edition includes RBRC21/1120 ("RBRVS" hereafter).

B. Medical fees calculated according to the RBRVS relative value unit assigned to each CPT code. Unless some other provision of [~~these rules~~]Title R612 specifies a different method, the RBRVS is to be used in conjunction with the "conversion factors" established in Subsection (C)[~~-~~] of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ("RVU") assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology, 1 unit per 15 minutes of anesthesia: $68;
2. Medicine, Evaluation and Medicine codes 99203-99204 and 99213-99214: $56;
3. Medicine, all other Evaluation and Medicine codes: $[~~52~~]55;
4. Pathology and Laboratory: $[~~56~~]59;
5. Radiology: $[~~58~~]61;
6. Restorative Services: $[~~50~~]53;
7. Surgery, all 20000 codes, codes 49505 thru 49525, and all 60000 codes: $[~~65~~]68;
8. Other Surgery: $[~~65~~]68.

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

a. neither the CPT/RBRVS or any other provision of [~~these rules~~]Title R612 address the medical care in question; or

b. application of CPT/RBRVS or other provisions of [~~these rules~~]Title R612 would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

KEY: workers' compensation, fees, medical practitioners, nurse practitioners
Date of Last Change: 2022[~~December 23, 2021~~]
Notice of Continuation: September 26, 2022
Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R612-400-4**	**Filing ID: 55015**

Agency Information

1. Department:	Labor Commission	
Agency:	Industrial Accidents	
Room number:	3rd Floor	
Building:	Heber M. Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	**Phone:**	**Email:**
Ron Dressler	801-530-6841	rdressler@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R612-400-4. Waivers

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this amendment is to allow for electronic processing of workers' compensation waivers.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The amendment incorporates proposed changed to Section R612-400-4, specifically, entering Electronic Processing under Item D1-2 and moving the remaining sections down one letter.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There will be no cost or savings to the state budget since this change just allows for electronic processing of waivers.

B) Local governments:
There will be no cost or savings to local governments since this change just allows for electronic processing of waivers.
C) Small businesses ("small business" means a business employing 1-49 persons)**:**
There will be no cost or savings to small businesses since this change just allows for electronic processing of waivers.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**
There will be cost or savings to non-small businesses since this change just allows for electronic processing of waivers.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**
There should be no cost or savings since this change just allows for the electronic processing of waivers.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
There should be no compliance costs for affected person since the change just allows of the electronic processing of waivers.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved the regulatory impact analysis of this rule change.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 59-9-001(2)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	**Date:**	10/28/2022

R612. Labor Commission, Industrial Accidents.
R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.
R612-400-4. Waivers.

A. Authority and Purpose.

Pursuant to Title 34A, Chapter [~~Two~~]2, Part [~~Ten~~]10, Workers' Compensation Coverage Waivers Act ("the Act"), this rule

establishes procedures for applying for workers' compensation coverage waivers. The rule also addresses the effect of coverage waivers and procedures to be followed by the Labor Commission's Industrial Accidents Division in granting, denying, or revoking coverage waivers.

B. Procedure for Application, Issuance, and Renewal of Coverage Waiver.

1. A business entity may obtain a coverage waiver by:

a. completing the application process, available either online at the Utah Labor Commission website or by written application also available at the Commission;

b. submitting the supporting documents required by Section 34A-2-1004 of the Act; and

c. paying a non-refundable application fee of $50, used to defray the costs of processing and evaluating the application. Payment of the fee by check may delay issuance of a coverage waiver until the check has been honored.

2. If the Division determines that a business entity has satisfied each requirement for a coverage waiver, the Division will issue the coverage waiver. If the Division determines that a business entity has not satisfied each requirement for a workers' compensation insurance waiver, the Division will issue a written denial to the business entity, stating the basis for denial and setting forth the business entity's appeal rights.

3. Subject to revocation of a coverage waiver as provided by [~~subsection C~~]Subsection (C). of this section, a coverage waiver remains in effect for the following time periods:

a. A coverage waiver issued by a licensed workers' compensation insurance company [~~prior to~~]before July 1, 2011, the effective date of the Act, shall remain effective for the period shown on the coverage waiver.

b. A coverage waiver issued by the Division after July 1, 2011, shall be effective for one year from the date the coverage waiver is issued.

4. A business entity may renew a coverage waiver by completing the on[-]line renewal application available at the Utah Labor Commission website and satisfying the requirements set forth in [~~subsection B.1.b. and c.~~]Subsections B(1)(b) and (c) of this rule.

C. Revocation.

1. If the Division has reason to believe that a business entity no longer qualifies for a coverage waiver, the Division shall institute proceedings to determine whether the business entity's coverage waiver should be revoked. Such proceedings shall be conducted as informal proceedings under the Utah Administrative Procedures Act.

2. If the Division concludes that the business entity does not satisfy each requirement for a coverage waiver, the Division will issue a written order revoking the waiver certificate. The order shall state the basis for revocation and the business entity's appeal rights. The Division may also initiate other proceedings authorized by the Utah Workers' Compensation Act to compel the business entity to obtain workers' compensation coverage for its employees.

D. Electronic Processing

1. All written correspondence and filings will be delivered by the Division through electronic transmittal to the email address provided by the applicant in the application.

2. If an email address is not provided by the applicant, delivery of correspondence and filings by the Division will be attempted by mail using first class postage to the mailing address provided by the applicant in the application.

[~~D~~]E. Appeal Rights.

A business entity may challenge a Division decision to deny or revoke a coverage waiver by filing an appeal of the decision with the Adjudication Division. Such appeal proceedings shall be conducted as de novo formal adjudicatory proceedings under the Utah Administrative Procedures Act.

[~~E~~]F. Effect, Verification, and Limitation of Coverage Waiver.

1. Effect of coverage waiver. Subsection 34A-2-103-(7)(c) permits an employer contracting with a business entity to rely upon a valid coverage waiver issued by the Division as proof that the business entity is not required to have a workers' compensation insurance policy.

2. Verification of coverage waiver. Before an employer may rely upon a business entity's coverage waiver, the employer shall retain the following documents:

a. A photocopy of the coverage waiver issued to the business entity by the Division; and

b. A printout of the Division's waiver status verification web page showing that the business entity's coverage waiver had not been revoked as of the date on which the employer contracted with the business entity.

3. Limitations to effect of coverage waiver. A coverage waiver does not excuse a business entity from obtaining and maintaining workers' compensation insurance coverage for employees who are entitled to such coverage under the Utah Workers' Compensation Act. If and when a business entity has such employees, any coverage waiver previously issued to that business entity becomes void and the business entity must immediately obtain workers' compensation coverage.

KEY: workers' compensation, insurance, rates, waivers
Date of Last Change: [~~January 24,~~] 2022
Notice of Continuation: September 26, 2022
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R612-400-5**	**Filing ID: 55014**

Agency Information

1. Department:	Labor Commission	
Agency:	Industrial Accidents	
Room number:	3rd Floor	
Building:	Heber M Wells	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146600	
City, state and zip:	Salt Lake City, UT 84114-6600	
Contact persons:		
Name:	**Phone:**	**Email:**
Ron Dressler	801-530-6841	rdressler@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

The purpose of this rule change is to establish the premium rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund for the 2023 calendar year.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

There will be no change in the rates for the 2023 calendar year, so the only change is to the effective date of 01/02/2023.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There should be no cost or savings to the state budget as the rates will remain the same as in 2022.

B) Local governments:

There should be no cost or savings to local governments as the rates will remain the same as in 2022.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

There should be no cost or savings to small businesses as the rates will remain the same as in 2022.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

There should be no cost or savings to non-small businesses as the rates will remain the same as in 2022.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There should be no cost or savings as the rates will remain the same for 2023 as they were in 2022.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

There should be no compliance costs for affected persons as the rates are remaining the same as in 2022.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of the Labor Commission, Jaceson R. Maughan, has reviewed and approved the regulatory impact analysis of this rule change.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Subsection 59-9-001(2)		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Jaceson R. Maughan, Commissioner	**Date:**	10/28/2022

R612. Labor Commission, Industrial Accidents.
R612-400. Workers' Compensation Insurance, Self-Insurance and Waivers.
R612-400-5. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

A. Pursuant to Subsection 59-9-101(2), Sections 59-9-101.3 and 34A-2-202 the workers' compensation premium rates effective January 1, 20[~~22~~]23, as established by the Labor Commission, shall be:

1. 0.50% for the Uninsured Employers' Fund; and
2. 0.0% for the Employers' Reinsurance Fund.

B. The premium rates are a percentage of the total workers' compensation insurance premium income as detailed in Subsection 59-9-101(2)(a).

KEY: workers' compensation, insurance, rates, waivers
Date of Last Change: [~~January 24,~~] 2022
Notice of Continuation: September 26, 2022
Authorizing, and Implemented or Interpreted Law: 59-9-101(2)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	**R990-200**	**Filing ID: 55024**

Agency Information

1. Department:	Workforce Services
Agency:	Housing and Community Development
Building:	Olene Walker Building
Street address:	140 E 300 S
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 45244
City, state and zip:	Salt Lake City, UT 84145-0244

Contact persons:		
Name:	**Phone:**	**Email:**
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:

R990-200. Private Activity Bonds

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?)**:**

This rule change clarifies application criteria and requirements to ensure bonds are allocated to the most appropriate borrowers; and makes changes to require compliance with Private Activity Bond Board of Review (Board of Review) policy and procedure and ensure program staff have sufficient time to thoroughly review applications before a Board of Review meeting.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule)**:**

The rule change adds to the current "good standing" criteria by providing that an applicant for a multi-family project is not in good standing if, at any time in the five years preceding the submission of the application, the applicant has been in bad standing with the Utah Housing Corporation; changes the application deadline to 55 calendar days before the Board of Review meeting at which the Board of Review will consider the application; allows applicants to submit application documents after the deadline only if program staff first request that they do so; explicitly references Board of Review policies and provides information regarding where applicants may access the most recent version online; changes the extension request deadline to 55 days before the Board of Review meeting; and imposes an extension fee for each extension request, including the first extension request.

This rule change also makes technical, conforming, and stylistic changes in accordance with the Utah Rulewriting Manual and current Department of Workforce Services organization, policy, and procedure.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule change is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee this rule change. This rule change will not increase workload and can be carried out with existing budget. This rule change does not change the current available bond cap.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments' revenues or expenditures because the program does not rely on local governments for funding, administration, or enforcement. A small positive impact could be realized in increased local tax revenue provided by applicants utilizing bonds to create or grow a housing or manufacturing project in any given local municipality.

C) Small businesses ("small business" means a business employing 1-49 persons)**:**

This rule change is expected to have indirect positive fiscal impact on small businesses because it provides a more transparent process for an applicant ascertaining the viability of their application. Otherwise, there is no impact to small businesses because this rule change does not address any general business practices outside of offering a specific financing mechanism.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons)**:**

This rule change is expected to have indirect positive fiscal impact on non-small businesses because it provides a more transparent process for an applicant ascertaining the viability of their application. Otherwise, there is no impact to non-small businesses because this rule change does not address any general business practices outside of offering a specific financing mechanism.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an ***agency***)**:**

There is no fiscal impact to other persons. The rule change requires no action or compliance by a person other than a business submitting an application to the Board of Review.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**

The Board of Review is required to charge reasonable fees pursuant to Subsection 35A-8-2104(8). This rule change imposes an administrative fee to a recipient seeking an extension of a previously approved and current volume cap allocation. The proposed rule change does not establish the amount of the fee.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2023**	**FY2024**	**FY2025**
State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Workforce Services, Casey Cameron, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 35A-8-2104		

Incorporations by Reference Information

7. Incorporations by Reference:	
A) This rule adds, updates, or removes the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Private Activity Bond Program-Policies and Procedures ("Policies")
Publisher	Utah Department of Workforce Services, Housing & Community Development
Issue Date	October 2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/15/2022

9. This rule change MAY become effective on:	12/22/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Casey Cameron, Executive Director	**Date:**	10/31/2022

R990. Workforce Services, Housing and Community Development.
R990-200. Private Activity Bonds.
R990-200-3. Definitions.

Terms used in [~~these rules~~]this rule are defined in Section 35A-8-2102. Terms not defined in that section or in [~~these rules~~]this rule shall be defined as used [~~and characterized in the Private Activity Bonds Application, Scoring Criteria, and other~~]in the Private Activity Bond Program - Policies and Procedures ("Policies"), adopted October 2022[~~ Board of Review~~], which is incorporated by reference[~~authorized documents~~]. In addition:

(1) "Affordable" means at least 20% of the residential units in the project are set aside for families whose incomes do not exceed 50% of Area Median Income (AMI), adjusted for family size; or at least 40% of the residential units in the project are set aside for families whose incomes do not exceed 60% of AMI, adjusted for family size.

(2) "Applicant" means a borrower or issuing authority submitting an application for an allocation of volume cap or a project sponsor submitting an application on behalf of an issuing authority for an allocation of volume cap.

(3) "Available [~~V~~]volume [~~C~~]cap" means the unencumbered volume cap.

(4) "Application" means:

(a) the electronic [~~F~~]federal Low-Income Housing Tax Credit [~~C~~]consolidated [~~A~~]application for multi-family applicants;

(b) the [~~P~~]private [~~A~~]activity [~~B~~]bond [~~A~~]authority [~~M~~]manufacturing [~~F~~]facility [~~A~~]application for the manufacturing, redevelopment or exempt facility applicants; or

(c) the [~~P~~]private [~~A~~]activity [~~B~~]bond [~~A~~]authority [~~A~~]application for [~~S~~]single [~~F~~]family or [~~S~~]student [~~L~~]loan applicants.

(5) "Closed" or "close" means the time at which bonds are exchanged for funds.

(6) "Good standing" means the applicant or recipient[~~ has~~], for the immediately preceding five years:

(a) has timely remitted to the Board of Review all required fees and payments;

(b) has timely submitted to the Board of Review all required reports;

(c) has not failed to close any projects for which the Board of Review has made an allocation;[~~ and~~]

(d) has not made to the Board of Review any misrepresentations about an application for allocation or any previous or current project; and

(e) for an applicant seeking an allocation for a multi-family project, has not been in bad standing with Utah Housing Corporation.

(7[~~e~~]) If an applicant or recipient has previously received an allocation from the Board of Review for one or more [~~In addition, for~~]multi-family projects[~~ for which the Board of Review has provided allocations~~], "good standing" means the applicant or recipient meets the requirements of Subsection (6) and, for the immediately preceding five years, the applicant or recipient:

(i) has not exceeded rent or income limits[~~,~~];

(ii) has not converted any affordable unit into a market rate unit[~~,~~]; and

(iii) has rented designated affordable units only to qualified [~~L~~]low and [~~M~~]moderate [~~I~~]income tenants.

(8[~~7~~]) "Project" means the applicant's plan for which the private activity bonds are being sought.

(9[~~8~~]) "Recipient" means a borrower or issuing authority that has been awarded an allocation of volume cap.

(10[~~9~~]) "Low and [~~M~~]moderate [~~I~~]income" means a household whose income upon initial occupancy does not exceed 140% of AMI adjusted for family size.

(11[~~0~~]) "Market [~~R~~]rate" means housing units that are not affordable.

(12[~~1~~]) "Voluntary relinquishment" means a recipient's decision, made of the recipient's own volition, to relinquish all or part of a previously awarded allocation.

R990-200-4. Applicant Qualifications.

(1) An application will be presented to the Board of Review only if each project applicant, owner, developer, and manager:

(a) is in good standing;

(b) in the ten years preceding the filing date of the application, has not been disbarred or otherwise sanctioned in any way by any state or federal agency or professional self-regulatory body;

(c) in the ten years preceding the filing date of the application, has not been a partner, director, or other officer exercising managerial control over any business entity---including a corporation, limited liability company, or professional limited liability company---when said business entity has initiated bankruptcy proceedings;

(d) has not been in default or breach of any mortgage or project-related contract within the previous five years; and

(e) is not the subject---in either a personal or professional capacity as a partner, director, or other officer exercising managerial control over any business entity---of a pending fair-housing or civil-rights investigation and has not, in the ten years preceding the filing date of the application, been the subject of a negative fair-housing or civil-rights determination.

(2) An application shall include documentation executed by each applicant, owner, developer, and manager certifying that each signatory meets each requirement identified in Subsection R990-200-4(1).

(a) An application shall include documentation supporting and verifying the accuracy of each certification.

(3) An applicant shall provide all required materials and supporting documents at least [4]55 calendar days before the Board of Review meeting at which the application will be considered.

(4) Application forms and materials are available on the Department of Workforce Services Housing and Community Development website.

(5) An application will not be considered until all required materials are provided and complete.

(6) An incomplete application will be returned to the applicant. The applicant will have the opportunity to correct any defect or provide any missing required documentation, subject to the submission deadline specified in Subsection R990-200-4(3).

(7) [~~No~~]Unless requested by program staff, no new, additional, or replacement documentation will be accepted after the application submission deadline specified in Subsection R990-200-4(3).

R990-200-5. Criteria for Allocating Volume Cap.

(1) Private activity bond volume cap allocations are made each calendar year based upon available volume cap.

(a) The decision whether to allocate volume cap to an applicant shall be determined by the Board of Review, in its sole discretion.

(b) Allocations are not made on a first-come-first-served basis.

(c) Each complete application submitted before the deadline will be evaluated and scored in comparison with other applications for the same type of project use. The Board of Review has adopted Policies governing program administration and application scoring. The Policies may be amended from time to time and may be found on the Department of Workforce Services Housing and Community Development website. Applicants and recipients must be aware of and comply with the Policies.[~~The weight each evaluation criteria is given is as identified on the score sheet approved by the Board of Review.~~]

(d) The private activity bond program staff and consultants under contract with the Board of Review will evaluate and score each application. In the event demand for funding exceeds the available volume cap, applications will be numerically ranked for allocation.

(e) When considering multiple applications at a meeting, the Board of Review may choose to award each applicant an equal share, pro rata share, priority for [~~M~~]multi-[~~F~~]family [~~H~~]housing or other classification, or other division of available volume cap.

(2) When deciding to allocate volume cap to an applicant, the Board of Review shall consider the criteria outlined in Section 35A-8-2105 and the following additional criteria:

(a) timely submission of completed application;

(b) timely payment of applicable fees;

(c) applicant's experience in successfully completing projects utilizing private activity bonds;

(d) project financing, including executed letters of intent for debt and equity funding;

(e) project readiness, including required public entity approvals, site ownership, and architect and construction contracts;

(f) timely response to any questions raised by the Board of Review and private activity bond program staff;

(g) status of project's financing at time of application;

(h) appointment of bond counsel;

(i) letter from bond counsel opining the project qualifies for private activity bonds;

(j) appointment of investment banker or, if private placement, buyer of the bonds;

(k) detailed commitment letters from financial entities involved;

(l) ability to cause bonds to be issued within 12 months of allocation;

(m) past history of forfeited allocation commitments;

(n) length of tax-exempt bond amortization; and

(o) other factors considered appropriate by the Board of Review.

(3) Multi-family housing applicants must meet the criteria of the Low-Income Housing Tax Credit [~~P~~]program administered by the Utah Housing Corporation. In addition to the criteria in Subsection R990-200-5(2), the Board of Review shall consider the following criteria when deciding to allocate volume cap to [~~M~~]multi-family housing applicants:

(a) bond amount per unit;

(b) bond amount per affordable unit;

(c) the percentage, in relation to the group of applications currently being evaluated, of the private activity bond allocation being requested;

(d) percentage of public financing, including the value of grants, loans, fee waivers, and concessions, but excluding housing tax credits;

(e) total cost per unit and per unit square footage;

(f) percentage of developer fee contributed to project;

(g) percentage of affordable units;

(h) percentage of special needs units;

(i) cash flow per unit;

(j) percentage of taxable bonds;

(k) location, with preference for projects located in:

(i) underserved areas;

(ii) communities without the same type of projects; and

(iii) difficult to develop areas as defined by HUD;

(l) project characteristics, including:

(i) day care;

(ii) education center;

(iii) mixed income projects, with both affordable and market rate units; and

(iv) size of proposed project;

(m) mitigation of environmental issues, including installing radon gas extraction fans or removing the source of radon; and

(n) acquisition, rehabilitation, and remediation of buildings with Utah or federal historic designation, including removal of hazards and including appraisals and a relocation plan for current residents.

(4) In addition to the criteria in Subsection R990-200-5(2), the Board of Review shall consider the following criteria when

deciding to allocate volume cap to manufacturing facility, redevelopment and exempt facilities applicants:

(a) new full-time-equivalent job creation, including a list of new positions and wages, and excluding construction and other temporary jobs;

(b) retention of jobs;

(c) training and education of employees;

(d) bond amount to permanent full-time-equivalent jobs ratio;

(e) permanent full-time-equivalent jobs created or retained that provide above average wages when compared to other applicants' average wages and the community average wage;

(f) demonstrated need for tax-exempt financing, including:

(i) projected cash flow for the first three years of operation, including supporting documentation, and

(ii) explanation for selecting variable or fixed rates;

(g) community support, including:

(i) financial support;

(ii) zoning approval;

(iii) tax increment financing; and

(iv) deferral of fees;

(h) competitive costs for construction and equipment related expenses; and

(i) ready-to-go status, including:

(i) manufacturing facility zoned for use;

(ii) proximity of infrastructure to site;

(iii) need for special infrastructure;

(iv) environmental study, if required by lender;

(v) current title report and site plan of project; and

(vi) building description.

(5) [~~Prior to~~]Before considering an application, a Board of Review member shall disclose the substance of any communication the member has had outside of a public meeting with an applicant or other interested party regarding the project.

(6) The allocation certificate issued for multi-family housing volume cap shall restrict the occupancy of market rate rental units to families whose incomes do not exceed 150% of AMI, adjusted for family size, for at least 51 years from the date on which at least 50% of the residential units in the project are first occupied.

(a) Recipients and owners shall comply with any terms of the Certificate of Allocation, including any additional conditions approved by the Board of Review.

(b) Recipients and owners shall submit documentation to private activity bond program staff within 15 days after the issuance of bonds, and at other times upon request, to verify compliance with the terms of the Certificate of Allocation.

(7) Subject to Subsection R990-200-5(7)(e), if a recipient undergoes any change in ownership or management after an allocation is awarded to it, the Board of Review may, in its discretion, require that the allocation be relinquished. Such change includes the addition or removal of one or more directors or managing partners. For purposes of Subsection R990-200-5(7), "removal" or "removed" shall apply to any director, partner, or other official whose association with the recipient ends voluntarily or involuntarily, by resignation or discharge.

(a) Recipients shall be required to notify the Board of Review, in writing and at least 30 business days in advance, of any changes or anticipated changes in the recipient's ownership or management. Such notice shall include, at a minimum, the effective date of the change or anticipated change and the full names and current business addresses of each additional or removed director, managing partner, or other official.

(b) In determining whether to require relinquishment of the previously awarded allocation, the Board of Review shall evaluate the recipient's new ownership or management composition based on the qualifications and criteria detailed in Subsections R990-200-5(1)(a) through (e) as well as any additional factors it deems relevant.

(c) The Board of Review will make every effort to hold a meeting before the effective date of the change in ownership. At said meeting, the Board of Review shall decide, in its sole discretion, whether to require relinquishment of the recipient's allocation. The previously awarded allocation shall remain effective until the effective date of the change in ownership or until the first Board of Review meeting following the recipient's advance written notice to the Board of Review, whichever is sooner. If the effective date of the change in ownership occurs before the Board of Review [~~is able to~~]can hold a meeting, the recipient's allocation will be paused from the effective date until the Board of Review has held a meeting and decided whether to require relinquishment.

(i) If the Board of Review votes to require relinquishment, the relinquishment shall become effective on a date specified by the Board of Review on the record at the meeting at which it votes.

(ii) If the Board of Review votes not to require relinquishment, the allocation shall remain in effect. Within ten business days of the Board of Review's vote, each new owner or manager shall provide to the chair a signed acknowledgement that the recipient is bound by all terms and conditions in the Certificate of Allocation. If any new owner or manager fails to submit such an acknowledgement as required, the Board of Review reserves the right to vote at the next Board of Review meeting to require relinquishment of the allocation.

(d) If a recipient fails to make the Board of Review aware of a change or anticipated change in ownership in keeping with Subsection R990-200-205(7)(a), the Board of Review reserves the right, in its sole discretion, to take either or both of the following actions:

(i) revoke the recipient's allocation at the first Board of Review meeting following the date on which the Board of Review became aware of the change or anticipated change in ownership; or

(ii) prohibit the recipient from applying for any additional volume cap allocations for one year following the date on which the Board of Review became aware of the change or anticipated change in ownership.

(e) Subsection R990-200-5(7) shall not apply when the recipient is one of the following:

(i) the state or any of the state's agencies, institutions, or divisions; or

(iii) any county, city, or town in the [~~S~~]state or any of a county, city, or town's agencies, institutions, or divisions.

R990-200-7. Extensions.

(1) Certificates of allocation shall remain in effect for a period of 90 days following the date of Board of Review approval. A recipient that has not closed its volume cap allocation within such 90-day period may request an extension from the Board of Review. A recipient requesting an extension shall submit to the Board an application for an extension no later than the 90th calendar day after the date of the Board of Review's approval of the initial allocation. The counting of the 90-day period shall be paused from the date of submission, pending the Board of Review's review of the application for extension, and the Certificate of Allocation shall remain effective until the Board of Review has voted whether to approve or deny the application for extension. The application for extension shall be approved or denied in the Board of Review's sole discretion.

(a) Manufacturing projects, qualified redevelopment projects, and exempt facility projects are not eligible to carry forward their volume cap allocation beyond the end of the calendar year in which they received the allocation. Such bonds must close by the third Saturday in December in the same year the recipient received the allocation. Any volume cap not issued by this date is automatically relinquished back to the Board of Review.

(b) The Board of Review makes no representation as to whether an issuer will allow the allocation to be transferred to another project if the previously approved transaction fails.

(2) [~~A~~]Unless program staff agree to a different deadline, a recipient requesting an extension of a previously approved and current volume cap allocation shall submit a completed extension form to the private activity bond program staff no later than [~~21~~]55 calendar days before the Board of Review meeting at which the extension request is to be considered.

(3) An extension request will not be presented to the Board of Review unless the recipient's account is in good standing.

(4) An extension request for a second or more extension will be evaluated, scored, and considered by the Board of Review, subject to Subsection R990-200-7(6).

(5) An extension approval may not exceed 90 calendar days from the date of approval or until the Board of Review holds its next meeting, whichever is sooner.

(6) [~~A~~]Unless program staff agree to a different deadline, no later than 55 calendar days before the Board of Review meeting at which the extension is to be considered, a recipient requesting an [~~second or more~~]extension shall submit a completed extension request status report and extension fee[~~, no later than 21 calendar days before the Board of Review meeting,~~] on the form provided on the website of the Board of Review, together with each request.

(a) Private activity bond program staff shall perform a comprehensive progress review before the Board of Review meeting where an extension will be considered, and shall prepare a recommendation.

(b) The applicant may be required to reapply after the third extension review if there is no substantial evidence of being able to close the bonds.

(7) A recipient may not receive more than five extensions. A request for a sixth or more extension will not be presented to the Board of Review, and the previously allocated volume cap shall be revoked.

(8)(a) Except as provided in Subsection R990-200-7(8)(c), a recipient requesting an extension shall attend, either virtually or in person, the Board of Review meeting at which the extension is considered, prepared to update the Board of Review on the progress of the development and answer any questions. If the recipient does not attend, the Board of Review will table consideration of the extension. Within 48 hours of the Board meeting at which the extension was to be considered, the recipient shall submit to the Board of Review a written explanation of its failure to attend. The extension will be considered at the following Board of Review meeting, and the Board of Review, in its sole discretion, shall approve or deny the extension request at that time.

(b) When a recipient fails to attend a meeting, the Board of Review shall treat such a missed meeting as a granted extension request, such that the missed meeting will count as one of the five extensions a recipient is allowed under [~~these rules~~]this rule.

(c) Subsections R990-200-7(8)(a) and (b) shall not apply when the Board of Review determines, in its sole discretion, that the recipient's failure to attend a meeting is the result of extraordinary circumstances beyond the recipient's control. Even in such extraordinary circumstances, though, a recipient shall make every effort to send a designee to attend and provide updates at the meeting. Any such designee shall speak on behalf of the recipient, and the recipient will be bound by the designee's representations to the Board of Review.

(9) A City or County issuer may submit a request for a Carryforward Certificate no later than 21 calendar days before the December Board of Review meeting.

(10) A City or County issued a Carryforward Certificate shall comply with the extension request requirements for each three month period after an allocation has been made to a project, including:

(a) attendance at each Board of Review meeting, prepared to update the Board of Review on the progress of the development and answer any questions, and

(b) submission of a complete comprehensive progress report.

(11) The Board of Review reserves the right to approve or reject an extension or Carryforward Certificate in accordance with the criteria established by this rule.

(12) In the event an extension or Carryforward Certificate request is untimely, denied by the Board of Review in its sole discretion, or otherwise not presented to the Board of Review in accordance with [~~these rules~~]this rule, the allocation shall be revoked.

KEY: allocation, private activity bond, volume cap
Date of Last Change: 2022[~~December 22, 2021~~]
Authorizing, and Implemented or Interpreted Law: 35A-8-2104

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R17-5**	**Filing ID: 53479**
Effective Date:	**10/18/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Archives and Records Service	
Street address:	346 S Rio Grande Street	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	**Phone:**	**Email:**
Kendra Yates	801-531-3856	kendrayates@utah.gov
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R17-5. Definitions of Rules in Title 17
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The authorizing, implemented, or interpreted law is Section 63A-12-104.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There are no comments since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The definitions identified in Section R17-5-1 are specific to the Utah State Archives records management and records access information. Without context it is difficult to understand the use of the word in the law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	**Date:**	10/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R17-6**	**Filing ID: 53480**
Effective Date:	**10/18/2022**	

Agency Information

1. Department:	Government Operations
Agency:	Archives and Records Service
Street address:	346 S Rio Grande Street
City, state and zip:	Salt Lake City, UT 84101

Contact persons:		
Name:	**Phone:**	**Email:**
Kendra Yates	801-531-3856	kendrayates@utah.gov
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R17-6. Records Storage and Disposal at the State Records Center
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 63A-12-104(1) authorizes rules regarding the storage and management of records. The State Record Center destroys records in accordance with retention schedules approved by the Records Management Committee which was created under Section 63A-12-112.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule clarifies ownership of the records stored at the State Records Center. It also clarifies the responsibilities of the Division of Archives regarding the storage of government records at the State Records Center and the responsibilities of the owning governmental entity. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	**Date:**	10/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R17-7**	**Filing ID: 53481**
Effective Date:	**10/18/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Archives and Records Service	
Street address:	346 S Rio Grande Street	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	**Phone:**	**Email:**
Kendra Yates	801-531-3856	kendrayates@utah.gov
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R17-7. Archival Records Care and Access at the State Archives
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Subsection 63A-12-104(1). Records are property of the state under Section 63A-12-105. Historical records are placed in the custody of the State Archivist per Utah Code Sections 63G-2-604, 63A-12-102, 63A-12-103, and 63A-12-105.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in support or opposition of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule clarifies ownership of the records managed at the State Archives and how the public may access those records in the Research Center. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	**Date:**	10/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R17-8**	**Filing ID: 53482**
Effective Date:	**10/24/2022**	

Agency Information

1. Department:	Government Operations	
Agency:	Archives and Records Service	
Street address:	346 S Rio Grande Street	
City, state and zip:	Salt Lake City, UT 84101	
Contact persons:		
Name:	**Phone:**	**Email:**
Kendra Yates	801-531-3856	kendrayates@utah.gov
Rebekkah Shaw	801-531-3851	rshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R17-8. Application of Microfilm Standards
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The authorizing, implemented, or interpreted law is under Subsection 63A-12-104(1) this rule establishes a procedure for the microfilming standards of permanent and long-term records.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There are no comments since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule establishes a procedure for the microfilming standards of permanent and long-term records. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Kenneth Williams, Director	**Date:**	10/24/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R156-31b**	**Filing ID: 54045**
Effective Date:	**10/27/2022**	

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	**Phone:**	**Email:**
Jeff Busjahn	801-530-6628	jbusjahn@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R156-31b. Nurse Practice Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 31b, provides for the licensure and regulation of various classifications of nurses (licensed practical nurse, registered nurse apprentice, registered nurse, advanced practice registered nurse intern, advanced practice registered nurse, advanced practice registered nurse/CRNA (certified registered nurse anesthetist) without prescriptive practice and medication aide certified). Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Board of Nursing's duties, functions and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 31b, with respect to various classifications of nurses identified above.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Since this rule was last reviewed in January 2018, the rule has been amended four times. The Division received a December 1, 2020 email from Jeanette Johnson with Chrysalis in support of proposed amendments especially the delegation of some tasks to unlicensed assistive

personnel. This written comment was received by the Division in response to proposed amendments which were filed and made effective on 01/08/2021. With regards to OAR file ID 44112, the Division received a 11/07/2019 email from Jennifer Clifton with University of Utah College of Nursing in which she asked the Division nursing bureau manager a clarifying question related to proposed amendments in this file ID 44112. With regards to OAR file ID 43825, the Division received the following written comments in support of the Division's proposed amendments: 08/04/2019 email from Kathleen Kaufman; 07/15/2019 email from Diane Forster-Burke; 04/10/2019 email from Dirk with Utah Health Care Association, and an 04/29/2019 email from Scott Ambrose with Utah Assisted Living Association.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 31b. This rule is also necessary as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	10/27/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R156-49**	**Filing ID: 50284**
Effective Date:	**10/27/2022**	

Agency Information

1. Department:	Commerce
Agency:	Professional Licensing
Building:	Heber M Wells Building
Street address:	160 E 300 S
City, state and zip:	Salt Lake City, UT 84111-2316
Mailing address:	PO Box 146741
City, state and zip:	Salt Lake City, UT 84114-6741

Contact persons:

Name:	**Phone:**	**Email:**
Lynne Anthony	801-530-6628	lanthony@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R156-49. Dietitian Certification Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 49, provides for the certification and regulation of dietitians. Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Dietitian Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 49, with respect to certified dietitians.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in November 2017, the Division has received no written comments with respect to this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it provides a mechanism to inform potential certified dietitians of the requirements for certification as allowed under statutory authority provided in Title 58, Chapter 49. This rule is also necessary as it provides information to ensure applicants for certification are adequately trained and meet minimum certification requirements, and provides certified dietitians with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	07/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R156-68**	**Filing ID: 52272**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Commerce	
Agency:	Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state and zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84114-6741	
Contact persons:		
Name:	**Phone:**	**Email:**
Larry Marx	801-530-6628	lmarx@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R156-68. Utah Osteopathic Medical Practice Act Rule

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Title 58, Chapter 68, provides for the licensure and regulation of osteopathic physicians and surgeons. Subsection 58-1-106(1) provides that the Division of Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Osteopathic Physician and Surgeon's Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 68, with respect to osteopathic physicians and surgeons.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in January 2018, the Division has received no written comments with respect to this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is necessary as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 68. This rule is also necessary as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Mark B. Steinagel, Division Director	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R357-21**	**Filing ID: 54825**
Effective Date:	**11/01/2022**	

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E. South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	**Phone:**	**Email:**
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:

R357-21. Rural Jobs Act

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 63N-4-304(4) requires the Office of Economic Opportunity to make rules describing the administration of the rural jobs act and documentation requirements for a business to receive a tax credit certificate.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is authorized and mandated by state law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Dane Hemmert, Executive Director	**Date:**	11/01/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R380-50**	**Filing ID: 50886**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Health and Human Services	
Agency:	Administration (Health)	
Room number:	4th Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Heather Borski	385-348-1340	hborski@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R380-50. Local Health Department Funding Allocation Formula
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is promulgated under the authority of Section 26A-1-116, which directs the Utah Department of Health and Human Services to establish, by rule, a formula for allocating funds by contract to local health departments. This rule specifies the formula for allocating state-appropriated funds to local health departments by contract.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is required by statute. It specifies the formula for allocating state-appropriated funds to local health departments by contract. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	10/30/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R414-517**	**Filing ID: 52747**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Health and Human Services	
Agency:	Health Care Financing, Coverage and Reimbursement Policy	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R414-517. Inpatient Hospital Provider Assessments

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 26-18-3 requires the Department of Health and Human Services (Department) to implement Medicaid policy through administrative rules, and Title 26, Chapter 36b, governs provisions for inpatient hospital assessments.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department did not receive any written comments regarding this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The Department has determined that this rule is necessary because it implements the Inpatient Hospital Assessment Act with its provisions for hospital audits, changes in hospital status, intergovernmental transfers, and penalties and interest. An amendment to correct outdated information is in the Department's workflow. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy S. Gruber, Executive Director	**Date:**	10/30/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R495-861**	**Filing ID: 51173**
Effective Date:	**10/17/2022**	

Agency Information

1. Department:	Health and Human Services	
Agency:	Administration (Human Services)	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Jonah Shaw	385 310-2389	jshaw@utah.gov
Curt Williams	385 272-4220	chwilliams@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R495-861. Requirements for Local Discretionary Social Services Block Grant Funds
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule was authorized by Section 62A-1-111, now Section 26B-1-202, and provides explanation for how applicable grant funds will be allocated among the counties. This rule includes an expectation for the counties to also provide some local funding to participate.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is suggested for continuation to support the applicable grant funds allocation for local discretionary purposes and continued local government funding participation, subject to Department of Health and Human Services' (Department) decision regarding continuing the distribution of the grant funds each year. The Department is working to amend this rule to clean up outdated language and citations. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Tracy Gruber, Executive Director	**Date:**	10/17/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-152**	**Filing ID: 54582**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W

City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-152. Health Discount Programs and Value-Added Benefit Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code. Section 31A-8a-210 authorizes the insurance commissioner to write rules to enforce Chapter 8a, Health Discount Program Consumer Protection Act, and to protect the public interest.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it authorizes the Department to license and regulate health discount programs and those who market and operate them. It also allows the Department to review the forms these programs use to ensure that they comply with the law and avoid using words and terms that would give the purchaser the impression that the program is insurance. This rule also requires managers of health discount programs to provide a website so members can view a current list of health discount plan providers. This rule reduces fraud and uncertainty in the market. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-242**	**Filing ID: 51423**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-242. Military Sales Practices
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-201(3)(a) authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code. Subsection 31A-23a-402(8)(a) authorizes the insurance commissioner to implement rules after a finding of fact that determines certain actions to be unfair or deceptive methods of competition in the business of insurance.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary because it set standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain practices to be false,

misleading, deceptive, or unfair. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R590-265**	**Filing ID: 51438**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	**Phone:**	**Email:**
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-265. Hazardous Financial Condition Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-201 authorizes the insurance commissioner to write rules to implement Title 31A, the Insurance Code. Subsection 31A-27-503(1)(a)(v) authorizes the insurance commissioner to take action whenever an insurer is determined to be in a hazardous financial condition or a potentially hazardous financial condition. Subsection 31A-27a-101(3)(c) authorizes the insurance commissioner to align the definition of "hazardous financial condition" with definitions set forth in the Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department of Insurance (Department) has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule comprises a national standard set by the NAIC. This rule is necessary for the Department to maintain its accreditation status. This rule sets forth standards that the commissioner may use to identify insurers that may be in a hazardous financial condition, which protects policyholders, creditors, and the general public from potential default. It also shows insurers the standards that are indicative of a hazardous financial condition and can help them avoid such a condition. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Steve Gooch, Public Information Officer	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R655-5**	**Filing ID: 51717**
Effective Date:	**10/19/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Water Rights	
Room number:	220	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Contact persons:		
Name:	**Phone:**	**Email:**
Marianne Burbidge	801-538-7370	marianneburbidge@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R655-5. Maps Submitted to the Division of Water Rights
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 73-2-1(3)(b)(i) and Sections 73-3-2, 73-3-3, and 73-3-16 establish when maps must be submitted and the minimum standards that must be met for the maps to be accepted by the State Engineer.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments have been received in the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is still required for processing and acceptance by the State Engineer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Teresa Wilhelmsen, State Engineer/Director	**Date:**	10/19/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R657-23**	**Filing ID: 51744**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room number:	Suite 2110	
Building:	DNR – Salt Lake Complex	
Street address:	1594 W North Temple	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146301	
City, state and zip:	Salt Lake City, UT 84114-6301	
Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-23. Utah Hunter Education and Furharvester Education Programs
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-18, 23-14-19, and 23-19-11, the Wildlife Board is authorized to adopt rules to prescribe safety measures and provide the process for obtaining proof of successfully completing an approved hunter education course.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments supporting or opposing Rule R657-23 were received since 2017, when this rule was last reviewed.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-23 provides the procedures and requirements for presenting and obtaining proof of having successfully completed an approved hunter education course. The procedures adopted in this rule have provided an effective and efficient process. This rule is necessary for continued success of the hunter education program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Justin Shirley, DWR Director	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R657-33**	**Filing ID: 54340**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room number:	Suite 2110
Building:	DNR – Salt Lake Complex
Street address:	1594 W North Temple
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 146301
City, state and zip:	Salt Lake City, UT 84114-6301

Contact persons:		
Name:	**Phone:**	**Email:**
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R657-33. Taking Bear
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments supporting or opposing Rule R657-33 were received since 2017, when this rule was last reviewed. This rule has been amended during the five-year period and was presented at Regional Advisory Councils and approved by the Wildlife Board in accordance to Section 23-14-18.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Rule R657-33 provides the procedures, standards, and requirements for taking and pursuing bear. The provisions adopted in this rule are effective in providing the standards and requirements for taking and pursuing bear. This rule is necessary for continued success of this program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Justin Shirley, DWR Director	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R746-200**	**Filing ID: 51947**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Public Service Commission
Agency:	Administration
Building:	Heber M Wells Building
Street address:	160 E 300 S, 4th Floor
City, state and zip:	Salt Lake City, UT 84111
Mailing address:	PO Box 4558
City, state and zip:	Salt Lake City, UT 84114-4558

Contact persons:		
Name:	**Phone:**	**Email:**
Michael Hammer	801-530-6729	michaelhammer@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R746-200. Residential Utility Service Rules for Electric, Gas, Water, and Sewer Utilities
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The Public Service Commission (PSC) is charged with regulating public utilities and ensuring the rates and terms that customers receive are just, reasonable, and non-discriminatory, see Sections 54-4-1 and 54-4-4. The PSC is statutorily empowered and required to adopt rules to ensure rate regulation is just, reasonable, and in the public interest. The PSC is also statutorily required to hear and adjudicate customer complaints with respect to utility service, and where appropriate to impose statutory penalties for utility violations of statute, rule, or order, see Sections 54-7-9 and 54-7-25. This Rule, R746-200, establishes residential utility service rules for electric, gas, water, and sewer utilities consistent with and as required by these statutory provisions. This rule also establishes processes by which customers may file complaints, the manner in which the PSC will resolve such complaints, and any penalties that may attach to utility violations of statute, rule, or order.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The PSC has received no written comments from any interested person supporting or opposing this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The PSC has received no notice of opposition to continuation of this rule. This rule is necessary because it is required to comply with Title 54 as discussed in Box 3

above, see Sections 54-4-1, 54-4-4, 54-4-4.1, 54-4-7, 54-7-9, and 54-7-25. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Thad LeVar, PSC Chair	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R746-346**	**Filing ID: 51967**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, UT 84114-4558	
Contact persons:		
Name:	**Phone:**	**Email:**
John Delaney	801-530-6724	jdelaney@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R746-346. Operator-Assisted Services
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 54-8b-13 requires the Utah Public Service Commission (PSC) to establish rules to implement requirements for operator-assisted services in Utah. Section 54-4-1 provides the legislative grant of supervisory and regulatory authority to the PSC over public utilities in Utah, including with respect to operator-assisted services.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The PSC has received no written comments from any interested person supporting or opposing this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 54-8b-13 continues to require this rule. This rule ensures that customers of operator-assisted services are informed of rates, surcharges, and terms and conditions of using operator-assisted services. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Thad LeVar, PSC Chair	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R746-356**	**Filing ID: 51969**
Effective Date:	**10/31/2022**	

Agency Information

1. Department:	Public Service Commission	
Agency:	Administration	
Building:	Heber M Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, UT 84114-4558	
Contact persons:		
Name:	**Phone:**	**Email:**
John Delaney	801-530-6724	jdelaney@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R746-356. Intrastate (IntraLATA) Equal Access To Toll Calling Services By Telecommunications Carriers
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 54-8b-2.2(3) requires the Utah Public Service Commission (PSC) to establish rules to implement the competitive provision of facilities-based intrastate (intraLATA) toll and local exchange services.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The PSC has received no written comments from any interested person supporting or opposing this rule since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 54-8b-2.2(3) continues to require this rule. This rule establishes procedures and methods by which all PSC-certified local exchange carrier telecommunication entities (LECs) will provide and maintain equal access, and customer dialing parity, to intraLATA toll services when requested by one or more PSC or Federal Communications Commission certified telecommunication entities or common carriers. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Thad LeVar, PSC Chair	**Date:**	10/31/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R810-1**	**Filing ID: 54923**
Effective Date:	**10/18/2022**	

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Commuter Services	
Building:	947	
Street address:	311 Fort Douglas Blvd	
City, state and zip:	Salt Lake City, UT 84113	
Contact persons:		
Name:	**Phone:**	**Email:**
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R810-1. University of Utah Parking Regulations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
University parking rules exist to ensure a safe, orderly campus environment and a fair allocation, and use of, available parking space. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Collin Simmons, Director	**Date:**	10/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R810-8**	**Filing ID: 54927**
Effective Date:	**10/18/2022**	

Agency Information

1. Department:	Higher Education (Utah Board of)	
Agency:	University of Utah, Commuter Services	
Building:	947	
Street address:	311 Fort Douglas Blvd	
City, state and zip:	Salt Lake City, UT 84113	
Contact persons:		
Name:	**Phone:**	**Email:**
Jennifer Hanson	801-585-9481	Jennifer.hanson@utah.edu
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R810-8. Vendor Regulations

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
The University of Utah, through the Commuter Services department, is authorized to enact and enforce regulations that govern parking on campus through interpretation of Sections 53B-3-103 and 53B-3-107.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There haven't been any comments received during or since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
University parking rules exist to ensure a safe, orderly campus environment and a fair allocation, and use of, available parking space for all including vendors. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Collin Simmons, Director	**Date:**	10/18/2022

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Rule Number:	**R850-83**	**Filing ID: 52052**
Effective Date:	**10/20/2022**	

Agency Information

1. Department:	School and Institutional Trust Lands	
Agency:	Administration	
Room number:	Suite 500	
Street address:	675 E 500 S	
City, state and zip:	Salt Lake City, UT 84102-2818	
Contact persons:		
Name:	**Phone:**	**Email:**
Mike Johnson	801-538-5180	mjohnson@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R850-83. Administration of Previous Sales to Subdivisions of the State
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsections 53C-l-302(l)(a)(ii) and 53C-4-l0l(l) authorize the Director of the School and Institutional Trust Lands Administration to establish rules for the sale of land to subdivisions of the state. This particular rule addressed the process for administering lands which were previously sold under Section 65-1-29 and Subsection 65A-7-4(5), both of which have been repealed, when the provisions of the sale have been violated and the lands revert back to the Trust.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received by the agency since the previous five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Under Section 65-1-29 and Subsection 65A-7-4(5), both of which have been repealed, trust lands were sold to subdivisions of the state under a determinable fee process whereby the subdivision could purchase lands at a specific price for a specific purpose. If the use of the land changed for any reason, the land automatically reverted back to the Trust. This rule is necessary because it outlines the process whereby a breach of the sale terms is determined and the remedies available to the subdivision and Trust to cure the breach. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee and title:	Michelle McConkie, Director	**Date:**	10/17/2022

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food
Animal Industry
No. 54816 (Amendment) R58-18: Elk Farming
Published: 09/15/2022
Effective: 10/24/2022

Plant Industry
No. 54791 (Amendment) R68-22: Industrial Hemp Research
Published: 09/01/2022
Effective: 10/24/2022

No. 54735 (Amendment) R68-28: Cannabis Processing
Published: 07/15/2022
Effective: 10/24/2022

No. 54735 (Change in Proposed Rule) R68-28: Cannabis Processing
Published: 09/15/2022
Effective: 10/24/2022

No. 54833 (Amendment) R68-32: Sale and Transfer of Industrial Hemp Waste Material to Medical Cannabis Cultivators
Published: 09/15/2022
Effective: 10/24/2022

Commerce
Consumer Protection
No. 54688 (Amendment) R152-23: Health Spa Services Protection Act Rule
Published: 07/01/2022
Effective: 10/24/2022

No. 54691 (Amendment) R152-32a: Pawnshop, Secondhand Merchandise Transaction Information Act Rule
Published: 07/01/2022
Effective: 10/24/2022

Professional Licensing
No. 54769 (Amendment) R156-71: Naturopathic Physician Practice Act Rule
Published: 08/15/2022
Effective: 10/20/2022

Education
Administration
No. 54885 (Amendment) R277-123: Process for Members of the Public to Report Violations of Statute and Board Rule
Published: 10/01/2022
Effective: 11/07/2022

No. 54886 (Amendment) R277-324: Paraprofessional/Paraeducator Programs, Assignments, and Qualifications
Published: 10/01/2022
Effective: 11/07/2022

No. 54887 (Amendment) R277-426: Definition of Private and Non-Profit Schools for Federal Program Services
Published: 10/01/2022
Effective: 11/07/2022

No. 54888 (Amendment) R277-436: Gang Prevention and Intervention Programs in the Schools
Published: 10/01/2022
Effective: 11/07/2022

No. 54889 (Amendment) R277-454: Construction Management of School Building Projects
Published: 10/01/2022
Effective: 11/07/2022

No. 54890 (Amendment) R277-468: Parents Review of Public Education Curriculum and Review of Complaint Process
Published: 10/01/2022
Effective: 11/07/2022

No. 54891 (Amendment) R277-469: Instructional Materials Commission Operating Procedures
Published: 10/01/2022
Effective: 11/07/2022

No. 54892 (Amendment) R277-496: K-3 Reading Software Licenses
Published: 10/01/2022
Effective: 11/07/2022

No. 54893 (Amendment) R277-614: Athletes and Students with Head Injuries
Published: 10/01/2022
Effective: 11/07/2022

No. 54894 (Amendment) R277-625: Mental Health Screeners
Published: 10/01/2022
Effective: 11/07/2022

No. 54895 (Amendment) R277-726: Statewide Online Education Program
Published: 10/01/2022
Effective: 11/07/2022

No. 54896 (New Rule) R277-728: Honors Courses
Published: 10/01/2022
Effective: 11/07/2022

Environmental Quality
Drinking Water
No. 54837 (New Rule) R309-230: Lead in School Sampling and Remediation Requirements
Published: 09/15/2022
Effective: 11/01/2022

Government Operations
Finance
No. 54697 (Amendment) R25-7: Travel-Related Reimbursements for State Travelers
Published: 07/01/2022
Effective: 10/18/2022

Governor
Economic Opportunity
No. 54817 (Amendment) R357-3: Economic Development Tax Increment Financing Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54826 (Repeal and Reenact) R357-11: Utah Technology Innovation Funding Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54819 (Repeal) R357-16: Utah Outdoor Recreation Infrastructure Grant
Published: 09/15/2022
Effective: 10/27/2022

No. 54820 (Repeal) R357-16a: Restoration Recreation Infrastructure Grant Program Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54823 (Repeal) R357-16b: Utah Children's Outdoor Recreation and Education Grant Program Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54825 (Amendment) R357-21: Rural Jobs Act
Published: 09/15/2022
Effective: 10/27/2022

No. 54824 (Repeal) R357-24: Utah Works Program
Published: 09/15/2022
Effective: 10/27/2022

No. 54821 (Repeal) R357-26: Rural Rapid Manufacturing Grant Program
Published: 09/15/2022
Effective: 10/27/2022

No. 54818 (Repeal) R357-41: Utah Main Street Program Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54839 (New Rule) R357-43: Housing and Transit Reinvestment Zone Act Rule
Published: 09/15/2022
Effective: 10/27/2022

No. 54855 (New Rule) R357-44: State Small Business Credit Initiative Program Fund
Published: 09/15/2022
Effective: 10/27/2022

Higher Education (Utah Board of)
Administration
No. 54859 (New Rule) R765-901: Talent Ready Utah Program
Published: 10/01/2022
Effective: 11/08/2022

No. 54857 (New Rule) R765-902: Utah Works Program
Published: 10/01/2022
Effective: 11/08/2022

No. 54858 (New Rule) R765-1001: Utah Data Research Center
Published: 10/01/2022
Effective: 11/08/2022

Insurance
Administration
No. 54850 (Amendment) R590-164: Uniform Health Billing Rule
Published: 09/15/2022
Effective: 10/24/2022

No. 54851 (Amendment) R590-208: Uniform Application for Certificates of Authority
Published: 09/15/2022
Effective: 10/24/2022

No. 54852 (Amendment) R590-283: Defrayal of State-Required Benefits
Published: 09/15/2022
Effective: 10/24/2022

Natural Resources
Water Resources
No. 54854 (New Rule) R653-11: Water Conservation Requirements and Incentives
Published: 09/15/2022
Effective: 10/24/2022

Wildlife Resources
No. 54870 (Amendment) R657-28: Use of Division Lands
Published: 10/01/2022
Effective: 11/07/2022

Tax Commission
Property Tax
No. 54829 (Amendment) R884-24P-33: 2022 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-10743
Published: 09/15/2022
Effective: 11/03/2022

Workforce Services
Employment Development
No. 54840 (Amendment) R986-200-239: How to Determine the Amount of the Financial Assistance Payment
Published: 09/15/2022
Effective: 10/24/2022

Employment Development
No. 54872 (Amendment) R986-300-307: Refugee Transitional Cash Assistance
Published: 10/01/2022
Effective: 12/01/2022

End of the Notices of Rule Effective Dates Section