

UTAH STATE BULLETIN

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

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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EDITOR'S NOTES

NOTICE OF PUBLICATION ERROR IN THE FEBRUARY 1, 2005, ISSUE OF THE UTAH STATE BULLETIN FOR THE CPR ON RULE R156-47B, DAR NO. 27548

In the February 1, 2005, issue of the *Utah State Bulletin*, a change in proposed rule (CPR) was published for Rule R156-47b under DAR No. 27548 (2005-3, page 51). The agency (Division of Occupational and Professional Licensing) had asked to replace the text after it was filed on 01/13/2005 because the word "not" was missing from new language added at Subsection R156-47b-302a(1)(c). The agency submitted the new text on 01/18/2005, however, due to an error at the Division of Administrative Rules (DAR), the corrected text was not published.

The text as it should have appeared is as follows:

R156. Commerce, Occupational and Professional Licensing.

R156-47b. Massage Therapy Practice Act Rules.

R156-47b-202. Massage Therapy Education Peer Committee.

(1) There is created under Subsection 58-1-203(1)(f), the Massage Therapy Education Peer Committee.

(a) The Education Peer Committee shall:

(i) advise the Utah Board of Massage Therapy regarding massage therapy educational issues;

(ii) recommend to the Board standards for massage school ~~[curriculums]~~curricula, apprenticeship ~~[curriculums]~~curricula, and animal massage training; and

(iii) periodically review the current curriculum requirements.

(b) The composition of this committee shall be:

(i) two individuals who are instructors in massage therapy;

(ii) two individuals, one who represents a professional massage therapy association, and one who represents the Utah Committee of Bodywork Schools; and

(iii) one individual from the Utah State Office of Education.

R156-47b-302a. Qualifications for Licensure as a Massage Therapist - Massage School Curriculum Standards - Equivalent Education and Training.

(1) In accordance with Subsection 58-47b-302(2)(e)(i)(A), an applicant must graduate from a school of massage with a curriculum, which at the time of graduation, meets the following standards:

(a) ~~[Curriculums]~~Curricula must be registered with the Utah Department of Commerce, Division of Consumer Protection or an accrediting agency recognized by the United States Department of Education.

(b) ~~[Curriculums]~~Curricula shall be a minimum of 600 hours and shall include the following:

(i) anatomy, physiology and pathology - 150 hours;

(ii) massage theory including the five basic strokes - 300 hours;

(iii) professional standards, ethics and business practices - 35 hours;

(iv) safety and sanitation - 15 hours;

(v) clinic or practicum - 100 hours; and

(vi) other related massage subjects as approved by the Division in collaboration with the Board.

(c) In addition to the curriculum requirements of Subsection R156-47b-302a(1)(b), new ~~[curriculums]~~curricula shall ~~[meet the standards]~~include the major content areas, but are not required to meet the percentage weights of the National Certification Board of Therapeutic Massage and Bodywork (NCBTMB), National Certification Examination Content Outline, published July 2003, which is adopted and incorporated by reference.

(2) In accordance with Subsection 58-47b-302(2)(e)(i)(B), an applicant who completes equivalent education and training must document that the education and training was approved by NCBTMB as evidenced by current NCBTMB certification.

R156-47b-302c. Apprenticeship Standards for a Supervisor.

In accordance with Subsection 58-47b-302(2)(e)(ii), an apprentice supervisor shall:

(1) not begin an apprenticeship program until:

(a) the apprentice is licensed; and

(b) the supervisor is approved by the division;

(2) not begin a new apprenticeship program until:

(a) the apprentice being supervised passes the Massage Theory examination and becomes licensed as a massage therapist, unless otherwise approved by the division in collaboration with the board; and

(b) the supervisor complies with subsection (1);

- (3) if an apprentice being supervised fails the Massage Theory examination three times:
 - (a) together with the apprentice being supervised, meet with the Board at the next appropriate Board meeting;
 - (b) explain to the Board why the apprentice is not able to pass the examination;
 - (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination; and
 - (d) upon successful completion of the review as provided in Subsection (3)©, the apprentice shall again be eligible to take the Massage Theory examination;
- (4) supervise not more than two apprentices at one time, unless otherwise approved by the division in collaboration with the board;
- (5) train the massage apprentice in the areas of:
 - (a) massage theory - 50 hours;
 - (b) massage client service - 300 hours;
 - (c) hands on instruction - 325 hours;
 - (d) massage techniques - 120 hours;
 - (e) anatomy, physiology and pathology - 150 hours;
 - (f) business practices - 25 hours;
 - (g) ethics - 15 hours; and
 - (h) safety and sanitation - 15 hours;
- (6) submit a curriculum content outline with the apprentice application, including a list of the resource materials to be used;
- (7) display a conspicuous sign near the work station of the apprentice stating "Apprentice in Training";
- (8) keep a daily record which shall include the hours of instruction and training completed, the hours of client services performed, and the number of hours of training completed;
- (9) make available to the division upon request, the apprentice's training records;
- (10) verify the completion of the apprenticeship program on forms available from the division;
- (11) notify the division within ten working days if the apprenticeship program is terminated;
- (12) must not have been disciplined for any unprofessional or unlawful conduct within five years of the start of any apprenticeship program; and
- (13) ensure that the massage client services required in Subsection (5)(b) only be performed on the public; all other hands on practice must be performed by an apprentice on an apprentice or supervisor.

**KEY: licensing, massage therapy
2005**

Notice of Continuation February 26, 2001

58-1-106(1)(a)

58-1-202(1)(a)

58-47b-101

Comments will be accepted on this rule change until 03/03/2005. Questions or comments on the rule should be directed to Clyde Ormond at Commerce, Occupational and Professional Licensing, 160 E 300 S, Salt Lake City UT, 84111-2316, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

DAR regrets any inconvenience this mistake may have caused.

If you have any questions regarding this correction, please contact Nancy Lancaster, Publications Editor, Division of Administrative Rules, 4120 State Office Bldg, Salt Lake City, UT 84114, by phone at 801-538-3218, by FAX at 801-538-1773, or Internet E-mail at nllancaster@utah.gov

LEGISLATION WHICH AFFECTS RULEMAKING

The 56th Legislature's 2005 General Session began January 17, 2005. To this point, three bills and one resolution affecting rulemaking have been introduced.

H.B. 37 "Reauthorization of Administrative Rules" by Rep. David Ure (R)

This is the Administrative Rules Review Committee's annual bill that is required by Section 63-46a-11.5. The long title of H.B. 37 indicates that the bill "...reauthorizes all state agency administrative rules."

H.B. 37 passed the House on January 20, and passed the Senate on February 3. After enrolling, it will be presented to the governor for his signature. Additional information is available at <http://www.le.state.ut.us/~2005/htmndoc/hbillhtm/hb0037.htm>

H.B. 209 "Administrative Rules - Impact on Small Businesses" by Rep. Greg Hughes (R)

This bill was requested by the Salt Lake Chamber of Commerce and is a variation of the Small Business Administration's model Regulatory Flexibility Act (http://www.sba.gov/advo/laws/law_modeleg.html). As amended by the House, it defines small business as "...a business employing fewer than 50 persons." It requires, as part of the rule analysis, that an agency prepare a statement regarding the "anticipated cost or savings to: ...small businesses; and business in general...."

As of February 9, H.B. 209 is on the House 3rd reading calendar. Additional information is available at <http://www.le.state.ut.us/~2005/htmndoc/hbillhtm/hb0209.htm>

S.B. 101 "Utah Administrative Rulemaking Act Revision" by Sen. Howard Stephenson (R)

Following on a complaint that different terms were being used to mean the same thing in statute, S.B. 101 replaces the word "revoke" in references related to rulemaking in Title 9, and replaces it with the word "repeal". The bill also amends Section 63-46a-4 to clarify that "An agency authorized to make rules is also authorized to amend or repeal those rules." Finally, the bill corrects a reference in Title 53C related to the amendment of Section 63-46a-4.

S.B. 101 passed the Senate on January 19, and the House on February 2. After enrolling, it will be presented to the governor for his signature. Additional information is available at <http://www.le.state.ut.us/~2005/htmndoc/sbillhtm/sb0101.htm>

S.J.R. 4 "Joint Rules Resolution - Interim Rules Recodification" by Sen. Michael Waddoups (R)

S.J.R. 4 "renumbers and rewrites rules governing interim committees and special committees." Section 8 of the bill enacts IR2-2-102. This section provides for the review of rules referred to interim committees by the Administrative Rules Review Committee.

More information about S.J.R. 4 is available at <http://www.le.state.ut.us/~2005/htmndoc/sbillhtm/sjr004.htm>

Additional Information

Additional information about the 2005 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at: <http://www.le.state.ut.us/~2005/2005.htm>. The Legislature's home page can be found at: <http://le.utah.gov/>. Information about rulemaking legislation is also available at <http://www.rules.utah.gov/law/legis.htm>

Questions about this legislation may be directed to Ken Hansen, Director, Division of Administrative Rules, 4120 State Office Building, Salt Lake City, UT 84114-1201, phone: 801-538-3777, FAX: 801-538-1773, or Internet E-mail: khansen@utah.gov

End of the Editor's Notes Section

SPECIAL NOTICES

Environmental Quality Air Quality

Public Notice: Public Hearing on the Sulfur Dioxide Milestone Report

Utah's State Implementation Plan for Regional Haze, adopted by the Air Quality Board on 11/17/ 2003, requires that Utah cooperate with four other states in producing an annual report to determine if emissions of sulfur dioxide from large industrial sources are less than the emissions milestone set in the plan. The draft report for calendar year 2003 is now available for public comment at:

http://www.wrapair.org/forums/309/documents/050131Draft_WRAP_SO2_Milestone_Report.pdf.

The report shows that total emissions of sulfur dioxide from large sources in the five states -- Utah, Arizona, New Mexico, Wyoming and Oregon -- were 329,455 tons, while the milestone is 447,383 tons. Therefore, the report demonstrates that emissions in the five states are less than the milestone and the states have met the requirements of the plan for 2003.

The Division of Air Quality will hold a public hearing at 1:30 p.m. on 03/03/2005, in the Environmental Quality Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

The comment period closes at 5:00 p.m. on 03/11/2005. Comments postmarked on or before that date will be accepted.

Comments may be submitted by E-mail to janmiller@utah.gov or may be mailed to Richard W. Sprott, Director, Utah Division of Air Quality, PO Box 144820, Salt Lake City, UT 84114-4820, ATTN: SO2 Milestone Report.

Governor's Declaration: Declaration of Agricultural Disaster

DECLARATION OF AGRICULTURAL DISASTER

WHEREAS, approximately seven inches of rain fell on top of one foot of snow on the lower mountain areas of Iron and Washington Counties during January 3 - 9, 2005;

WHEREAS, the resulting extreme levels of water runoff caused the Virgin River, Santa Clara River, Ash Creek, and Shoal Creek to overflow their banks for numerous miles;

WHEREAS, the resulting flooding caused extensive damage to farm land and irrigations systems such as earthen and concrete ditches, concrete and metal pipelines, wheel lines, and other irrigation water delivery systems;

WHEREAS, extremely high water levels left more than 5,000 acres of agricultural lands covered with debris and sediment;

WHEREAS, a number of small farms have had their soils severely eroded or are now part of new river channels; and,

WHEREAS, irrigation systems that serve numerous farms in Washington and Iron Counties have been washed out, leaving no method to deliver water to numerous farms preparing to plant crops for the 2005 season;

NOW THEREFORE, I Jon M. Huntsman, Jr., Governor of the State of Utah by virtue of the power vested in me by the Constitution and the laws of the State of Utah do hereby declare an "Agricultural Disaster" due to the aforesaid flooding event in the State of Utah.

IN TESTIMONY, WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah, this 31st day of January, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

Governor's Executive Order 2005-0003: Authorizing the Lieutenant Governor to Act as the Governor's Agent on the State Bonding Commission

EXECUTIVE ORDER

I, JON M. HUNTSMAN, JR., GOVERNOR OF THE STATE OF UTAH, authorize Lieutenant Governor Gary R. Herbert to sign State Bonding Commission documents for me, vote on my behalf as a member of the Commission, and act in all other respects as my agent and proxy on the Commission until January 1, 2009. The State Bonding Commission is created by Section 63B-1-201, Utah Code Annotated 1953, as amended.

IN TESTIMONY WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 24th day of January, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0003

Governor's Executive Order 2005-0004: Authorizing the Lieutenant Governor to Act as the Governor's Agent on the State Building Ownership Authority

EXECUTIVE ORDER

I, JON M. HUNTSMAN, JR., GOVERNOR OF THE STATE OF UTAH, authorize Lieutenant Governor Gary R. Herbert to sign State Building Ownership Authority documents for me, vote on my behalf as a member of the Authority, and act in all other respects as my agent and proxy on the authority until January 1, 2009. The State Building Ownership Authority is created by Section 63B-1-304, Utah Code Annotated 1953, as amended.

IN TESTIMONY WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 24th day of January, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0004

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between January 15, 2005, 12:00 a.m., and February 1, 2005, 11:59 p.m. are included in this, the February 15, 2005, 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 (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will 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 Division 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 March 17, 2005. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 15, 2005, the agency may notify the Division 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 31 days 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 Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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 *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-1-7
Swine

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 27687
 FILED: 02/01/2005, 09:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change in Subsection R58-1-7(B) is to make it mandatory for exhibition swine that have attended livestock shows to go directly to slaughter.

SUMMARY OF THE RULE OR CHANGE: The changes are made to clarify the requirements to eliminate or reduce the spread of diseases among swine entering Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 4, Chapter 31; and Subsections 4-2-2(1)(c)(i) and 4-2-2(l)(j)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost to state budget. The changes clarify the requirements of exhibition swine entering Utah to eliminate the spread of diseases.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost to local government. The changes clarify the requirements of exhibition swine entering Utah.
- ❖ **OTHER PERSONS:** The cost to the livestock owner would be the cost of slaughtering the livestock. If the exhibition swine are not slaughtered there could be a penalty charged to the owner of not more than \$5,000. The Department of Agriculture and Food has no way of knowing how many exhibition swine will be slaughtered during the course of a year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be a penalty associated to the change in this rule, if the livestock was not taken to slaughter. The penalty is established in the Utah Agriculture Code. The cost could go as high as \$5,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only cost associated to the changes in this rule would be the cost to the livestock owner for the slaughtering of the livestock.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3087, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham, Mike Marshall, Earl Rogers, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7160, 801-538-7162, or 801-538-7102, by FAX at

801-538-7126, 801-538-7169, 801-538-7169, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, mmarshall@utah.gov, erogers@utah.gov, or kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.

R58-1-7. Swine.

A. Stocking, Feeding, and Breeding swine. Swine for stocking, breeding, feeding or exhibition may be shipped into the state if the following requirements are met:

1. Import Permit and Certificate of Veterinary Inspection - All swine must be accompanied by an approved Certificate of Veterinary Inspection stating they are clinically free from infectious or contagious disease or exposure and have not been fed raw garbage. The Certificate of Veterinary Inspection must show individual identification, ear tags, tattoos, registration numbers, micro chips or other permanent means. An import permit issued by the Department of Agriculture and Food must accompany all hogs, including feeder hogs imported into the state.

2. Test Status. The Certificate of Veterinary Inspection must list the brucellosis, and pseudorabies test status of the animals.

3. Quarantine - All swine shipped into the state for feeding or breeding purposes are subject to an 18 day quarantine beginning with the date of arrival at destination. The department shall be notified by the owner of date of arrival. Release from quarantine shall be given by the department only when satisfied that health conditions are satisfactory.

4. Brucellosis - All breeding and exhibition swine over the age of three months shipped into Utah must pass a negative test for brucellosis within 30 days prior to movement into the state or originate from a validated brucellosis free herd. A validated brucellosis free herd number and date of last test is required to be listed on the Certificate of Veterinary Inspection.

5. Pseudorabies - All breeding, feeding and exhibition swine must pass a negative pseudorabies test within the last thirty days unless they originate from a recognized qualified pseudorabies free herd. However, feeder swine may come into the state from a herd of origin in a Stage III, IV, or V state as classified by the Official Pseudorabies Eradication Program Standards 6-19-91. A 30 day retest is required on all breeding and exhibition swine brought into the state. Swine which are infected or exposed to pseudorabies may not enter the state, except swine consigned to a slaughterhouse for immediate slaughter and must be moved in compliance with 9 CFR 1-71.

6. Erysipelas - Purebred and breeding swine shall be immunized with erysipelas bacterin not less than 15 days prior to importation.

7. Leptospirosis - All breeding and exhibition swine over four months of age shall have passed a negative leptospirosis test within

30 days of entry, or be part of an entire negative herd test within the previous 12 months or be vaccinated for leptospirosis at least 15 days prior to entry. Herd and vaccination status must be stated on the Certificate of Veterinary Inspection.

8. PRRS -- All breeding and exhibition swine [3]2 months of age and over must be tested negative for Porcine Reproductive and Respiratory Syndrome (PRRS) virus within 30 days prior to entry to Utah.

B. Immediate Slaughter

Swine shipped into Utah for immediate slaughter must not have been fed raw garbage, must be shipped in for immediate slaughter with no diversions, and must be free from any infectious or contagious disease in compliance with 9 CFR 71.

Exhibition swine that have attended livestock shows in Utah [~~should~~shall] not be returned to Utah farms but [~~should~~shall] go directly to slaughter.

C. Prohibition of Non-domestic and Non-native Suidae and Tayassuidae.

Javelina or Peccary, and feral or wild hogs such as Eurasian or Russian wild hogs (*Sus scrofa*) are considered invasive species in Utah, capable of establishing wild reservoirs of disease such as brucellosis and pseudorabies. They are prohibited from entry to Utah except when approved by special application only for purposes of exhibition and after meeting the above vaccination and testing requirements.

**KEY: disease control
2005**

Notice of Continuation February 13, 2002

4-31

4-2-2(1)(j)

▼ ————— ▼

**Alcoholic Beverage Control,
Administration**

R81-1-24

Responsible Alcohol Service Plan

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27672

FILED: 01/27/2005, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is proposed to require that all applicants for a license to sell, serve, and store alcoholic beverages for consumption on the licensed premises to submit to the Department of Alcoholic Beverage Control (DABC), as a condition of licensing, a Responsible Alcohol Service Plan. It will also require that the owners of establishments already licensed to sell, serve or store alcoholic beverages for consumption on the licensed premises to submit to DABC, prior to the expiration of their current license as a condition of relicensing, a Responsible Alcohol Service Plan.

SUMMARY OF THE RULE OR CHANGE: This proposed rule amendment states the requirement for a Responsible Alcohol

Service Plan for new applicants and current holders of alcoholic beverage licenses issued for the sale, service, and storage of alcoholic beverages on the licensed premises, provides guidelines for the content of the Responsible Alcohol Service Plan, and establishes possible penalties for noncompliance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32A-1-107, and Title 32A, Chapter 4; Title 32A, Chapter 5; and Title 32A, Chapter 10

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Though there is no dollar amount available for the cost to the state's budget, DABC's compliance staff will be required to spend additional time in educating new applicants and current licensees as to the establishment and compliance requirements of their Responsible Alcohol Service Plan.

❖ **LOCAL GOVERNMENTS:** None--The Responsible Alcohol Service Plan is an alcoholic beverage licensee requirement of DABC and does not involve local government.

❖ **OTHER PERSONS:** Alcoholic beverage applicants and licensees will be required to spend time and thought creating a meaningful Responsible Alcohol Service Plan. Staff training is an integral part of the plan and may possibly involve a monetary output for training materials and/or trainers, though this amount may be minimal, and will vary from one licensee to another.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each individual alcoholic beverage license applicant and licensee will be required to spend time and thought creating a meaningful Responsible Alcohol Service Plan. Staff training is an integral part of the plan and may possibly involve a monetary output for training materials and/or trainers, though this amount may be minimal and will vary from one licensee to another.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Responsible Alcohol Service Plan created and implemented by each license must meet minimum standards. However, some licensees may take the initiative to create plans that are more detailed than others. The fiscal impact, therefore, may vary from one licensed establishment to another. Likely the largest fiscal impact will be realized in the on-going staff training required by the proposed rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

**ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.**

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Kenneth F. Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope, Definitions, and General Provisions.

R81-1-24. Responsible Alcohol Service Plan.

(1) Authority. This rule is pursuant to the commission's powers and duties under 32A-1-107 to act as a general policymaking body on the subject of alcoholic beverage control; set policy by written rules that establish criteria and procedures for granting, denying, suspending, or revoking licenses; and prescribe the conduct and management of any premises upon which alcoholic beverages may be sold, consumed, served, or stored. It is also pursuant to the authority granted to the commission in Title 32A, Chapters 4, 5, and 10 to require licensing information, in addition to that which is statutorily required, as part of any application for a license to sell, serve or store alcoholic beverages for consumption on the licensed premises.

(2) Purpose. This rule requires any applicant for a license to sell, serve and store alcoholic beverages for consumption on the licensed premises to submit to the department, as a condition of licensing, a Responsible Alcohol Service Plan. This rule also requires any business licensed by the commission to sell, serve or store alcoholic beverages for consumption on the licensed premises to submit to the department, prior to the expiration of its current license as a condition of relicensing, a Responsible Alcohol Service Plan.

(3) Definitions.

(a) "Applicant" means a person or business entity that applies for a license from the commission to sell, serve, and store alcoholic beverages for consumption on the premises of the business.

(b) "Commission" means the Alcoholic Beverage Control Commission.

(c) "Department" means the Department of Alcoholic Beverage Control.

(d) "Intoxication" and "Intoxicated" means a person who is actually, apparently, or obviously under the influence of an alcoholic beverage, a controlled substance, a substance having the property of releasing toxic vapors, or a combination of alcoholic beverages or said substances, to a degree that the person may endanger himself or another.

(e) "Licensed Business" is a person or business entity licensed by the commission to sell, serve, and store alcoholic beverages for consumption on the premises of the business.

(f) "Manager" means a person chosen or appointed to manage, direct, or administer the operations at a licensed business. A manager may also be a supervisor.

(g) "Responsible Alcohol Service Plan" or "Plan" means a written set of policies and procedures of an applicant or licensed business that outline measures that will be taken by the business to prevent employees of the applicant or licensed business from:

(i) over-serving alcoholic beverages to customers;
(ii) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(iii) serving alcoholic beverages to persons under the age of 21.

(h) "Server" means an employee who actually makes available, serves to, or provides an alcoholic beverage to a customer for consumption on the business premises.

(i) "Supervisor" means an employee who, under the direction of a manager or owner, directs or has the responsibility to direct, transfer, or assign duties to employees who actually provide alcoholic beverages to customers on the premises of the business.

(4) Application of Rule.

(a) Any applicant shall submit to the department, as a condition of licensing, a Responsible Alcohol Service Plan.

(b) Any licensed business shall submit to the department, prior to the expiration of its current license as a condition of re-licensing, a Responsible Alcohol Service Plan.

(c) Any Responsible Alcohol Service Plan at a minimum shall:

(i) identify the expectations of the business regarding responsible alcoholic beverage service by employees of the business;

(ii) clearly identify the duties and responsibilities of managers, supervisors, servers, security personnel, and other employees under the Plan;

(iii) require adherence to the Plan as a condition of initial and continued employment;

(iv) be available and accessible to all employees of the business;

(v) require all managers, supervisors and servers to take the Alcoholic Training And Education Seminar Program in accordance with the time deadlines established in 62A-15-401.

(vi) outline steps to be taken by employees to prevent over-serving alcoholic beverages, serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated, and serving alcoholic beverages to persons under the age of 21;

(vii) require regular employee training on responsible alcoholic beverage service that includes:

(A) identifying legal forms of ID, checking ID, and recognizing fake ID;

(B) identifying persons under the age of 21;

(C) identifying problem drinkers;

(D) discussing the legal definition of intoxication;

(E) identifying behavioral signs of intoxication;

(F) discussing techniques for monitoring and controlling consumption such as:

(1) drink counting;

(2) intervention techniques;

(3) slowing down alcohol service;

(4) offering food or nonalcoholic beverages; and

(5) cutting off alcohol service;

(G) dealing with hostile customers;

(H) discussing third party liability for the unlawful service of alcoholic beverages to intoxicated persons and persons under the age of 21 as outlined in 32A-14a-101 through -105;

(I) discussing potential criminal, civil and administrative penalties for over-serving alcoholic beverages, serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated, and serving alcoholic beverages to persons under the age of 21.

(viii) identify security procedures for dealing with hostile customers;

(ix) identify procedures for providing alternative means of transportation to get customers home safely;

(x) require the active observing and monitoring of employees for compliance with the Plan;

(xi) identify any incentives for employees who follow the Plan;

(xii) identify the consequences for violating the Plan;

(d)(i) Any applicant who fails to submit to the department a Plan shall not be granted a license by the commission.

(ii) Any licensed business that fails to submit to the department, prior to the expiration of its current license, a Plan shall not be granted a renewal of its license by the commission.

(iii) Failure of a licensed business to comply with the conditions and requirements of this rule may result in a suspension or revocation of the license and other disciplinary action taken against individual managers, supervisors, and employees of the licensed business.

(e) The department, at the request of an applicant or licensed business, may provide assistance in the preparation of a Plan.

KEY: alcoholic beverages

[June 1, 2004]2005

Notice of Continuation December 26, 2001

32A-1-107

32A-1-119(5)(c)

32A-3-103(1)(a)

32A-4-103(1)(a)

32A-4-203(1)(a)

32A-5-103(3)(c)

32A-6-103(2)(a)

32A-7-103(2)(a)

32A-8-103(1)(a)

32A-9-103(1)(a)

32A-10-203(1)(a)

32A-11-103(1)(a)



Commerce, Occupational and
Professional Licensing
R156-1
General Rules of the Division of
Occupational and Professional
Licensing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27670

FILED: 01/27/2005, 11:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing these amendments to conform with legislative changes being made in Section 58-1-501 as a result of the anticipated passage of S.B. 46 during the 2005 Legislative Session.

SUMMARY OF THE RULE OR CHANGE: In Section R156-1-102, deleted definition for "branching questionnaire" and

renumbered the remaining subsections. Deleted Section R156-1-601 in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308, and Subsections 58-1-106(1)(a) and 58-1-501(4)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs, approximately \$50, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments only affect licensed practitioners and not government agencies. To the Division's knowledge, no local health agency has been utilizing branching questionnaires and Internet prescribing; therefore, there would be no affect on local governments.

❖ OTHER PERSONS: As a result of the proposed amendments, patients will no longer be able to receive any prescription drugs based on an Internet questionnaire. Also, any prescribing practitioner who is currently prescribing drugs to patients based on a branching questionnaire will no longer be able to practice in that manner. This may decrease the number of patients to whom the practitioner prescribes. The anticipated statute change and these proposed amendments will require patients to seek prescriptions via the traditional face-to-face appointment with a prescribing practitioner. As a result of a wide variety of circumstances, the Division is unable to determine any costs or savings as a result of these proposed amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As a result of the proposed amendments, patients will no longer be able to receive any prescription drugs based on an Internet questionnaire. Also, any prescribing practitioner who is currently prescribing drugs to patients based on a branching questionnaire will no longer be able to practice in that manner.

This may decrease the number of patients to whom the practitioner prescribes. The anticipated statute change and these proposed amendments will require patients to seek prescriptions via the traditional face-to-face appointment with a prescribing practitioner. As a result of a wide variety of circumstances, the Division is unable to determine any costs or savings as a result of these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: S.B. 46 is presently before the 2005 Legislative Session. This bill defines a "bona fide patient-practitioner relationship" and repeals the provision that authorized the Division of Occupational and Professional Licensing (DOPL) to grant exceptions to such a relationship by rule. Thus, this filing amends the Division rule which deal with branching questionnaire and online assessments, provisions that were useful only if there was an exception to a bona fide patient-practitioner relationship. No additional fiscal impact to businesses is foreseen beyond those addressed in S.B. 46. This filing is submitted now so as to complete the rulemaking process by the effective date of S.B. 46. If S.B. 46 does not pass, DOPL will not make this rule effective. Russell C. Skousen, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rules of the Division of Occupational and Professional Licensing.
R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or these rules:

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.

(2) "Aggravating circumstances" means any consideration or factors that may justify an increase in the severity of an action to be imposed upon an applicant or licensee. Aggravating circumstances include:

- (a) prior record of disciplinary action, unlawful conduct, or unprofessional conduct;
- (b) dishonest or selfish motive;
- (c) pattern of misconduct;
- (d) multiple offenses;
- (e) obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the Division;
- (f) submission of false evidence, false statements or other deceptive practices during the disciplinary process including creating, destroying or altering records after an investigation has begun;
- (g) refusal to acknowledge the wrongful nature of the misconduct involved, either to the client or to the Division;
- (h) vulnerability of the victim;
- (i) lack of good faith to make restitution or to rectify the consequences of the misconduct involved;
- (j) illegal conduct, including the use of controlled substances; and
- (k) intimidation or threats of withholding clients' records or other detrimental consequences if the client reports or testifies regarding the unprofessional or unlawful conduct.

(3) [~~"Branching questionnaire", as used in Section R156-1-601, means an adaptive, progressive inquiry used by a physician to~~

~~determine a health history and assessment, and serves as the basis for a diagnosis.~~

~~—(4)—~~"Cancel" or "cancellation" means nondisciplinary action by the division to rescind, repeal, annul, or void a license issued in error. Such action includes rescinding a license issued to an applicant whose payment of the required application fee is dishonored when presented for payment, or who has been issued a conditional license pending a criminal background check and the check cannot be completed due to the applicant's failure to resolve an outstanding warrant or to submit acceptable fingerprint cards.

~~(5)~~"Charges" means the acts or omissions alleged to constitute either unprofessional or unlawful conduct or both by a licensee, which serve as the basis to consider a licensee for inclusion in the diversion program authorized in Section 58-1-404.

~~(6)~~"Denial of licensure" means action by the division refusing to issue a license to an applicant for initial licensure, renewal of licensure, reinstatement of licensure or relicensure.

~~(7)~~"Disciplinary action" means adverse licensure action by the division under the authority of Subsections 58-1-401(2)(a) through (2)(b).

~~(8)~~"Diversion agreement" means a formal written agreement between a licensee, the division, and a diversion committee, outlining the terms and conditions with which a licensee must comply as a condition of entering in and remaining under the diversion program authorized in Section 58-1-404.

~~(9)~~"Diversion committees" mean diversion advisory committees authorized by Subsection 58-1-404(2)(a)(i) and created under Subsection R156-1-404a.

~~(10)~~"Duplicate license" means a license reissued to replace a license which has been lost, stolen, or mutilated.

~~(11)~~"Emergency review committees" mean emergency adjudicative proceedings review committees created by the division under the authority of Subsection 58-1-108(2).

~~(12)~~"Expire" or "expiration" means the automatic termination of a license which occurs:

- (a) at the expiration date shown upon a license if the licensee fails to renew the license before the expiration date; or
- (b) prior to the expiration date shown on the license:
 - (i) upon the death of a licensee who is a natural person;
 - (ii) upon the dissolution of a licensee who is a partnership, corporation, or other business entity; or
 - (iii) upon the issuance of a new license which supersedes an old license, including a license which:
 - (A) replaces a temporary license;
 - (B) replaces a student or other interim license which is limited to one or more renewals or other renewal limitation; or
 - (C) is issued to a licensee in an upgraded classification permitting the licensee to engage in a broader scope of practice in the licensed occupation or profession.

~~(13)~~"Inactive" or "inactivation" means action by the division to place a license on inactive status in accordance with Sections 58-1-305 and R156-1-305.

~~(14)~~"Investigative subpoena authority" means, except as otherwise specified in writing by the director, the division enforcement counsel, or if the division enforcement counsel is unable to so serve for any reason, the assistant director, or if both the division enforcement counsel and the assistant director are unable to so serve for any reason, the department enforcement counsel.

~~(15)~~"License" means a right or privilege to engage in the practice of a regulated occupation or profession as a licensee.

(~~146~~15) "Limit" or "limitation" means nondisciplinary action placing either terms and conditions or restrictions or both upon a license:

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

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

(~~147~~16) "Mitigating circumstances" means any consideration or factors that may justify a reduction in the severity of an action to be imposed upon an applicant or licensee.

(a) Mitigating circumstances include:

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

(ii) absence of dishonest or selfish motive;

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

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

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

(vi) inexperience in the practice of the occupation and profession provided such inexperience is not the result of failure to obtain appropriate education or consultation that the applicant or licensee should have known they should obtain prior to beginning work on a particular matter;

(vii) imposition of other penalties or sanctions; and

(viii) remorse.

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

(i) forced or compelled restitution;

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

(iii) resignation prior to disciplinary proceedings;

(iv) failure of injured client to complain; and

(v) complainant's recommendation as to sanction.

(~~148~~17) "Nondisciplinary action" means adverse licensure by the division under the authority of Subsections 58-1-401(1) or 58-1-401(2)(c) through (2)(d).

(~~149~~18) "Peer committees" mean advisory peer committees to boards created by the legislature in Title 58 or by the division under the authority of Subsection 58-1-203(1)(f).

(~~20~~19) "Private reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a private record.

(~~24~~20) "Probation" means disciplinary action placing terms and conditions upon a license;

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

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

(~~22~~21) "Public reprimand" means disciplinary action to formally reprove or censure a licensee for unprofessional or unlawful conduct, with the documentation of the action being classified as a public record.

(~~23~~22) "Regulatory authority" as used in Subsection 58-1-501(2)(d) means any governmental entity who licenses, certifies,

registers, or otherwise regulates persons subject to its jurisdiction, or who grants the right to practice before or otherwise do business with the governmental entity.

(~~24~~23) "Reinstatement" or "reinstatement" means to activate an expired license or to restore a license which is restricted, as defined in Subsection (26)(b), or is suspended, or placed on probation, to a lesser restrictive license or an active in good standing license.

(~~25~~24) "Relicense" or "relicensure" means to license an applicant who has previously been revoked or has previously surrendered a license.

(~~26~~25) "Remove or modify restrictions" means to remove or modify restrictions, as defined in Subsection (26)(a), placed on a license issued to an applicant for licensure.

(~~27~~26) "Restrict" or "restriction" means disciplinary action qualifying or limiting the scope of a license:

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

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

(~~28~~27) "Revoke" or "revocation" means disciplinary action by the division extinguishing a license.

(~~29~~28) "Suspend" or "suspension" means disciplinary action by the division removing the right to use a license for a period of time or indefinitely as indicated in the disciplinary order, with the possibility of subsequent reinstatement of the right to use the license.

(~~30~~29) "Surrender" means voluntary action by a licensee giving back or returning to the division in accordance with Section 58-1-306, all rights and privileges associated with a license issued to the licensee.

(~~34~~30) "Temporary license" or "temporary licensure" means a license issued by the division on a temporary basis to an applicant for initial licensure, renewal or reinstatement of licensure, or relicensure in accordance with Section 58-1-303.

(~~32~~31) "Unprofessional conduct" as defined in Title 58 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-1-502.

(~~33~~32) "Warning or final disposition letters which do not constitute disciplinary action" as used in Subsection 58-1-108(3) mean letters which do not contain findings of fact or conclusions of law and do not constitute a reprimand, but which may address any or all of the following:

(a) division concerns;

(b) allegations upon which those concerns are based;

(c) potential for administrative or judicial action; and

(d) disposition of division concerns.

~~[R156-1-601. Online Assessment, Diagnosis and Prescribing Protocols:~~

~~— (1) In accordance with Subsection 58-1-501(4), a person licensed to prescribe under this title may prescribe legend drugs to a person located in this state following an online assessment and diagnosis in accordance with the following conditions:~~

~~— (a) the prescribing practitioner is licensed in good standing in this state;~~

~~— (b) an assessment and diagnosis is based upon a comprehensive health history and an assessment tool that requires the patient to provide answers to all the required questions and does not rely upon default answers, such as a branching questionnaire;~~

~~— (c) only includes legend drugs and may not include controlled substances;~~

~~—(d) the practice is authorized by these rules and a written agreement signed by the Division and the practitioner and approved by a panel comprised of three board members from the Physicians Licensing Board or the Osteopathic Physician and Surgeon's Licensing Board and three members from the Utah State Board of Pharmacy. The written agreement shall include:~~

~~—(i) the specific name of the drug or drugs approved to be prescribed;~~

~~—(ii) the policies and procedures that address patient confidentiality;~~

~~—(iii) a method for electronic communication by the physician and patient;~~

~~—(iv) a mechanism for the Division to be able to conduct audits of the website and records to ensure an assessment and diagnosis has been made prior to prescribing any medications; and~~

~~—(v) a mechanism for the physician to have ready access to all patients' records.]~~

KEY: diversion programs, licensing, occupational licensing
[October 18, 2004]2005

Notice of Continuation May 2, 2002

58-1-106(1)(a)

58-1-308

58-1-501(4)

Education, Administration **R277-713**

Concurrent Enrollment of High School Students in College Courses

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27662
 FILED: 01/17/2005, 14:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide greater clarity and consistency in awarding credit, defining fees for purposes of this rule, designating eligible courses, and requiring background checks for new Concurrent Enrollment Program faculty.

SUMMARY OF THE RULE OR CHANGE: The rule provides for definition changes and additions, changes in eligible courses for Concurrent Enrollment Program funding, student participation, program delivery, student tuition, fees and credit for Concurrent Enrollment Programs, faculty requirements, and other issues.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-17a-120 and Subsection 53A-1-402(1)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The same amount of money will be appropriated although the disbursement may be somewhat different.

❖ LOCAL GOVERNMENTS: The amendments to this rule may affect the Concurrent Enrollment Program funds received by school districts. Only designated courses will be eligible for reimbursement and school districts will only be reimbursed for courses taken before the students actually graduate. Someone will have to cover the costs of criminal background checks. It cannot be determined how many new teachers will be affected but the approximate cost per individual is \$45.

❖ OTHER PERSONS: There may be some savings for affected persons. The amendments make clear that there can be no fees charged for Concurrent Enrollment Program classes. In addition, the rule clarifies fee waiver applicability to Concurrent Enrollment Program for required textbooks and materials. Someone will have to cover the costs of criminal background checks. It cannot be determined how many new teachers will be affected but the approximate cost per individual is \$45.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Someone will have to cover the costs of criminal background checks. It cannot be determined how many new teachers will be affected but the approximate cost per individual is \$45.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact to businesses. Patti Harrington, State Superintendent of Public Instruction

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathy Akin at the above address, by phone at 801-538-7830, by FAX at 801-538-7768, or by Internet E-mail at kakin@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-713. Concurrent Enrollment of High School Students in College Courses.

R277-713-1. Definitions.

A. "Adjunct/Concurrent faculty" means ~~[high school teacher(s)]~~ instructors approved by the cooperating USHE institution ~~[of higher education]~~ and approved by school district or charter school receiving concurrent enrollment services from the instructor

to teach concurrent enrollment classes on behalf of the USHE institution~~[of higher education]~~.

~~[B]~~B. "Annual Concurrent Enrollment Contract" means a written plan, negotiated by a school district and a USHE institution~~[of higher education]~~, to provide college level courses to high school students.

~~[B]~~C. "Board" means the Utah State Board of Education.

~~[C]~~D. "Concurrent enrollment" for state funding and for the purposes of this rule means enrollment by public school students in one or more ~~[college or university]~~USHE institution course(s) ~~[for credit by a high school student who]~~under a contractual agreement between the USHE institution and a school district/public school. Students continue[s] to be enrolled [and] in public schools, counted in Average Daily Membership[-], and receive credit toward graduation. They also receive college credit for courses.

E. "Fees" for purposes of concurrent enrollment and this rule mean expenses to students directly related to enrollment and tuition. Fees do not include reasonable lab costs, expenses for textbooks and consumable curriculum materials.

~~[E]~~E. "USHE" means the Utah System of Higher Education.

~~[F]~~G. "USOE" means the Utah State Office of Education.

R277-713-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which provides for the State Board to have general supervision and control over public schools and by Section 53A-17a-120 which directs the Board to adopt rules for accelerated learning programs, Section 53A-1-402(1)(c) which directs the Board to adopt minimum standards for curriculum, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of concurrent enrollment is to provide a challenging college-level and productive secondary school experience, particularly in the senior year, and to provide transition courses ~~[to]~~that can be applied to post-secondary education.

C. The purpose of this rule is to specify the standards and procedures for concurrent enrollment courses and criteria for funding appropriate concurrent enrollment expenditures.

R277-713-3. Student Eligibility.

A. Local schools and USHE institutions~~[of higher education]~~ shall jointly establish student eligibility requirements which shall be sufficiently selective to predict a successful experience.

B. Local schools have the primary responsibility for identifying students who are eligible to participate in concurrent enrollment classes.

C. Each student participating in the concurrent enrollment program shall have a current student education/occupation plan (SEOP) on file at the participating ~~[high-]~~school, as required under Section 53A-1a-106(2)(b).

R277-713-~~[5]~~4. Courses and Student Participation.

~~[B]~~A. Course registration and the awarding of USHE institution credit for concurrent enrollment courses are the province of colleges and universities governed by USHE policies.

B. Concurrent enrollment offerings shall be limited to courses in English, mathematics, fine arts, humanities, science, social science, world languages, and career technical programs to allow a focus of energy and resources on quality instruction in these courses. However, there may be a greater variety of courses in the career

technical education area. Concurrent Enrollment courses should assist students toward post-secondary degrees.

C. All concurrent enrollment courses shall be approved or orchestrated by the high school or the USOE and shall provide for waiver of fees to eligible students.

D. Only courses taken from a master list maintained by the Curriculum Section at the USOE shall be reimbursed from state concurrent enrollment funds. Courses may be added or deleted from the master list with adequate notice to teachers at USHE institutions and public schools.

E. Concurrent enrollment funding shall be provided only for 1000 or 2000 level courses unless a student's SEOP identifies a student's readiness and preparation for a higher level course. This exception shall be individually approved by the student's counselor and school district or charter school concurrent enrollment administrator. Concurrent enrollment funding is not intended for unilateral parent/student initiated college attendance or course-taking.

~~[C]~~E. Concurrent enrollment course offerings shall reflect the strengths and resources of the respective schools and USHE institutions~~[of higher education]~~ and be based upon student needs. The number of courses selected shall be kept small enough to ensure coordinated statewide development and training activities for participating teachers.~~[Concurrent enrollment offerings shall be limited to a manageable number of courses in English, mathematics, fine arts, humanities, science, social science, and vocational/technical programs to allow a focus of energy and resources on quality instruction in these courses. However, there may be a greater variety of courses in the vocational technical area.]~~

~~[D]~~G. Course content, procedures, examinations, teaching materials, and program monitoring shall be the responsibility of the appropriate ~~[higher education]~~USHE institution~~[or department]~~, shall be consistent with Utah law, and shall ensure quality and comparability with courses offered on the college or university campus.

~~[A]~~H. Participation in concurrent enrollment ~~[begins a student's college experience and]~~generates higher education credit that becomes a part of a student's permanent college transcript.

R277-713-~~[4]~~5. ~~[Operational Procedures]~~Program Delivery.

A. ~~[Private and public institutions]~~Schools within the USHE that grant higher education/college credit~~[of higher education]~~ may participate in the concurrent enrollment program.

B. Concurrent enrollment courses shall be offered at the most appropriate location using the most appropriate methods for the course content, the faculty, and the students involved, consistent with Section 53A-17a-120(2)(a).

C. The delivery system and curriculum program shall be designed and implemented to take full advantage of the most current available educational technology.

D. Courses taken by students who have received a diploma, whose class has graduated or who have participated in graduation exercises are not eligible for concurrent enrollment funding. Senior students shall complete reimbursable concurrent enrollment courses prior to their graduation or participation in graduation exercises.

E. Concurrent enrollment is intended primarily for students in their last two years of high school. Attendance by younger students shall be approved by both the public school and the USHE institution.

F. State reimbursement to school districts for concurrent enrollment courses may not exceed 30 semester hours per student per year.

G. Public schools/school districts shall use USOE designated 11-digit course codes for concurrent enrollment courses.

R277-713-6. Student Tuition, Fees and Credit for Concurrent Enrollment Programs.

A. Tuition or fees may not be charged to high school students for participation in this program consistent with Section 53A-15-101(6)(b)(iii).

B. Students may be ~~charged~~ assessed a one-time enrollment ~~[fee]charge per institution~~ [and assume responsibility for obtaining textbooks].

C. Concurrent enrollment program ~~[fees]costs~~ attributable only to [college/university]USHE credit or enrollment are not fees and as such are not subject to fee waiver under R277-407.

D. All ~~[other fees]~~ students' costs related to concurrent enrollment classes, which may include consumables, lab fees, copying, and material costs, as well as textbooks required for the course, are subject to fee waiver consistent with R277-407.

E. The school district/school shall be responsible for these waivers. The agreement between the USHE institution and the district may address the responsibility for fee waivers. The district may withhold concurrent enrollment funds to cover fee waiver costs.

~~[E]F.~~ Credit:

(1) ~~[Three (3) semester higher education hours equal one (1) unit of high school credit]~~ A student shall receive high school credit for concurrent enrollment classes that is consistent with the district policies for awarding credit for graduation.

(2) College level courses taught in the high school carry the same credit hour value as when taught on a college or university campus and apply toward college/university graduation on the same basis as courses taught at the USHE institution ~~[of higher education]~~ to which the credits are submitted.

(3) Credit earned through the concurrent enrollment program shall be transferable from one USHE institution to another.

(4) Concurrent enrollment course credit shall count toward high school graduation requirements as well as for college credit.

R277-713-7. Faculty Requirements.

A. Nomination of adjunct faculty is the joint responsibility of the participating local school district(s) and the participating USHE institution ~~[of higher education]~~. Final approval of the adjunct faculty shall be determined by the appropriate ~~[college or university department]~~ USHE institution. ~~[Selection criteria for adjunct faculty teaching concurrent enrollment courses shall be the same as those criteria applied to other adjunct faculty appointments within the department.]~~

B. USHE institution adjunct faculty beginning their USHE employment in the 2005-06 school year who are not K-12 teachers and who have significant unsupervised access to K-12 students shall complete a criminal background check consistent with Section 53A-3-410. The adjunct faculty employer shall have responsibility for determining the need for criminal background checks consistent with the law and for satisfying this requirement and shall maintain appropriate documentation.

~~[B]C.~~ Adjunct faculty status of high school teachers:

(1) High school teachers who hold adjunct or part time faculty status with a [college or university]USHE institution for the purpose of teaching concurrent enrollment courses shall be included as fully

as possible in the academic life of the supervising academic department.

(2) ~~[Universities, colleges]~~ USHE institutions and secondary schools shall share expertise and in-service training, as necessary, to adequately prepare teachers at all levels to teach concurrent enrollment students and content, including both federal and state laws specific to student privacy and student records.

~~—(3) In-service experiences may qualify teachers or professors for graduate level credit.]~~

R277-713-8. Concurrent Enrollment Funding and Use of Concurrent Enrollment Funds.

A. Each district shall receive a pro-rated amount of the funds appropriated for concurrent enrollment according to the number of semester hours successfully completed by students registered through the district in the prior year compared to the state total of completed concurrent enrollment hours. Successfully completed means that a student received USHE credit for the course. Concurrent enrollment funds may not reimburse districts for repeated concurrent enrollment courses. Appropriate reimbursement may be verified at any reasonable time by USOE audit.

B. Each high school shall receive its proportional share of district concurrent enrollment monies allocated to the district pursuant to Section 53A-17a-120 based upon the hours of concurrent enrollment course work successfully completed by students on the high school campus as compared to the state total of completed concurrent enrollment hours.

~~—C. State funding to school districts for concurrent enrollment is limited to a maximum of 30 semester hours per student per school year.]~~

~~[D]C.~~ Funds allocated to school districts for concurrent enrollment shall not be used for any other program.

~~[E]D.~~ Colleges or universities shall receive concurrent enrollment funds from school districts based on the Annual Concurrent Enrollment Contract and ~~[approved guidelines]~~ applicable rules.

~~[E]E.~~ District use of state funds for concurrent enrollment is limited to the following:

(1) ~~[to pay]~~ tuition for students as established by an agreement with the USHE institution;

(2) ~~[to pay for]~~ a share of the costs of supervision and monitoring by [college or university]USHE institution employees according to the annual contractual agreement;

(3) ~~[to]~~ aid in staff development of adjunct faculty in cooperation with the participating [college or university]USHE institution;

(4) ~~[to]~~ assistance with delivery costs [of]for distance learning programs;

(5) ~~[to offset]~~ participation in the costs of district or school personnel who work with the program;

(6) ~~[to pay for]~~ student textbooks and other instructional materials; and

(7) fee waivers for costs or expenses related to concurrent enrollment for fee waiver eligible students under R277-407.

~~[(7)]8.~~ other uses approved in writing [through]by the USOE [Concurrent Enrollment Specialist]consistent with the law and purposes of this rule.

~~—G. Concurrent enrollment course credit shall count for completion of high school graduation requirements as well as for college credit.]~~

R277-713-9. Annual Contracts and Other Student Instruction Issues.

A. Collaborating school districts/public schools and USHE institutions [of higher education] shall negotiate annual contracts including:

- (1) the courses offered;
- (2) the location of the instruction;
- (3) the teacher;
- (4) student eligibility requirements;
- (5) course outlines;
- (6) texts, and other materials needed; and
- (7) the administrative and supervisory services, in-service education, and reporting mechanisms to be provided by each party to the contract.

B. The annual concurrent enrollment agreement between a USHE institution and a school/school district or charter school who has responsibility shall:

(1) provide for parental permission for students to participate in concurrent enrollment classes, which includes notice to parents that participation in concurrent enrollment courses count toward a student's college record/transcript,

(2) provide for the entity responsible for parent notification about concurrent enrollment purpose(s) and student and family privacy protections; and

(3) provide for discussion and training, as necessary, to all concurrent enrollment instructors about student information, student records laws, and student confidentiality.

C. This rule shall be effective beginning with the 2005-2006 school year.

KEY: students, curricula, higher education
~~November 2, 1999~~2005

Notice of Continuation September 12, 2002

Art X Sec 3

53A-17a-120

53A-1-402(1)(c)

53A-1-401(3)

▼ ————— ▼

Environmental Quality, Air Quality

R307-210

Stationary Sources

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 27665
FILED: 01/20/2005, 11:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule incorporates federal standards by reference. The purpose of the amendments is to add to the Utah rule the amendments in standards that have been made in the federal rule since 1998.

SUMMARY OF THE RULE OR CHANGE: Amendments in standards have been made in the federal New Source Performance Standards, 40 CFR Part 60, since Utah last incorporated the standards by reference into Rule R307-210; the amendment incorporates the revised federal standards through July 8,

2004, into this rule. The federal rules already apply to the sources; incorporating them into the state rule allows the Division of Air Quality to enforce the standards. Generally, the amendments give sources additional flexibility. Affected sources are: stationary gas turbines; bulk gasoline terminals and gasoline distribution facilities; volatile organic liquid storage vessels for which construction, reconstruction or modification commenced after July 23, 1984; large municipal waste combustors for which construction commenced after September 20, 1994, or for which modification or reconstruction is commenced after June 19, 1996; synthetic organic chemical manufacturing industry; municipal solid waste landfills; and industrial-commercial-institutional steam generating units. The Division of Air Quality is not aware of any large municipal waste combustors or synthetic organic chemical manufacturers operating in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a) and Section 19-2-108

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR 60, effective 07/01/2004 and 64 FR 41346 (07/08/2004)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no change in cost to the state budget, as the sources affected by the amended federal standards already are included in state rules, and thus already are subject to inspection and compliance review.

❖ **LOCAL GOVERNMENTS:** How many of the affected sources are operated by local governments is not known precisely. Since the new standards either allow more flexibility or reduce reporting requirements, there is likely to be some small savings to local governments that operate affected sources.

❖ **OTHER PERSONS:** All of the federal amendments give additional flexibility to sources or reduce the recordkeeping costs for sources, and none of the changes increase costs for Utah sources. Though specific savings cannot be identified, they are likely to be small. **STATIONARY GAS TURBINES:** There are about a dozen sources in Utah, and the new federal amendments give more flexibility in testing and monitoring procedures, thus giving sources the opportunity to reduce costs and regulatory burdens. **BULK GASOLINE TERMINALS AND GASOLINE DISTRIBUTION FACILITIES:** The amendments give more clarity and flexibility in testing and recordkeeping, thus giving sources the opportunity to reduce costs. **VOLATILE ORGANIC LIQUID STORAGE VESSELS:** This amendment reduces the number of such vessels that are subject to the rule, thus saving costs for those sources. **LARGE MUNICIPAL WASTE COMBUSTORS and SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS:** There are none in Utah. **MUNICIPAL SOLID WASTE LANDFILLS:** The amendments are minor technical corrections that do not change the costs to sources. **INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS:** The amendments correct previous errors in the federal requirements and reduce recordkeeping, thus saving money for sources.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All of the federal amendments give additional flexibility to sources or reduce the recordkeeping costs for sources, and none of the changes increase costs for Utah sources. Though specific savings cannot be identified, they are likely to be small. Costs for specific categories follow. STATIONARY GAS TURBINES: There are about a dozen sources in Utah, and the new federal amendments give more flexibility in testing and monitoring procedures, thus giving sources the opportunity to reduce costs and regulatory burdens. BULK GASOLINE TERMINALS AND GASOLINE DISTRIBUTION FACILITIES: The amendments give more clarity and flexibility in testing and recordkeeping, thus giving sources the opportunity to reduce costs. VOLATILE ORGANIC LIQUID STORAGE VESSELS: This amendment reduces the number of such vessels that are subject to the rule, thus saving costs for those sources. LARGE MUNICIPAL WASTE COMBUSTORS and SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS: There are none in Utah. MUNICIPAL SOLID WASTE LANDFILLS: The amendments are minor technical corrections that do not change the costs to sources. INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS: The amendments correct previous errors in the federal requirements and reduce recordkeeping, thus saving money for sources.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Generally, the federal amendments increase flexibility for sources and fine-tune existing requirements. Sources will see some opportunity for savings, and no increased costs are expected. Dr. Dianne R. Nielson

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 2/16/2005 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-210. Stationary Sources.

R307-210-1. Standards of Performance for New Stationary Sources (NSPS).

[The standards of performance for new stationary sources in 40 CFR 60 (1998), as amended by 63 FR 49442, 64 FR 7457, 64 FR 9257, and 64 FR 10105] The provisions of 40 Code of Federal Regulations (CFR) Part 60, effective on July 1, 2004, and amended by 64 FR 41346 (July 8, 2004), are incorporated by reference into these rules with the exception that references in 40 CFR to "Administrator" shall mean "executive secretary" unless by federal law the authority referenced is specific to the Administrator and cannot be delegated.

KEY: air pollution, stationary sources^[*], new source review^[*] [July 15, 1999] 2005

Notice of Continuation August 15, 2001

19-2-104

19-2-108



Money Management Council, Administration

R628-11

Maximum Amount of Public Funds Allowed to be Held by any Qualified Depository

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27689

FILED: 02/01/2005, 17:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for these changes is to tighten up the capital requirements for banks to hold public funds and to tighten up the formula for calculating the maximum uninsured public funds a qualified depository may hold. The Council feels that this may allow them to better pinpoint problems as the figures may be more sensitive to issues with financial institutions.

SUMMARY OF THE RULE OR CHANGE: The language has been updated and has incorporated a definition of "Tier 1 capital" removing the definition of "adjusted capital." Also, the schedule of ratios to public funds allotment has been adjusted down for institutions that do not receive an unqualified opinion from an outside auditor or don't have an outside audit, to one times capital if the institution is in the highest ratio level; for institutions that do have an outside audit and an unqualified opinion, to one and a half times capital. Other minor housekeeping language changes have been made to update the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 51-7-18.1

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This rule applies to financial institutions and not state entities.

❖ LOCAL GOVERNMENTS: None--This rule applies to financial institutions and not local governments.

❖ OTHER PERSONS: Audit costs could be incurred if a financial institution does not have one and chooses to do so. Only a small portion of institutions in Utah do not have an outside audit. Those costs are based on the size of the institution and range from \$3,500 for a small institution, to \$97,500 for a larger one. Also the cost of purchasing collateral could be incurred if an institution needs to collateralize and does not have enough securities to do so.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a financial institution has not had an audit and chooses to get one to have a higher allotment of uninsured public funds, they will have to pay those costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amended rule reduces the amount of uninsured public funds which may be held as deposits in Utah financial institutions. While no Utah financial institution is impacted by the amendments as of the filing date, an institution impacted in the future would be limited in the amount of uninsured public deposits it could accept and would have to obtain deposits from other, non-public sources at prevailing interest rates. An institution found to hold excess uninsured public deposits would be required to pledge collateral to secure the excess deposits until deposits could be reduced. Institutions required to pledge collateral may incur additional costs due to acquisition and management of acceptable collateral.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room E315 EAST OFFICE BLDG
STATE CAPITOL COMPLEX
PO BOX 142315
SALT LAKE CITY UT 84114-2315, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Larry Richardson, Chair

R628. Money Management Council, Administration.**R628-11. Maximum Amount of Uninsured Public Funds Allowed to Be Held by Any Qualified Depository.****R628-11-1. Authority.**

This rule is issued pursuant to Section 51-7-18.1.

R628-11-2. Scope.

This rule applies to all qualified depository institutions at which uninsured public funds may be held.

R628-11-3. Purpose.

This rule ~~protects against the loss of public funds by~~ establishes ~~ing~~ a formula for determining the maximum amount of uninsured public funds that can safely be held by any qualified depository. The rule defines capital for each class of qualified depository institution, establishes a formula for calculating the maximum amount of uninsured public funds which can be held at a qualified depository institution, establishes a schedule for reduction of uninsured public deposits based on risk to public treasurers and establishes the frequency of public funds allotment adjustments.

R628-11-4. Definitions.

For the purposes of this rule:

A. "~~Adjusted~~Tier one capital" means:~~capital less 40% of nonperforming assets.~~

~~--- B. "Capital" means:~~

(1) For a federally insured commercial bank, thrift institution, industrial loan corporation or a savings and loan association, the same as defined in the Federal Deposit Insurance Act in CFR Chapter III Section 325.2 or the Office of Thrift Supervision in CFR Chapter V Section 565.2 ~~[the sum of capital stock, preferred stock, permanent, reserve or guaranty stock, surplus, paid in surplus, undivided profits, retained earnings, net undistributed income, subordinated notes, allowance for loan losses, specific reserves and valuation allowances, reserves for contingencies and other capital reserves];~~

(2) For a federally insured credit union, the sum of ~~[unappropriated~~ retained] undivided earnings, ~~[regulatory/statutory]regular~~ reserves, appropriations of undivided earnings referred to as~~[all]~~ "other reserves", and ~~[allowance for loan losses]net income not already included in undivided earnings.~~

C. "Deposits" means: balances due to persons having an account at the qualified depository institution whether in the form of a transaction account, savings account, share account, or certificate of deposit and repurchase agreements other than qualifying repurchase agreements.

D. "Out of State" means: in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

E. "Maximum amount" means: the amount of deposits in excess of the federal deposit insurance limit.

~~--- F. "Nonperforming assets" means:~~

~~--- (1) For a federally insured commercial bank, thrift institution, industrial loan corporation or a savings and loan association, the aggregate of all loans and lease financing receivables past due 90 days or more and still accruing, all loans and lease financing receivables on nonaccrual status and 50% of Other Real Estate;~~

~~--- (2) For a federally insured credit union, all loans delinquent two months or more.~~

] [G]E. "Qualified depository" means: a Utah depository institution as defined in Subsection 7-1-103(36) or a out of state depository institution as defined in Subsection 7-1-103(25) which may conduct business in this state under Section 7-1-702, whose deposits are insured by an agency of the Federal Government and which has been certified by the Commissioner of Financial Institutions as having met the requirements to receive uninsured public funds.

[H]G. "Transaction account" means: a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by check or other negotiable instrument, a payment order of withdrawal, a telephone transfer or other electronic ~~means~~ transfer or by any other means or device to make payments or transfer to third persons. This term includes demand deposits, NOW accounts, savings deposits subject to automatic transfers, and share draft accounts.

I. "Utah depository institution" means: a depository institution which is organized under the laws of, and whose home office is located in, this state or which is organized under the laws of the United States and whose home office is located in this state.

R628-11-5. General Rule.

A. Maximum Insured Public Funds

Any qualified depository may accept, receive, and hold deposits of public funds without limitation, if the total amount of deposits from each public treasurer does not exceed the applicable federal depository insurance limit.

B. Maximum Deposits in Excess of the Federal Insurance Limits For Qualified Utah Depository Institutions

(1) For all qualified Utah depository institutions which ~~do not~~ [receive a] ~~an~~ unqualified opinion issued by an independent certified public accountant upon completion of an annual audit performed in accordance with generally accepted auditing standards, and for all qualified Utah depository institutions which do not have an audit conducted by an independent certified public accountant, the maximum amount of uninsured public funds which may be held shall be according to the following schedule:

TABLE 1

Ratio of Adjusted Tier one Capital to Total Assets	<u>Uninsured</u> Public Funds Allotment
5.0% or more	Two <u>One</u> X Capital
3.5% to 4.99%	One <u>.5</u> X Capital
Less than 3.5%	None

(2) A qualified Utah depository institution which receives an unqualified opinion issued by an independent certified public accountant upon completion of an annual audit performed in accordance with generally accepted auditing standards, may submit the audit report within 100 days of the date of the audit to the Department of Financial Institutions for review and the Commissioner of Financial Institutions ~~may~~ must authorize that the ratios of ~~adjusted~~ Tier one capital to total assets applicable to the institution submitting the audit for determining the maximum amount of uninsured public funds allowed may be according to the following schedule:

TABLE 2

Ratio of Adjusted Tier one Capital to Total Assets	<u>Uninsured</u> Public Funds Allotment
4 15% or more	Two <u>1.5</u> X Capital
3. 0 5% to 4. 4 99%	One <u>.75</u> X Capital
Less than 3. 0 5%	None

C. A qualified out-of-state depository institution will be treated as a qualified Utah depository subject to all the provisions of this section in determining its uninsured public funds allotment except that the uninsured public funds allotment will be reduced by multiplying by a factor of total deposits outstanding at Utah branches of the institution divided by the total deposits at the institution. Nothing in R628-11 shall prohibit a out-of-state depository institution from qualifying as a permitted out-of-state depository in accordance with R628-10.

R628-11-6. Responsibility to Monitor Balances.

Deposits in qualified depositories which are limited by R628-11-5(B) ~~and R628-11-5(C)~~ to the amount of federal deposit insurance must be monitored on a daily basis to assure that ~~the total of all time deposits and transaction accounts is not allowed to exceed~~ no public treasurer has deposit balances in excess of the federal insurance limit. The public treasurer making deposits and the qualified depository accepting deposits shall both be responsible to assure that the depositor's combined balance of all accounts stays within the federal insurance limit.

R628-11-7. Collateralization of Excess Uninsured Public Funds.

Pursuant to Section 51-7-18.1(5), the Money Management Council may require a qualified depository to pledge collateral security for deposits of uninsured public funds which exceed the uninsured public funds allotment established by this rule. Any pledging of collateral security required by the Money Management Council shall be in accordance with the provisions of the Money Management Act and the rules of the Money Management Council.

R628-11-8. Frequency of Adjustment to the Uninsured Public Funds Allotment.

A. The uninsured public funds allotment for each qualified depository shall be established quarterly by the Council, based on the reports of condition filed with the Commissioner as of the close of the preceding quarter. The uninsured public funds allotments shall be established in accordance with the following:

TABLE 3

Report of Condition As Of:	Effective Date of Allotment
December 31	April 1
March 31	July 1
June 30	October 1
September 30	January 1

B. The Money Management Council may make interim adjustments in a qualified depository's uninsured public funds allotment if material changes in a qualified depository's financial condition have occurred or if there is a formal enforcement action by the federal or state regulator.

R628-11-9. Right to Petition the Council for Review.

A qualified depository may petition the Money Management Council in writing for review and reconsideration of its allotment within ~~15~~ 10 business days of written notice of the establishment or modification of its uninsured public funds allotment. The Money Management Council shall rule on any petition for review and reconsideration at its next regularly scheduled meeting.

R628-11-10. Notification of Public Treasurers.

Within ~~45~~10 business days of the close of each calendar quarter, the Money Management Council shall cause a list of qualified depository institutions and the currently effective uninsured public funds allotment to be prepared and mailed to all public treasurers.

**KEY: financial institutions, banking law
1990**

**Notice of Continuation October 13, 2000
51-7-18.1(2)**



**Public Safety, Fire Marshal
R710-7-1
Adoption of Codes**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 27671
FILED: 01/27/2005, 13:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on January 11, 2005, in a regularly scheduled Board meeting and voted by motion to amend Rule R710-7 by updating several incorporated references to the most recent edition.

SUMMARY OF THE RULE OR CHANGE: The Board proposes to amend Subsection R710-7-1(1.1) to update six currently adopted incorporated references to the most recent edition of the standard.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: NFPA 12, Standard on Carbon Dioxide Extinguishing Systems, 2005 edition; NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems, 2004 edition; NFPA 17, Standard for Dry Chemical Extinguishing Systems, 2002 edition; NFPA 17A, Standard for Wet Chemical Extinguishing Systems, 2002 edition; NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition; and NFPA 2001, Standard on Clean Agent Fire Extinguishing Systems, 2004 edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The aggregate anticipated cost to the State Budget would be approximately \$540. This aggregate anticipated cost would be to purchase three copies of each National Fire Protection Association (NFPA) standard that is proposed to be updated. Two copies for the State Fire Marshal's Office and one copy of each to be kept on file at the Division of Administrative Rules.

❖ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government to enact this proposed rule amendment. Local government would normally request assistance from the specialists at the State Fire Marshal's

Office to investigate concerns with Automatic Fire Suppression Systems in their communities. By requesting assistance, local government would not be required to purchase the updated incorporated references.

❖ **OTHER PERSONS:** The aggregate cost to other persons would be approximately \$180 to purchase the six updated incorporated references. With 47 licensed Automatic Fire Suppression System companies, the aggregate cost would be approximately \$8,500 if each company purchased all of the proposed incorporated references to be updated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be approximately \$180 to purchase all six of the proposed updated incorporated references. This would be a requirement if the licensed company and/or certified individual were required to work on a specific system. A copy of the NFPA standard would be necessary to complete the work correctly and provide a safe installation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be a fiscal impact on businesses of approximately \$180 to purchase all six volumes of the updated incorporated references. The industry likes to use the most current volume of the NFPA standards to provide the most up to date processes and safety standards with these continually changing systems.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SAFETY
FIRE MARSHAL
Room 302
5272 S COLLEGE DR
MURRAY UT 84123-2611, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-7. Concerns Servicing Automatic Fire Suppression Systems.

R710-7-1. Adoption of Codes.

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah State Fire Prevention Board adopts rules to provide regulation to those concerns that service Automatic Fire Suppression Systems. These rules do not apply to standpipe systems, deluge systems, or automatic fire sprinkler systems.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association, Standard 12, Standard on Carbon Dioxide Extinguishing Systems, [2000]2005 edition; N.F.P.A., Standard 12A, Halon 1301 Fire Extinguishing Systems, [1997]2004 edition; N.F.P.A., Standard 12B, Halon 1211 Fire Extinguishing Systems, 1990 edition; N.F.P.A., Standard 17, Standard for Dry Chemical Extinguishing Systems, [1998]2002 edition; N.F.P.A., Standard 17A, Standard for Wet Chemical Extinguishing Systems, [1998]2002 edition; N.F.P.A., Standard 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, [2001]2004 edition; N.F.P.A., Standard 2001, Clean Agent Fire Extinguishing Systems, [2000]2004 edition. The definitions contained in these pamphlets shall pertain to these regulations.

1.2 Validity

If any section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the SFM, such decision shall not affect the validity of the remaining portion of these rules.

1.3 Systems Prohibited

No person shall market, distribute, sell, install or service any automatic fire suppression system in this state, unless it meets the following:

1.3.1 It complies with these rules.

1.3.2 It has been tested by, and bears the label of a testing laboratory which is accepted by the SFM as qualified to test automatic fire suppression systems.

1.3.3 All existing automatic fire suppression systems using dry chemical shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs:

1.3.3.1 Six year internal maintenance service;

1.3.3.2 Recharge;

1.3.3.3 Hydrostatic test date as indicated on the manufacturer date of the cylinders;

1.3.3.4 Reconfiguration of the system piping.

1.3.4 All existing wet chemical automatic fire suppression systems not UL300 listed shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs:

1.3.4.1 Six year internal maintenance service;

1.3.4.2 Recharge;

1.3.4.3 Hydrostatic test date as indicated on the manufacturer date of the cylinders;

1.3.4.4 Reconfiguration of the system piping.

1.4 Copies of the above listed codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

KEY: fire prevention, systems

~~December 2, 2004~~ **March 18, 2005**

Notice of Continuation June 11, 2002

53-7-204



Regents (Board Of), Administration
R765-604
New Century Scholarship

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27666

FILED: 01/24/2005, 13:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The addition of several definitions was needed to assure all students who complete high school graduation requirements through each possible method, and attend eligible institutions in Utah with satisfactory academic progress might qualify for the New Century Scholarship. Also, wording has been revised or added to allow equitable distribution of funds in the event of a limitation of funds appropriated in any given year.

SUMMARY OF THE RULE OR CHANGE: This amendment allows the State Board of Regents to make proportional annual awards to scholarship recipients in the event appropriations from the legislature are less than needed to fully fund all eligible awardees. In addition, this scholarship will be available to Utah residents to use at institutions of higher education that are not within the state system of higher education but that are regionally accredited to offer baccalaureate degrees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-105

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment does not require additional funding requests from the state budget, nor does it provide any savings. Rather, this amendment allows the State Board of Regents to make appropriate awards to scholarship recipients when any specific annual appropriations from the legislature may be less than needed to fully fund all eligible awardees.

❖ **LOCAL GOVERNMENTS:** There are no costs nor savings to local governments through this rule or amendment as local governments are not affected by this rule. This rule only applies to the eligibility and subsequent disbursement of financial aid/scholarship funds to students attending public or private institutions of higher education in Utah.

❖ **OTHER PERSONS:** There are no anticipated costs to other persons related to this amendment or rule. However, there is a possibility of savings to other persons who would qualify for the New Century Scholarship through a net reduction in tuition charges. In the event a higher number of eligible students qualify for 75% reduction in tuition through this scholarship than the annual appropriation would cover, the Board of Regents would be permitted to award less than 75% of tuition so that all awardees would receive some of the scholarship funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any persons since the purpose of this rule is to award financial aid/scholarship funds to eligible students attending public and private institutions of higher learning in Utah. There are no compliance costs associated with the administration of this rule since school financial aid offices would be able to award New Century Scholarship funds in the normal course of business. This rule provides

additional guidance to make awards to eligible students without requiring compliance costs as there are none.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no perceived fiscal impacts on businesses as a result of this rule. Mark Spencer, Executive Director, UHEAA

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY UT 84101-1284, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 03/18/2005

AUTHORIZED BY: Mark H. Spencer, Associate Commissioner

R765. Regents (Board of), Administration.

R765-604. New Century Scholarship.

R765-604-1. Purpose.

To provide policy and procedures for the administration of the New Century Scholarship which will be awarded to high school graduates who have accelerated their education process and have completed the requirements for an associate degree prior to September 1 of the same year they ~~qualify to~~ would normally graduate from ~~with their high school class.~~

R765-604-2. References.

- 2.1. 53B-8-105, Utah Code Annotated 1953

R765-604-3. Definitions.

- 3.1. "Program" - New Century Scholarship program
3.2. "Awards" - New Century Scholarship funds which provide payment ~~equal~~ up to 75% of recipient's tuition costs
3.3. "SBR" - State Board of Regents
3.4. "Reasonable progress" - A recipient must complete at least six semester credit hours during any semester for which he or she receives an award.
3.5. "Recipient" - A Utah resident who has accelerated his or her education process and ~~completes the requirements for an associate degree either prior to September 1 of the year he or she graduates from a regionally accredited~~ Utah high school, ~~completes the requirements for an associate degree~~ or, if he or she graduates early or is home schooled, prior to the September 1 of the year in which he or she normally would have graduated with his or her class.
3.6. "High school graduation date" - The date when an applicant

or recipient graduates from high school with his or her class, or if he or she graduates early or is home schooled, the date on which he or she normally would have graduated from high school with his or her class.

3.[5]7."Associate Degree" - An Associate of Arts, Associate of Science, or Associate of Applied Science degree, or equivalent academic requirements, as received from or verified by a regionally accredited Utah public college or university, provided that if the college or university does not offer the associate degree, the requirement can be met if the institution's registrar verifies that the student has completed academic requirements equivalent to an associate degree prior to the September 1 deadline.

R765-604-4. Conditions of the Scholarship.

4.1. Program Terms - The program scholarship may be used at any ~~of Utah's state operated institutions of~~ higher education institution in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs. Depending on available funding, if used at an institution within the state system of higher education, the [S]scholarship awards under this program are [equal in value] up to 75% of the actual tuition costs. If used at an institution not within the state system of higher education, the scholarship is up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the state system baccalaureate granting institutions. ~~and are~~ Each scholarship is valid for up to two years of full-time equivalent enrollment (60 semester credit hours) or until the requirements of a baccalaureate degree has been met, whichever is shorter. A student who has not used the award in its entirety within ~~four~~ five years after his or her ~~graduation from~~ high school graduation date ~~will become~~ is ineligible to receive a program award.

4.2. Applicant Qualification - To qualify for the award, an applicant must have ~~graduated from a regionally accredited Utah high school in 1999 or later, and must have~~ completed the requirements for an associate degree by September 1 of the year ~~he or she graduated from~~ of his or her high school graduation date.

4.3. Accredited College or University - The associate degree or verification of completion of equivalent academic requirements must be received from a regionally accredited Utah public institution, provided the institution's academic on-campus residency requirements, if any, will not affect a student's eligibility for the scholarship if the institution's registrar's office verifies that the student has completed the necessary class credits for an associate degree.

4.4. Eligible Institutions - The award may be used at any ~~of Utah's state operated institutions of~~ higher education institution in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

4.5. Dual Enrollment - The award may be used at more than one of Utah's eligible institutions within the same semester.

4.6. Student Transfer - The award may be transferred to a different eligible Utah institution upon the request of the student.

R765-604-5. Application Procedures.

5.1. Application Contact - Qualifying students may apply for the award through ~~a high school counselor or~~ the SBR office.

5.2. Support Documentation - Applicants must provide documentation verifying their ~~date of~~ recipient's graduation date ~~from a regionally accredited Utah high school~~, a copy of their college transcript, and ~~prior to receiving the award, a signed affidavit from the registrar's office at the college or university in which the associate degree was completed verifying that all requirements have been met for~~

~~an associate degree by September 1 of the year of high school graduation. If]if the student is enrolled at an institution which does not offer an associate degree or an institution that will not award the associate degree until the academic on-campus residency requirement has been met, the registrar must verify that the applicant has completed the equivalent academic requirements prior to September 1 of the year of the recipient's graduation date.~~

5.3. Application Deadline - Applications and all support documentation must be received by the SBR office no later than thirty days prior to the ~~[academic term for which the recipient]~~date the applicant wishes [to receive]the award to be forwarded to the applicant's eligible institution.~~[Verifying documentation shall be provided as soon as reasonably possible.~~

~~5.4. Award Eligibility - If the recipient fails to meet the requirements of an associate degree by the September 1 deadline, or is not able to provide the required documentation in a timely manner, the program award will not be made.]~~

R765-604-6. Distribution of Award Funds.

6.1. Amount of Award - If used at an institution within the state system of higher education, [F]the amount of the scholarship, depending on available funding, will be [equal]up to 75% of the gross total cost of tuition based on the number of hours the student is enrolled. If used at an institution not within the state system of higher education, the scholarship, depending on available funding, will be up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the baccalaureate degree granting institutions within the state system of higher education. Tuition waivers, financial aid, or other scholarships will not affect the total award amount.

6.2. Tuition Documentation - The award recipient shall submit to SBR a copy of the tuition invoice or class schedule verifying the number of hours enrolled. SBR will calculate the amount of the award based on the published tuition costs at the enrolled institution(s) and the availability of program funding.

6.3. Award Payable to Institution - The scholarship award will be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds should be used for higher education expenses including tuition, fees, books, supplies and equipment required for courses of instruction.

6.4. Added Hours after Award - The award will be increased up to [equal]75% of the tuition costs of any hours added in the semester after the initial award has been made, depending on available funding. Recipient shall submit to SBR a copy of the tuition invoice or class schedule verifying the added hours before a supplemental award is made.

6.5. Dropped Hours after Award - If a student drops hours which were included in calculating the award amount, either the subsequent semester award will be reduced accordingly, or the student shall repay the excess award amount to SBR. If a recipient fails to complete a minimum of six semester hours, no award will be made for that semester, and a grade earned in a class completed in that semester, if any, will not be considered in evaluating the recipient's reasonable progress.

R765-604-7. Continuing Eligibility.

7.1. Reasonable Progress toward Degree Completion - The SBR may cancel the scholarship ~~[at any time]~~ if the student fails to maintain a "b average" for two consecutive semesters for which he or she has received award funds; or fails to make reasonable progress toward the completion of a baccalaureate degree. Each semester, the recipient

must submit to SBR a copy of his or her grades to verify that he or she is meeting the ~~[established standards at the enrolled institution]~~the required grade point average and is making reasonable progress toward the completion of a baccalaureate degree.

7.2. No Awards after ~~[Four]~~Five Years - The SBR will not make an award to a recipient for an academic term that begins more than ~~[four]~~five years after the recipient's high school graduation date.

7.3. No Guarantee of Degree Completion - A Century Scholarship award does not guarantee that the recipient will complete his or her baccalaureate program within the recipient's scholarship eligibility period.

R765-604-8. Leave of Absence.

8.1. Does Not Extend Time - A leave of absence will not extend the time limits of the scholarship. The scholarship ~~[must be used in its entirety]~~may only be used for academic terms which begin within ~~[four]~~five years after the recipient's high school graduation [from high school]date.

**KEY: higher education, secondary education, scholarships[*]
[February 4, 2000]2005
53B-8-105**

Workforce Services, Employment Development **R986-100** Employment Support Programs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27661

FILED: 01/15/2005, 16:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the change is to make the provisions of Rule R986-100 comply with similar changes filed in Rule R986-700, Child Care Assistance. (DAR NOTE: The proposed amendment to Rule R986-700 is under DAR No. 27660 in this issue.)

SUMMARY OF THE RULE OR CHANGE: The Department is eliminating the need for cooperation with the Office of Recovery Services (ORS) in the establishment of paternity for Employment Support Child Care. Federal regulations do not require cooperation in establishing paternity. Eliminating this requirement will make the program easier to administer and is expected to affect very few customers. Since the disqualification periods are the same as food stamps but contained in Rule R986-700 reference is made to "rule" in Section R986-100-117.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-101 et seq., 35A-3-301 et seq., and 35A-3-401 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This rule does not apply to local government so therefore there are no costs or savings to local governments.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally-funded program and the money is within current Department budgets to pay any costs associated with this change.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: John Nixon, Acting Executive Director

R986. Workforce Services, Employment Development.**R986-100. Employment Support Programs.****R986-100-117. Disqualification For Fraud (Intentional Program Violations or IPV).**

(1) Any person who is at fault in obtaining or attempting to obtain, an overpayment of assistance, as defined in Section 35A-3-602 from any of the programs listed in R986-100-102 or otherwise intentionally breaches any program rule either personally or through a representative is guilty of an intentional program violation (IPV). Acts which constitute an IPV include but are not limited to:

- (a) knowingly making false or misleading statements;
- (b) misrepresenting, concealing, or withholding facts or information;
- (c) posing as someone else;

(d) not reporting the receipt of a public assistance payment the individual knew or should have known they were not eligible to receive;

(e) not reporting a material change within 10 days after the change occurs in accordance with these rules; and

(f) committing an act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.

(2) An IPV occurs when a person commits any of the above acts in an attempt to obtain, maintain, increase or prevent the decrease or termination of any public assistance payment(s).

(3) When the Department determines or receives notice from a court that fraud or an IPV has occurred, the client is disqualified from receiving assistance of the same type for the time period as set forth in rule, statute or federal regulation.

(4) Disqualifications run concurrently.

(5) All income and assets of a person who has been disqualified from assistance for an IPV continue to be counted and affect the eligibility and assistance amount of the household assistance unit in which the person resides.

(6) If an individual has been disqualified in another state, the disqualification period for the IPV in that State will apply in Utah provided the act which resulted in the disqualification would have resulted in a disqualification had it occurred in Utah. If the individual has been disqualified in another state for an act which would have led to disqualification had it occurred in Utah and is found to have committed an IPV in Utah, the prior periods of disqualification in any other State count toward determining the length of disqualification in Utah.

(7) The client will be notified that a disqualification period has been determined. The disqualification period begins the month after the disqualification decision has been issued or as soon thereafter as possible and continues in consecutive months until the disqualification period has expired.

(8) Nothing in these rules is intended to limit or prevent a criminal prosecution for fraud based on the same facts used to determine the IPV.

R986-100-134. Payments of Assistance Pending the Hearing.

(1) A client is entitled to receive continued assistance pending a hearing contesting a Department decision to reduce or terminate food stamps, RRP, FEPTP, or FEP financial assistance if the client's request for a hearing is received no later than 10 days after the date of the notice of the reduction, or termination. The assistance will continue unless the certification period expires until a decision is issued by the ALJ. If the certification period expires while the hearing or decision is pending, assistance will be terminated. If a client becomes ineligible or the assistance amount is reduced for another reason pending a hearing, assistance will be terminated or reduced for the new reason unless a hearing is requested on the new action. [

~~(2) If the client is otherwise eligible, Employment Support Child Care (ES-CC) can be paid pending an appeal of a decision from ORS that the client is not cooperating in the establishment of paternity or if the Department denies good cause. The client's request for a hearing must be received no later than 10 days after the date of the notice of denial or termination. The ES-CC assistance will continue until a decision is issued by an ALJ regardless of when the certification period expires. If a client becomes ineligible or the assistance amount is reduced for another reason pending a hearing,~~

~~assistance will be terminated or reduced for the new reason. If a client files a new application after a decision by an ALJ denying assistance, the new application will be denied and the client will have no right to appeal that denial unless there has been a change in circumstances.]~~

~~(3)2~~ If the client can show good cause for not requesting the hearing within 10 days of the notice, assistance may be continued if the client can show good cause for failing to file in a timely fashion. Good cause in this paragraph means that the delay in filing was due to circumstances beyond the client's control or for circumstances which were compelling and reasonable. Because the Department allows a client to request a hearing by telephone or mail, good cause does not mean illness, lack of transportation or temporary absence.

~~(4)3~~ A client can request that payment of assistance not be continued pending a hearing but the request must be in writing.

~~(5)4~~ If payments are continued pending a hearing, the client is responsible for any overpayment in the event of an adverse decision.

~~(6)5~~ If the decision of the ALJ is adverse to the client, the client is not eligible for continued assistance pending any appeal of that decision.

~~(7)6~~ If a decision favorable to the client is rendered after a hearing, and payments were not made pending the decision, retroactive payment will be paid back to the date of the adverse action if the client is otherwise eligible.

~~(8)7~~ Financial assistance payments under GA or WTE, and CC subsidies~~[, except as provided in paragraph (2) above]~~ will not continue during the hearing process regardless of when the appeal is filed.

~~(9)8~~ Financial assistance under the RRP will not extend for longer than the eight-month time limit for that program under any circumstances.

~~(10)9~~ Clients receiving financial assistance under the FEPTP program must continue to participate to receive financial assistance during the hearing process.

~~(11)10~~ Financial assistance under the FEPTP program will not extend for longer than the seven-month time limit for that program under any circumstance.

~~(12)11~~ Assistance is not allowed pending a hearing from a denial of an application for assistance.

KEY: employment support procedures

~~[April 1, 2004]2005~~

35A-3-101 et seq.

35A-3-301 et seq.

35A-3-401 et seq.

**Workforce Services, Employment
Development
R986-700**

Child Care Assistance

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 27660

FILED: 01/15/2005, 16:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are to bring child care into alignment with federal regulations and other programs administered by the Department and make the program more efficient to administer.

SUMMARY OF THE RULE OR CHANGE: The Department is eliminating the need for cooperation with the Office of Recovery Services (ORS) in the establishment of paternity for Employment Support Child Care. Federal regulations do not require cooperation in establishing paternity. Eliminating this requirement will make the program easier to administer and is expected to affect very few customers. The Department is reducing the number of changes which must be reported within 10 days. All other changes will be reportable at the end of the certification period. This is because most changes will not affect the child care payment amount and will simplify administration of the program. The Department will no longer count assets in determining eligibility for Employment Support Child Care. The federal regulations do not require us to use assets in determining eligibility, only income. Determining assets is difficult and this change is not likely to affect many individuals. Overpayment will be deducted from ongoing child care payments and will now be treated the same for child care as for food stamps except the minimum will be \$10 for child care. Other changes were made for clarification and because current rules are outdated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-3-310

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This is a federally-funded program so there are no costs or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.

❖ **OTHER PERSONS:** There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. This is a federally-funded program and the money is within current Department budgets to pay any costs associated with this change.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/17/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2005

AUTHORIZED BY: John Nixon, Acting Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-701. Authority for Child Care Assistance (CC) and Other Applicable Rules.

- (1) The Department administers Child Care Assistance (CC) pursuant to the authority granted in Section 35A-3-310.
- (2) Rule R986-100 applies to CC except as noted in this rule.
- (3) Applicable provisions of R986-200 apply to CC, except as noted in this rule or where in conflict with this rule.

R986-700-703. Client Rights and Responsibilities.

In addition to the client rights and responsibilities found in R986-100, the following client rights and responsibilities apply:

- (1) A client has the right to select the type of child care which best meets the family's needs.
- (2) If a client requests help in selecting a provider, the Department will refer the client to the local Child Care Resource and Referral agency.
- (3) A client is responsible for monitoring the child care provider. The Department will not monitor the provider.
- (4) A client is responsible to pay all costs of care charged by the provider. If the child care assistance payment provided by the Department is less than the amount charged by the provider, the client is responsible for paying the provider the difference.

~~[(5) In addition to the requirements for reporting other material changes that might affect eligibility, outlined in R986-100-113, a client is responsible for reporting a change in the client's need for child care, a change in the client's child care provider, and a change in the amount a provider charges for child care, to the Department within 10 days of the change.]~~(5) The only changes a client must report to the Department within ten days of the change occurring are:

- (a) that the household's gross monthly income exceeds the percentage of the state median income as determined by the Department in R986-700-710(3);
- (b) that the client is no longer in an approved training or educational program;
- (c) if the client's and/or child's schedule changes so that child care is no longer needed during the hours of approved employment and/or training activities;
- (d) that the client does not meet the minimum work requirements of an average of 15 hours per week or 15 and 30 hours per week when two parents are in the household and it is expected to continue;
- (e) the client is separated from his or her employment;

(f) a change of address;

(g) any of the following changes in household composition: a parent, stepparent, spouse, or former spouse moves into the home, a child receiving child care moves out of the home, or the client gets married; or

(h) a change in the child care provider, including when care is provided at no cost.

(6) If a material change which would result in a decrease in the amount of the CC payment is reported within 10 days, the decrease will be made effective beginning the next month and sums received in the month in which the change occurred will not be treated as an overpayment. If it is too late to make the change to the next month's CC payment, the client is responsible for repayment even if the 10 days for reporting the change has not expired. If the client fails to report the change within 10 days, the decrease will occur as soon as the Department learns of the change and the overpayment will be assessed back to the date of the change.

(7) A client is responsible for payment to the Department of any overpayment made in CC.[]

~~[(8) Any client receiving any type of CC who is not receiving full court or ORS ordered child support must cooperate with ORS in obtaining child support from the absent parent. Child support payments received by the client count as unearned income even if the payments are more than the court or ORS ordered child support. If a client's case was closed for failure to cooperate with ORS it cannot be reopened until ORS notifies the Department that the client is cooperating or it is determined on appeal that the client is cooperating. The requirements of this section will be satisfied if the client is cooperating with the appropriate agency in another state and can provide the Department with verification of the client's continuing cooperation with the other state. If the other state agency has not been successful in collecting child support, the Department may require that the client request that the client's case be closed in the other state and that the client cooperate with ORS.]~~

~~[(9) All clients receiving CC must cooperate in good faith with the Department in establishing paternity unless there is good cause for not cooperating.]~~

~~[(10)]~~ If the client has failed to provide all necessary information and the child care provider requests information about payment of CC to the client, the Department is authorized to inform the provider that further information is needed before payment can be determined.

~~[(11)]~~ The Department may also release the following information to the designated provider:

- (a) limited information regarding the status of a CC payment including that no payment was issued or services were denied;
- (b) information contained on the Form 980;
- (c) the date the child care subsidy was issued;
- (d) the subsidy amount for that provider;
- (e) the subsidy deduction amount;
- (f) the date a two party check was mailed to the client; and
- (g) a copy of the two party check on a need to know basis.

~~[(12)]~~10 If child care funds are issued on the Horizon Card (electronic benefit transfer) unused child care funds will be removed from the Horizon Card 60 days after the last child care transaction/transfer occurred ("aged off") and will no longer be available to the client.

R986-700-704. Establishment of Paternity.

~~[(1) If ORS notifies the Department that a client is not cooperating with the establishment of paternity, the client may~~

~~appeal to a Department ALJ by following the procedures for hearings set forth in R986-100.~~

~~(2) The ALJ will make a determination on the question of whether or not the client is making a good faith effort to cooperate based on the same criteria ORS uses in FEP cases.~~

~~(3) The procedure and rules for establishing good cause for not cooperating in the establishment of paternity are the same as in R986-200. If the client appeals both a good faith determination and alleges good cause for not cooperating, the ALJ will join the two issues together and make a decision on the questions of good faith and good cause at the same hearing.~~

~~(4) The provisions of R986-200-208(12) do not apply to ES CC. [The provisions of rules R986-100 and R986-200 pertaining to cooperation with ORS in the establishment of paternity and collection of child support do not apply to ES CC.]~~

R986-700-705. Eligible Providers and Provider Settings.

(1) The Department will only pay CC to clients who select eligible providers. The only eligible providers are:

(a) licensed and accredited providers:

- (i) licensed homes;
- (ii) licensed family group homes; and
- (iii) licensed child care centers.

(b) license exempt providers who are not required by law to be licensed and are either;

(i) license exempt centers; or

(ii) related to the client and/or the child. Related under this paragraph means: siblings who are at least 18 years of age and who live in a different residence than the parent, grandparents, step grandparents, aunts, step aunts, uncles, step uncles or people of prior generations of grandparents, aunts, or uncles, as designated by the prefix grand, great, great-great, or great-great-great or persons who meet any of the above relationships even if the marriage has been terminated.

(c) homes with a Residential Certificate obtained from the Bureau of Licensing. [

~~(2) All clients who were receiving child care prior to January 1, 2001, will be granted a grace period in which to find an eligible provider. The length of the grace period will be determined by the Department but in no event will it extend later than June 30, 2001.]~~

(3) If a new client has a provider who is providing child care at the time the client applies for child care assistance or has provided child care in the past and has an established relationship with the child(ren), but the provider is not currently eligible, the client may receive child care assistance for a period not to exceed three months if the provider is willing to become an eligible provider and actively pursues eligibility.

(4) The Department may, on a case by case basis, grant an exception and pay for CC when an eligible provider is not available:

(a) within a reasonable distance from the client's home. A reasonable distance, for the purpose of this exception only, will be determined by the transportation situation of the parent and child care availability in the community where the parent resides; or

(b) because a child in the home has special needs which cannot be otherwise accommodated; or

(c) which will accommodate the hours when the client needs child care; or

(d) if the provider lives in an area where the Department of Health lacks jurisdiction, which includes tribal lands, to provide licensing or certification; or

(5) If an eligible provider is available, an exception may be granted in the event of unusual or extraordinary circumstances but only with the approval of a Department supervisor.

(6) If an exception is granted under paragraph (4) or (5) above, the exception will be reviewed at each of the client's review dates to determine if an exception is still appropriate.

(7) License exempt providers must register with the Department and agree to maintain minimal health and safety criteria by signing a certification before payment to the client can be approved. The minimum criteria are that:

(a) the provider be at least 18 years of age and physically and mentally capable of providing care to children;

(b) the provider's home is equipped with hot and cold running water, toilet facilities, and is clean and safe from hazardous items which could cause injury to a child. This applies to outdoor areas as well;

(c) there are working smoke detectors and fire extinguishers on all floors of the house where children are provided care;

(d) there are no individuals residing in the home who have a conviction for a misdemeanor which is an offense against a person, or any felony conviction, or have been subject to a supported finding of child abuse or neglect by the Utah Department of Human Services, Division of Child and Family Services or a court;

(e) there is a telephone in operating condition with a list of emergency numbers located next to the phone which includes the phone numbers for poison control and for the parents of each child in care;

(f) food will be provided to the child in care of sufficient amount and nutritional value to provide the average daily nutrient intake required. Food supplies will be maintained to prevent spoilage or contamination. Any allergies will be noted and care given to ensure that the child in care is protected from exposure to those items; and

(g) the child in care will be immunized as required by the Utah Immunization Act and;

(h) good hand washing practices will be maintained to discourage infection and contamination.

(8) The following providers are not eligible for receipt of a CC payment:

(a) a member of household assistance unit who is receiving one or more of the following assistance payments: FEP, FEPTP, diversion assistance or food stamps for any child in that household assistance unit. The person may, however, be paid as a provider for a child in a different household assistance unit;

(b) a sibling of the child living in the home;

(c) household members whose income must be counted in determining eligibility for CC;

(d) a parent, foster care parent, stepparent or former stepparent, even if living in another residence;

(e) illegal aliens;

(f) persons under age 18;

(g) a provider providing care for the child in another state; and

(h) a provider who has committed fraud as a provider, as determined by the Department or by a court.

R986-700-710. Income [and Asset] Limits for ES CC.

(1) Rule R986-200 is used to determine:

(a) who must be included in the household assistance unit for determining whose income [and assets] must be counted to establish eligibility. In some circumstances, determining household

composition for a ES CC household is different from determining household composition for a FEP or FEPTP household [~~as defined by policy~~]. ES CC follows the parent and the child, not just the child so, for example, if a parent in the household is ineligible, the entire ES CC household is ineligible. A specified relative may not opt out of the household assistance unit when determining eligibility for CC. The income [~~and assets~~] of the specified relatives in the household must be counted. The income [~~and assets~~] of some household members in multi-generational households is counted in full instead of being deemed as in FEP or FEPTP;

(b) what is counted as income [~~and assets~~] except:

(i) [~~one automobile is exempt for each household member participating in work and/or training if it is needed for employment, used for transportation to and from that work and/or training or if the client is living in the automobile;~~

~~(ii) the asset limit for ES CC is \$8,000 after allowable deductions;~~

~~(iii) the earned income of a[n] minor child who is not a parent is not counted; and~~

~~(iv) child support, including in kind child support payments, [are] is counted as unearned income, even if it exceeds the court or ORS ordered amount of child support, if the payments are made directly to the client. If the child support payments are paid to a third party, only the amount up to the court or ORS ordered child support amount is counted.~~

~~(v) the value of the lot on which the exempt home, referenced in R996-200-231, stands is exempt even if it exceeds the average size of residential lots for the community in which it is located;~~

~~(vi) all irrevocable burial plans are exempt. A revocable burial plan is exempt up to \$1500 per household member; and~~

~~(vii) real and personal income producing property, including rental property, is exempt as an asset if the property produces a reasonable return for its fair market value.]~~

(c) how to estimate income.

(2) The following income deductions are the only deductions allowed on a monthly basis:

(a) the first \$50 of child support received by the family;

(b) court ordered and verified child support and alimony paid out by the household;

(c) \$100 for each person with countable earned income; and

(d) a \$100 medical deduction. The medical deduction is automatic and does not require proof of expenditure.

(3) The household's countable income, less applicable deductions in paragraph (2) above, must be at, or below, a percentage of the state median income as determined by the Department. The Department will make adjustments to the percentage of the state median income as funding permits. The percentage currently in use is available at the Department's administrative office.

(4) Charts establishing income limits and the subsidy deduction amounts are available at all local Department offices.

(5) An independent living grant paid by DHS to a minor parent is not counted as income.

R986-700-715. Overpayments.

(1) An overpayment occurs when a client or provider received CC for which they were not eligible. If the Department fails to establish one or more of the eligibility criteria and through no fault

of the client, payments are made, it will not be considered to have been an overpayment if the client would have been eligible and the amount of the subsidy would not have been affected. [~~If the eligibility criteria is cooperation with ORS and the client is not in compliance, through no fault of her own, even if the client refuses to cooperate at the time the mistake is discovered, payments made prior to the discovery of the mistake are not considered to have been an overpayment.]~~

(2) If the overpayment was because the client committed fraud, including forging a provider's name on a two party CC check, the client will be responsible for repayment of the resulting overpayment and will be disqualified from further receipt of CC:

(a) for a period of one year for the first occurrence of fraud;

(b) for a period of two years for the second occurrence of fraud; and

(c) for life for the third occurrence of fraud. [~~(3) If a client receives an overpayment but was not at fault in creating the overpayment, the client will be responsible for repayment but there is no disqualification or ineligibility period even if the client is considered by ORS to be not cooperating in repayment.]~~

~~(3) If a client receives an overpayment but was not at fault in creating the overpayment, the client will be responsible for repayment but there is no disqualification or ineligibility period even if the client is considered by ORS to be not cooperating in repayment.]~~

~~(4) If the client was at fault in the creation of an overpayment for any reason other than fraud in paragraph (2) above, the client will be responsible for repayment of the overpayment. [given an opportunity to repay the overpayment without a disqualification or ineligibility period for the first occurrence. If there is a second fault overpayment for reasons other than fraud in (3) above and the first overpayment has not been paid off, the client will be ineligible for CC until both overpayments have been satisfied. If the second overpayment occurred after the first overpayment was repaid in full, the second overpayment will not result in disqualification or ineligibility.] There is no disqualification or ineligibility period for a fault overpayment.~~

(4) All child care overpayments must be repaid to the Department. Overpayments may be deducted from ongoing child care payments for clients who are receiving child care. If the Department is a fault in the creation of an overpayment, the Department will deduct \$10 from each month's child care payment unless the client requests a larger amount.

(5) CC will be terminated if a client fails to cooperate with the Department's efforts to investigate [~~and collect~~] alleged overpayments. [~~(6) These disqualification and ineligibility periods are in lieu of, and not in addition to, the disqualification periods found in R986-400-117.]~~

~~(6) These disqualification and ineligibility periods are in lieu of, and not in addition to, the disqualification periods found in R986-400-117.]~~

(7) If the Department has reason to believe an overpayment has occurred and it is likely that the client will be determined to be disqualified or ineligible as a result of the overpayment, payment of future CC may be withheld, at the discretion of the Department, to offset any overpayment which may be determined.

KEY: child care
[July 1, 2004]2005
35A-3-310

▼ ————— ▼

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN 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 CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 17, 2005. At its option, the agency may hold public hearings.

From the end of the waiting period through June 15, 2005, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-17b
Pharmacy Practice Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 27529
Filed: 01/27/2005, 14:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public rule hearing and further review by the Division and the Pharmacy Board, additional amendments are being proposed.

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, various grammatical and spelling changes have been made. In Section R156-17b-102, added a definition for "Internet pharmacy" and renumbered the remaining subsections. In Section R156-17b-301, revised that a Class A pharmacy also includes pharmacies located in Utah that fill from Internet prescriptions. In Subsection R156-17b-301(4)(b) regarding Class D pharmacies, deleted that Internet pharmacies must meet VIPPS (Verified Internet Pharmacy Practice Sites) standards and criteria as established by NABP (National Association of Boards of Pharmacy) as this requirement is now contained in the definition of "Internet pharmacy" in Section R156-17b-102. In Subsection R156-17b-301(5) regarding Class E pharmacies, deleted dog trainers, animal euthanasia agency and pharmaceutical research facility. In Subsection R156-17b-306(4)(e), deleted the incorporated by reference statement regarding the Pharmacy Coordinating Council of Utah Internship Competencies, dated October 12, 2004, and referred to the document as information about a range of best practices for training interns. In Section R156-17b-502, deleted that failing to wear a name tag or badge while working in any pharmaceutical facility is considered unprofessional conduct. In Section R156-17b-602, reworded this entire section so that it is easier to understand. Updated Subsection R156-17b-612(13) by deleting "legend drugs" regarding the transfer of prescriptions. In Subsection R156-17b-614d(5), deleted that the pharmacist shall be currently certified by the Board of Pharmaceutical Specialties in Nuclear Pharmacy. Deleted Subsection R156-17b-616(2) regarding an Internet pharmacy as that information is now contained in the definition added in Section R156-17b-102. Deleted Section R156-17b-617a regarding operating standards for Class E pharmacy/animal euthanasia agency and Section 617b regarding operating standards for Class E pharmacy/pharmaceutical dog trainer. Under Subsection R156-17b-619(4), added subsection (b) which provides that written policies and procedures shall be in place prior to installation to ensure safety, accuracy, security, training of personnel, and patient confidentiality and to define access and limits to access to equipment and medications. This subsection was inadvertently left out in the original rule filing. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the December 1, 2004, issue of the Utah State Bulletin, on page 20. Underlining in the rule below indicates

text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-17b-101 and 58-37-1; and Subsections 58-17b-601(1), 58-1-106(1)(a), and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Deletes the Pharmacy Coordinating Council of Utah Internship Competencies, dated October 12, 2004

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The Division does not anticipate any additional costs or savings to the State beyond those previously identified in the original rule filing as a result of these proposed amendments.
- ❖ **LOCAL GOVERNMENTS:** This change in proposed rule does not affect local governments. The rule only affects licensed pharmacists, pharmacy interns, pharmacy technicians and pharmacies. Therefore, there is no anticipated costs or savings to local governments.
- ❖ **OTHER PERSONS:** As a result of these additional amendments, dog trainers, animal euthanasia agencies, and pharmaceutical research facilities will recognize a savings of \$200 per applicant in that they are no longer required to obtain a pharmacy license in addition to their controlled substance handler license which is required under the Utah Controlled Substances Act. The Division is unable to determine an aggregate savings as we are unable to determine how many persons/agencies would meet the above criteria.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As a result of these additional amendments, dog trainers, animal euthanasia agencies, and pharmaceutical research facilities will recognize a savings of \$200 per applicant in that they are no longer required to obtain a pharmacy license in addition to their controlled substance handler license which is required under the Utah Controlled Substances Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in proposed rule creates a positive fiscal impact to dog trainers, animal euthanasia agencies, and pharmaceutical research facilities, who are no longer required to obtain a pharmacy license in addition to their controlled substance handler licenses under Section 58-37-1, et seq. (the Controlled Substances Act). Otherwise, this change in proposed rule does not pose any additional fiscal impact concerns beyond those discussed in the original rule filing. Jason P. Perry, Acting Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/22/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
3/22/2005 at 9:00 AM, 160 E 300 S, Conference Room 4A, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 03/23/2005

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.

R156-17b. Pharmacy Practice Act Rules.

R156-17b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or these rules:

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

(2) "Drugs", as used in these rules, means drugs or devices.

(3) "Dispense", as defined in Subsection 58-17b-102(23), 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.

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

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

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

(7) "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.

(8) "Internet pharmacy" means a pharmacy licensed as either a Class A or Class D pharmacy that meets the VIPPS criteria as established by NABP and provides the following services via an Internet website, regardless of the quantum of the services:

(a) receives and fills valid prescription orders from a prescriber; or

(b) receives and fills refill requests from a patient who has a valid prescription order.

(18)9) "Legend drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device 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".

(19)10) "Maintenance medications" means medications the patient takes on an ongoing basis.

(140)11) "MPJE" means the Multistate Jurisprudence Examination.

(141)12) "NABP" means the National Association of Boards of Pharmacy.

(142)13) "NAPLEX" means North American Pharmacy Licensing Examination.

(143)14) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(144)15) "PTCB" means the Pharmacy Technician Certification Board.

(145)16) "Qualified continuing education", as used in these rules, means continuing education that meets the standards set forth in Section R156-17b-309.

(146)17) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(147)18) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

(148)19) "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 expiration date for the drug.

(149)20) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

(120)21) "USP-NF" means the United States Pharmacopeia-National Formulary (USP 28-NF 23), 2004 edition, which is official from January 1, 2005, which is hereby adopted and incorporated by reference.

(124)22) "VIPPS" means Verified Internet Pharmacy Practice Sites. Pharmacies displaying the VIPPS seal have demonstrated to NABP their compliance with VIPPS criteria including patient rights to privacy, authentication and security of prescription orders, adherence to a recognized quality assurance policy, and provision of meaningful consultation between patients and pharmacists. The VIPPS Criteria document, dated September 14, 2004, as established by NABP is adopted and incorporated by reference.

R156-17b-301. Pharmacy Licensure Classifications - Pharmacist-in-Charge Requirements.

In accordance with Subsection 58-17b-302(4), the classification of pharmacies holding licenses are clarified as:

(1) Class A pharmacy includes all retail operations, including ~~[in-state Internet]~~ pharmacies located in Utah that fill from Internet prescriptions, and requires a pharmacist-in-charge.

(2) 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 Class B pharmacies require a pharmacist-in-charge except for pharmaceutical administration facilities. Examples of Class B pharmacies include:

- (a) closed door;
- (b) hospital clinic pharmacy;
- (c) nuclear;
- (d) branch;
- (e) hospice facility pharmacy;
- (f) veterinarian pharmaceutical facility;
- (g) pharmaceutical administration facility; and
- (h) sterile product preparation facility.

(i) A retail pharmacy that prepares sterile products does not require a separate license as a Class B pharmacy.

(3) Class C pharmacy includes all pharmacies that are involved in:

- (a) manufacturing;
- (b) producing;
- (c) wholesaling; and
- (d) distributing

(4) Class D pharmacy includes non-resident pharmacies located outside the state of Utah. Class D pharmacies require a pharmacist-in-charge licensed in the state where the pharmacy is located. Class D pharmacies include:

(a) Out-of-state mail order pharmacies. Facilities that have multiple locations must have licenses for each facility and every component part of a facility; and

(b) Out-of-state Internet pharmacies. ~~[Internet pharmacies must meet VIPPS standard and criteria as established by NABP.]~~

(5) Class E pharmacy includes those pharmacies that do not require a pharmacist-in-charge and include:

- (a) medical gases providers; and
- (b) analytical laboratories; and
- ~~(c) dog trainers;~~
- ~~(d) animal euthanasia agency; and~~
- ~~(e) pharmaceutical research facility. Individual researchers who do not have prescriptive practice must have a controlled substances handler license].~~

(6) All pharmacy licenses will be converted to the appropriate classification by the Division ~~and~~ as identified in Section 58-17b-302.

(7) Each Class A and each Class B pharmacy required to have a pharmacist-in-charge shall have one pharmacist-in-charge who is employed on a full-time basis as defined by the employer, who acts as a pharmacist-in-charge for one pharmacy. However, the pharmacist-in-charge may be the pharmacist-in-charge of more than one Class A pharmacy, if the additional Class A pharmacies are not open to provide pharmacy services simultaneously.

(8) The pharmacist-in-charge shall comply with the provisions of Section R156-17b-603.

R156-17b-304. Licensure - Education Requirements.

(1) In accordance with Subsections 58-17b-303(2) and 58-17b-304(7)(c), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee of the National Association of Boards of Pharmacy Foundation, or an equivalent credentialing agency as approved by the Division.

(2) In accordance with Subsection 58-17b-304(6), the preliminary education qualification for licensure as a pharmacy intern include:

(a) a current pharmacy student who has completed at least 15 semester hours of pharmacy course work in a college or school of pharmacy accredited by the ACPE;

(b) a graduate who has received a degree from a school or college of pharmacy which is accredited by the ACPE; or

(c) a graduate of a foreign pharmacy school who has received a certificate of equivalency from an approved credentialing agency defined in Subsection (1).

(3) In accordance with Subsection 58-17b-305(1)(f), a pharmacy technician must complete an approved program of education and training that meets the following standards:

(a) The didactic training program must be approved by the Division in collaboration with the Board and must address, at a minimum, the following topics:

- (i) legal aspects of pharmacy practice including federal and state laws and rules governing practice;
- (ii) hygiene and ~~aspects~~ aseptic techniques;
- (iii) terminology, abbreviations and symbols;
- (iv) pharmaceutical calculations;
- (v) identification of drugs by trade and generic names, and therapeutic classifications;

(vi) filling of orders and prescriptions including packaging and labeling;

(vii) ordering, restocking, and maintaining drug inventory;

(viii) computer applications in the pharmacy; and

(ix) non-prescription products including ~~[, but not limited to,]~~ cough and cold, nutritional, analgesics, allergy, diabetic testing supplies, first aid, ophthalmic, family planning, foot, feminine hygiene, gastrointestinal preparations, and pharmacy care over-the-counter drugs, except those over-the-counter drugs that are prescribed by a practitioner.

(b) This training program's curriculum and a copy of the final examination shall be submitted to the Division for approval by the Board prior to starting any training session with a pharmacy technician in training. The final examination must include questions covering each of the topics listed in Subsection (3)(a) above.

(c) Approval must be granted by the Division in collaboration with the Board before a student may start a program of study. Specific guidelines include:

(i) an individual currently participating in a program of study that was approved prior to July 1, 2004, must complete the program by April 1, 2005 to be eligible for licensure.

(ii) a training program that accepts an individual into a program on or after January 1, 2005 must submit a copy of the curriculum no later than November 1, 2004 and have the program approved by the Division in collaboration with the Board.

(iii) an individual who completes a non-approved program is not eligible for licensure.

(d) The training program must require at least 180 hours of practical training supervised by a licensed pharmacist in good standing with the Division and must include written protocols and guidelines for the teaching pharmacist outlining the utilization and supervision of pharmacy technicians in training that includes:

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

(ii) an evaluative procedure to verify the accuracy and completeness of all acts, tasks and functions performed by the pharmacy technician in training.

(e) An individual must complete an approved training program and successfully pass the required examinations as listed in Subsection R156-17b-302(3) within one year from the date of the first day of the training program, unless otherwise approved by the Division in collaboration with the Board.

(4) An applicant for licensure as a pharmacy technician is deemed to have met the qualification for licensure in Subsection 58-17b-305(f) if the applicant:

(a) is currently licensed and in good standing in another state and has not had any adverse action taken on that license;

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

(c) has passed and maintained current the PTCB certification and passed the Utah law exam.

R156-17b-306. Licensure - Pharmacist - Pharmacy Internship Standards.

(1) In accordance with Subsection 58-17b-303(1)(g), the standards for the pharmacy internship required for licensure as a pharmacist include the following:

(a) At least 1500 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both.

(i) Internship hours completed in Utah shall include at least 360 hours but not more than 900 hours in a college coordinated practical experience program as an integral part of the curriculum which shall include a minimum of 120 hours in each of the following practices:

- (A) community pharmacy;
- (B) institutional pharmacy; and
- (C) any clinical setting.

(ii) Internship hours completed in another state or territory of the United States shall be accepted based on the approval of the hours by the pharmacy board in the jurisdiction where the hours were obtained.

(b) Evidence of completed internship hours shall be documented to the Division by the pharmacy intern at the time application is made for a Utah pharmacist license.

(c) Pharmacy interns participating in internships may be credited no more than 50 hours per week of internship experience.

(d) No credit will be awarded for didactic experience.

(2) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern must notify the Division within 15 days of the suspension or dismissal.

(3) If a pharmacy intern ceases to meet all requirements for intern licensure, he shall surrender his pharmacy intern license to the Division within 60 days unless an extension is required and granted by the Division in collaboration with the Board.

(4) In accordance with Subsections 58-17b-102(51), to be an approved preceptor, a pharmacist must meet the following criteria:

(a) hold a Utah pharmacist license that is active and in good standing;

(b) have been engaged in active practice as a licensed pharmacist for not less than two years in any jurisdiction;

(c) is not currently under any sanction nor has been under any sanction at any time which when considered by the Division and the Board would be of such a nature that the best interests of the intern and the public would not be served.

(d) shall provide direct, on-site supervision to only one pharmacy intern during a working shift; and

(e) ~~[should follow internship]~~ refer to the intern training guidelines as outlined in the Pharmacy Coordinating Council of Utah Internship Competencies, October 12, 2004, ~~[which is hereby adopted and incorporated by reference]~~ as information about a range of best practices for training interns.

R156-17b-309. Continuing Education.

(1) In accordance with Section 58-17b-310 and Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a requirement for continuing education as a condition for renewal or reinstatement of a pharmacist or pharmacy technician license issued under Title 58, Chapter 17b.

(2) Requirements shall consist of the following number of qualified continuing education hours in each preceding renewal period:

- (a) 30 hours for a pharmacist; and
- (b) 20 hours for a pharmacy technician.

(3) The required number of hours of qualified continuing professional education for an individual who first becomes licensed during the two year renewal cycle shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(4) Qualified continuing professional education hours shall consist of the following:

(a) for pharmacists:

(i) institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning courses, presented by an institution, individual, organization, association, corporation or agency that has been approved by ACPE;

(ii) programs approved by health-related continuing education approval organizations provided the continuing education is nationally recognized by a healthcare accrediting agency and the education is related to the practice of pharmacy; and

(iii) programs of certification by qualified individuals, such as certified diabetes educator credentials, board certification in advanced therapeutic disease management or other certification as approved by the Division in consultation with the Board.

(b) for pharmacy technicians:

(i) institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning courses, presented by an institution, individual, organization, association, corporation or agency that has been approved by ACPE;

(ii) programs approved by health-related continuing education approval organizations provided the continuing education is nationally recognized by a healthcare accrediting agency and the education is related to the practice of pharmacy; and

(iii) educational meetings that meet ACPE continuing education criteria sponsored by the Utah Pharmaceutical Association, the Utah Society of Health-System Pharmacists or a pharmacy technician training program approved in accordance with Subsection R156-17b-304(3)(b).

(5) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) Pharmacists:

(i) a minimum of 12 hours shall be obtained through attendance at live or technology enabled participation lectures, seminars or workshops;

(ii) a minimum of 15 hours shall be in drug therapy or patient management; and

(iii) a minimum of one hour shall be in pharmacy law ~~and~~ or ethics.

(b) Pharmacy Technicians:

(i) a minimum of eight hours shall be obtained through attendance at live or technology enabled participation at lectures, seminars or workshops; and

(ii) a minimum of one hour shall be in pharmacy law ~~and~~ or ethics.

(iii) documentation of current Pharmacy Technician Certification Board certification will count as meeting the requirement for continuing education.

(6) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after the close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

R156-17b-402. Administrative Penalties.

In accordance with Subsection 58-17b-401(6), unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply.

(1) Preventing or refusing to permit any authorized agent of the Division to conduct an inspection:

initial offense: \$500 - \$2,000

subsequent offense(s): \$5,000

(2) Failing to deliver the license or permit or certificate to the Division upon demand:

initial offense: \$100 - \$1,000

subsequent offense(s): \$500 - \$2,000

(3) Using the title pharmacist, druggist, pharmacy intern, pharmacy technician or any other term having a similar meaning or any term having similar meaning when not licensed to do so:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(4) Conducting or transacting business under a name which contains as part of that name the words drugstore, pharmacy, drugs, medicine store, medicines, drug shop, apothecary, prescriptions or any other term having a similar meaning or in any manner advertising otherwise describing or referring to the place of the conducted business or profession when not licensed to do so:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(5) Buying, selling, causing to be sold, or offering for sale any drug or device which bears the inscription sample, not for resale, investigational purposes, or experimental use only or other similar words:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$10,000

(6) Using to the licensee's own advantage or revealing to anyone other than the Division, Board or its authorized

representatives, any information acquired under the authority of this chapter concerning any method or process which is a trade secret:

initial offense: \$100 - \$500

subsequent offense(s): \$200 - \$1,000

(7) Illegally procuring or attempting to procure any drug for the licensee or to have someone else procure or attempt to procure a drug:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(8) Filling, refilling or advertising the filling or refilling of prescription drugs when not licensed to do so:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,000 - \$10,000

(9) Requiring any employed pharmacist, pharmacy intern, pharmacy technician or authorized supportive personnel to engage in any conduct in violation of this chapter:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,500 - \$10,000

(10) Being in possession of a drug for an unlawful purpose:

initial offense: \$500 - \$1,000

subsequent offense(s): \$1,500 - \$5,000

(11) Dispensing a prescription drug to anyone who does not have a prescription from a practitioner or to anyone who is known or should be known as attempting to obtain drugs by fraud or misrepresentation:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,500 - \$10,000

(12) Selling, dispensing or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$10,000

(13) Using a prescription drug or controlled substance for the licensee that was not lawfully prescribed for the licensee by a practitioner:

initial offense: \$100 - \$500

subsequent offense(s): \$1,000 - \$2,500

(14) Willfully deceiving or attempting to deceive the Division, the Board or its authorized agents as to any relevant matter regarding compliance under this chapter:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,500 - \$10,000

(15) Paying rebates to practitioners or any other health care provider, or entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation for recommending the professional services of either party:

initial offense: \$500 - \$2,000

subsequent offense(s): \$2,500 - \$10,000

(16) Misbranding or adulteration of any drug or device or the sale, distribution or dispensing of any outdated, misbranded, or adulterated drugs or devices:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$10,000

(17) Accepting back and redistributing any unused drugs, with the exception as provided in Section 58-17b-503:

initial offense: \$1,000 - \$5,000

subsequent offense(s): \$10,000

(18) Violating Federal Title II, PL 91, Controlled Substances Act or Title 58, Chapter 37, Utah Controlled Substances Act, or rules and regulations adopted under either act:

- initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,500 - \$10,000
 (19) Failure to follow USP-NF Chapter 797 guidelines:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,500 - \$10,000
 (20) Failure to follow USP-NF Chapter 795 guidelines:
 initial offense: \$250 - \$500
 subsequent offense(s): \$500 - \$750
 (21) Administering without appropriate guidelines or lawful order:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (22) Disclosing confidential patient information in violation of the provision of the Health Insurance Portability and Accountability Act of 1996 or other applicable law:
 initial offense: \$100 - \$500
 subsequent offense(s): \$500 - \$1,000
 (23) Engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist in charge:
 initial offense: \$100 - \$500
 subsequent offense(s): \$2,000 - \$10,000
 (24) Failing to report to the Division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency or court:
 initial offense: \$100 - \$500
 subsequent offense(s): \$500 - \$1,000
 (25) Compounding a prescription drug for sale to another pharmaceutical facility:
 initial offense: \$100 - \$500
 subsequent offense(s): \$500 - \$1,000
 (26) Preparing a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner:
 initial offense: \$500 - \$1,000
 subsequent offense(s): \$2,500 - \$5,000
 (27) Violating any ethical code provision of the American Pharmaceutical Association Code of Ethics for Pharmacists, October 27, 1994:
 initial offense: \$250 - \$500
 subsequent offense(s): \$2,000 - \$10,000
 (29) Failing to comply with the continuing education requirements set forth in these rules:
 initial offense: \$100 - \$500
 subsequent offense(s): \$500 - \$1,000
 (29) Failing to provide the Division with a current mailing address within 10 days following any change of address:
 initial offense: \$50 - \$100
 subsequent offense(s): \$200 - \$300
 (30) Defaulting on a student loan:
 initial offense: \$100 - \$200
 subsequent offense(s): \$200 - \$500
 (31) Failing to abide by all applicable federal and state law regarding the practice of pharmacy:
 initial offense: \$500 - \$1,000
 subsequent offense(s): \$2,000 - \$10,000
 (32) Failing to comply with administrative inspections:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (33) Abandoning a pharmacy and/or leaving drugs accessible to the public:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (34) Failure to return or providing false information on a self-inspection report:
 initial offense: \$100 - \$250
 subsequent offense(s): \$300 - \$500
 (35) Failure to pay an administrative fine:
 Double the original penalty amount up to \$10,000
 (36) Any other conduct which constitutes unprofessional or unlawful conduct:
 initial offense: \$100 - \$500
 subsequent offense(s): \$200 - \$1,000
 (37) Failure to wear a name tag:
 Individual initial: \$50
 Subsequent offense: \$100
 Pharmacy any offense: \$100 - \$200
 (38) Failure to maintain an appropriate ratio of personnel:
 Pharmacist initial offense: \$100 - \$250
 Pharmacist subsequent offense(s): \$500 - \$2,500
 Pharmacy initial offense: \$250 - \$1,000
 Pharmacy subsequent offense(s): \$500 - \$5,000
 (39) Unauthorized people in the pharmacy:
 Pharmacist initial offense: \$50 - \$100
 Pharmacist subsequent offense(s): \$250 - \$500
 Pharmacy initial offense: \$250 - \$500
 Pharmacy subsequent offense(s): \$1,000 - \$2,000
 (40) Failure to offer to counsel:
 Pharmacy personnel initial offense: \$500 - \$2,500
 Pharmacy personnel subsequent offense(s): \$5,000 - \$10,000
 Pharmacy: \$2,000 per occurrence
 (41) Violations of the laws and rules regulating operating standards (security system, unkempt facility, no hot water, etc.) in a pharmacy discovered upon inspection by the Division:
 initial violation: \$50 - \$100
 failure to comply within determined time: \$250 - \$500
 subsequent violations: \$250 - \$500
 failure to comply within established time: \$750 - \$1,000
 (42) Practicing or attempting to practice as a pharmacist, pharmacist intern, or pharmacy technician or operating a pharmacy without a license:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (43) Impersonating a licensee or practicing under a false name:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (44) Knowingly employing an unlicensed person:
 initial offense: \$500 - \$1,000
 subsequent offense(s): \$1,000 - \$5,000
 (45) Knowingly permitting the use of a license by another person:
 initial offense: \$500 - \$1,000
 subsequent offense(s): \$1,000 - \$5,000
 (46) Obtaining a passing score, applying for or obtaining a license or otherwise dealing with the Division or Board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission:
 initial offense: \$100 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000
 (47) Violating or aiding or abetting any other person to violate any statute, rule or order regulating pharmacy:
 initial offense: \$500 - \$2,000
 subsequent offense(s): \$2,000 - \$10,000

(48) Violating or aiding or abetting any other person to violate any generally accepted professional or ethical standard:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(49) Engaging in conduct that results in conviction[s] of, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(50) Engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(51) Engaging in conduct, including the use of intoxicants or drugs, to the extent that the conduct does or may impair the ability to safely engage in practice as a pharmacist, pharmacy intern or pharmacy technician:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(52) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician when physically or mentally unfit to do so:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(53) Practicing or attempting to practice as a pharmacist, pharmacy intern, or pharmacy technician through gross incompetence, gross negligence or a pattern of incompetency or negligence:

initial offense: \$500 - \$2,000
subsequent offense(s): \$2,000 - \$10,000

(54) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician by any form of action or communication which is false, misleading, deceptive or fraudulent:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(55) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician beyond the individual's scope of competency, abilities or education:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(56) Practicing or attempting to practice as a pharmacist, pharmacy intern or pharmacy technician beyond the scope of licensure:

initial offense: \$100 - \$500
subsequent offense(s): \$200 - \$1,000

(57) Verbally, physically or mentally abusing or exploiting any person through conduct connected with the licensee's practice:

initial offense: \$100 - \$1,000
subsequent offense(s): \$500 - \$2,000

(58) Failure to comply with the pharmacist-in-charge standards:

initial offense: \$500 - \$2,000
subsequent offense(s) \$2,000 - \$10,000

(59) Failure to resolve identified drug therapy management problems:

initial offense: \$500 - \$2,500
subsequent offense: \$5,000 - \$10,000

R156-17b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violating any provision of the American Pharmaceutical Association (APhA) Code of Ethics for Pharmacists, October 27, 1994, which is hereby incorporated by reference;

(2) failing to comply with the USP-NF Chapters 795 and 797;

(3) failing to comply with the continuing education requirements set forth in these rules;

(4) failing to provide the Division with a current mailing address within a 10 business day period of time following any change of address;

(5) defaulting on a student loan;

(6) failing to abide by all applicable federal and state law regarding the practice of pharmacy;

(7) failing to comply with administrative inspections;

(8) abandoning a pharmacy or leaving prescription drugs accessible to the public;]

~~—(9) failing to wear a name tag or badge while working in any pharmaceutical facility;]~~

~~(10)~~ failing to identify licensure classification when communicating by any means;

~~(11)~~ the practice of pharmacy with an inappropriate pharmacist to pharmacy intern ratio established by Subsection R156-17b-306(4)(b) or pharmacist to pharmacy technician ratio as established by Subsection R156-17b-601(3);

~~(12)~~ allowing any unauthorized persons in the pharmacy;

~~(13)~~ failing to offer to counsel any person receiving a prescription medication;

~~(14)~~ failing to pay an administrative fine that has been assessed in the time designated by the Division;

~~(15)~~ failing to comply with the pharmacist-in-charge standards as established in Section R156-17b-603; and

~~(16)~~ failing to take appropriate steps to avoid or resolve identified drug therapy management problems as referenced in Subsection R156-17b-611(3).

R156-17b-601. Operating Standards - Pharmacy Technician - Scope of Practice.

In accordance with Subsection 58-17b-102(56), the scope of practice of a pharmacy technician is defined as follows:

(1) The 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;

(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 ~~[non-prescription]~~over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist as referenced in Subsection R156-17b-304(3)(ix);

(k) accepting new prescription drug orders telephonically or electronically submitted for a pharmacist to review; and

- (1) additional tasks not requiring the judgment of a pharmacist.
- (2) The pharmacy technician shall not receive new verbal prescriptions or medication orders, clarify prescriptions or medication orders nor perform drug utilization reviews.
- (3) The licensed pharmacist on duty can, at his discretion, provide on-site supervision for up to three pharmacy technicians, who are actually on duty at any one time, and only one of the three technicians can be unlicensed.

R156-17b-602. Operating Standards - Pharmacy Intern - Scope of Practice.

A pharmacy intern may provide services including the practice of pharmacy under the supervision of an approved preceptor, as defined in Subsection 58-17b-102(51), provided the pharmacy intern met the criteria as established in Subsection R156-17b-304(2)~~[provide all pharmaceutical care services provided the services are supervised by a preceptor that meets the criteria established in Subsections 58-17b-102(54) and R156-17b-306(4)].~~

R156-17b-603. Operating Standards - Pharmacist-in-charge.

The pharmacist-in-charge shall have the responsibility to oversee the implementation and adherence to pharmacy policies that address the following~~[for, at a minimum, the following]~~:

- (1) assuring that pharmacists and pharmacy interns ~~[are dispensing]~~dispense drugs or devices, including:
 - (a) packaging, preparation, compounding and labeling; and
 - (b) ensuring that drugs are dispensed safely and accurately as prescribed;
- (2) assuring that pharmacy personnel deliver drugs to the patient or the patient's agent, including ensuring that drugs are delivered safely and accurately as prescribed;
- (3) assuring that a pharmacist, pharmacy intern or pharmacy technician communicates to the patient or the patient's agent information about the prescription drug or device or non-prescription products;
- (4) assuring that a pharmacist or pharmacy intern communicates to the patient or the patient's agent, at their request, information concerning any prescription drugs dispensed to the patient by the pharmacist or pharmacy intern;
- (5) assuring that a reasonable effort is made to obtain, record and maintain patient medication records;
- (6) education and training of pharmacy technicians;
- (7) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the pharmacy;
- (8) disposal and distribution of drugs from the pharmacy;
- (9) bulk compounding of drugs;
- (10) storage of all materials, including drugs, chemicals and biologicals;
- (11) ~~[maintaining]~~maintenance of records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and regulations;
- (12) establishment and maintenance of effective controls against theft or diversion of prescription drugs and records for such drugs;
- (13) if records are kept on a data processing system, the maintenance of records stored in that system shall be in compliance with pharmacy requirements;
- (14) legal operation of the pharmacy including meeting all inspection and other requirements of all state and federal laws, rules and regulations governing the practice of pharmacy;

(15) assuring that any automated pharmacy 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;

(16) ~~[implementing]~~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; and

(17) assuring that all relevant information is submitted to the Controlled Substance Database in the appropriate format and in a timely manner.

R156-17b-605. Operating Standards - Inventory Requirements.

(1) General requirements for inventory of a pharmacy shall include the following:

(a) the pharmacist-in-charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person or persons;

(b) the inventory records must be maintained for a period of five years and be readily available for inspection;

(c) the inventory records shall be filed separately from all other records;

(d) the inventory records shall be in a typewritten or printed form and include all stocks of legend drugs and controlled substances on hand on the date of the inventory including any that are out of date drugs and drugs in automated pharmacy systems. An inventory taken by use of a verbal recording device must be promptly transcribed;

(e) the inventory may be taken either as of the opening of the business or the close of business on the inventory date;

(f) the person taking the inventory and the pharmacist-in-charge shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;

(g) the person taking the inventory shall make an exact count or measure all controlled substances listed in Schedule I or II;

(h) the person taking the inventory shall make an estimated count or measure all Schedule~~[d]~~ III, IV or V controlled substances and legend drugs, unless the container holds more than 1,000 tablets or capsules in which case an exact count of the contents must be made;

(i) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV and V controlled substances which shall be listed separately from the inventory of the legend drugs; and

(j) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(2) Requirement for taking the initial inventory shall include the following:

(a) all pharmacies having any stock of legend drugs or controlled substances shall take an inventory on the opening day of business. Such inventory shall include all stock of legend drugs and controlled substances including any out-of-date drugs and drugs in automated pharmacy systems;

(b) in the event a pharmacy commences business with none of the drugs specified in paragraph (2)(a) of this section on hand, the pharmacy shall record this fact as the initial inventory; and

(c) the initial inventory shall serve as the pharmacy's inventory until the next completed inventory as specified in Subsection (3) of this section.

(3) Requirement for annual inventory shall be 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include all stocks including out-of-date drugs and drugs in automated pharmacy systems.

(4) Requirements for change of ownership shall include the following:

(a) a pharmacy that changes ownership shall take an inventory of all legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the change of ownership;

(b) such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer; and

(c) transfer of Schedule~~[d]~~ I and II controlled substances shall require the use of official DEA order forms (Form 222).

(5) Requirement for taking inventory when closing a pharmacy includes the pharmacist-in-charge, owner, or the legal representative of a pharmacy that ceases to operate as a pharmacy shall forward to the Division, within ten days of cessation of operation, a statement attesting that an inventory has been conducted, the date of closing and a statement attesting the manner by which legend drugs and controlled substances possessed by the pharmacy were transferred or disposed.

(6) Requirements specific to taking inventory in a Class B pharmacy shall include the following:

(a) all Class B pharmacies shall maintain a perpetual inventory of all Schedule II controlled substances which shall be reconciled according to facility policy; and

(b) the inventory of the institution shall be maintained in the pharmacy; if an inventory is conducted in other departments within the institution, the inventory shall be listed separately as follows:

(i) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory of drugs on hand in the other areas of the institution; and

(ii) the inventory of the drugs on hand in all other departments shall be identified by department.

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

(1) In accordance with Subsection 58-17b-102(66)(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 or pharmacy technician;
- (f) housekeeping; and
- (g) delivering a pre-filled prescription to a patient.

(2) Supportive personnel shall not enter information into a patient profile or accept verbal refill information.

(3) In accordance with Subsection 58-17b-102(66)(b), the supervision of supportive personnel is defined as follows:

(a) all supportive personnel shall be under the supervision of a licensed pharmacist; and

(b) the licensed pharmacist shall be present in the area where the person being supervised is performing services and shall be immediately available to assist the person being supervised in the services being performed except for the delivery of pre-filled prescriptions as provided in Subsection (1)(g) above.

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

R156-17b-609. Operating Standards - Medication Profile System.

In accordance with Subsections 58-17b-601(1) and 58-17b-604(1), the following operating standards shall apply with respect to medication profile systems:

(1) Patient profiles, once established, shall be maintained by a pharmacist in a pharmacy dispensing to patients on a recurring basis for a minimum of one year from the date of the most recent prescription filled or refilled; except that a hospital pharmacy may delete the patient profile for an inpatient upon discharge if a record of prescriptions is maintained as a part of the hospital record.

(2) Information to be included in the profile shall be determined by a responsible pharmacist at the pharmaceutical facility but shall include as a minimum:

(a) full name of the patient, address, telephone number, date of birth or age and gender;

(b) patient history where significant, including known allergies and drug reactions, and a ~~[comprehensive]~~ list of medications and relevant devices obtained at the pharmacy;

(c) a list of ~~[all]~~ prescription drugs obtained by the patient at the pharmacy including:

- (i) name of prescription drug;
 - (ii) strength of prescription drug;
 - (iii) quantity dispensed;
 - (iv) date of filling or refilling;
 - (v) charge for the prescription drug as dispensed to the patient;
- and

(d) any additional comments relevant to the patient's drug use.

(3) Patient medication profile information shall be recorded by a pharmacist, pharmacy intern or pharmacy technician.

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

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

(1) Based upon the pharmacist's or pharmacy intern's professional judgment~~[s]~~, patient counseling may be discussed to 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.
- (2) Patient counseling shall not be required for inpatients of a hospital or institution where other licensed health care professionals are authorized to administer the drugs.
- (3) A pharmacist shall not be required to counsel a patient or patient's agent when the patient or patient's agent refuses such consultation.
- (4) The offer to counsel shall be documented and said documentation shall be available to the Division.
- (5) Counseling shall be:
- (a) provided with each new prescription drug order, once yearly on maintenance medications, and if the pharmacist deems appropriate with prescription drug refills;
 - (b) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent; and
 - (c) communicated verbally in person unless the patient or the patient's agent is not at the pharmacy or a specific communication barrier prohibits such verbal communication.
- (6) Only a pharmacist or pharmacy intern may verbally provide drug information to a patient or patient's agent and answer questions concerning prescription drugs.
- (7) In addition to the requirements of Subsections (1) through (6) of this section, if a prescription drug order is delivered to the patient at the pharmacy, a filled prescription may not be delivered to a patient unless a pharmacist is in the pharmacy. However, an agent of the pharmacist may deliver a prescription drug order to the patient or the patient's agent if the pharmacist is absent for ten minutes or less and provided a record of the delivery is maintained and contains the following information:
- (a) date of the delivery;
 - (b) unique identification number of the prescription drug order;
 - (c) patient's name;
 - (d) patient's phone number or the phone number of the person picking up the prescription; and
 - (e) signature of the person picking up the prescription.
- (8) If a prescription drug order is delivered to the patient or the patient's agent at the patient's or other designated location, the following is applicable:
- (a) the information specified in Subsection (1) of this section 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) written information provided in Subsection (8)(b) of this section shall be in the form of patient information leaflets similar to USP-NF patient information monographs or equivalent information.

R156-17b-612. Operating Standards - Prescriptions.

In accordance with Subsection 58-17b-601(1), the following shall apply to prescriptions:

- (1) Prescription order shall be handled according to the rules of the Federal Drug Enforcement Administration.
- (2) A prescription issued by an authorized licensed practitioner, if verbally communicated by an agent of that practitioner upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist or pharmacy intern.
- (3) A prescription issued by a licensed prescribing practitioner, if electronically communicated by an agent of that practitioner, upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern and pharmacy technician.
- (4) In accordance with Section 58-17b-609, prescription files, including refill information, shall be maintained for a minimum of five years by either a manual filing of written prescriptions or by an immediately retrievable electronic record.
- (5) Prescriptions having a remaining authorization for refill may be transferred by the pharmacist at the pharmacy holding the prescription to a pharmacist at another pharmacy upon the authorization of the patient to whom the prescription was issued. The transferring pharmacist and receiving pharmacist shall act diligently to ensure that the total number of authorized refills is not exceeded.
- (6) Prescriptions for terminal patients in licensed hospices, home health agencies or nursing homes may be partially filled if the patient has a medical diagnosis documenting a terminal illness and may not need the full prescription amount.
- (7) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order;
- (8) If there are no refill instructions on the original prescription drug order, or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner must be obtained prior to dispensing any refills.
- (9) Refills of prescription drug orders for legend drugs may not be refilled after one year from the date of issuance of the original prescription drug order without obtaining authorization from the prescribing practitioner prior to dispensing any additional quantities of the drug.
- (10) Refills of prescription drug orders for controlled substances shall be done in accordance with Subsection 58-37-6(7)(f).
- (11) A pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner, provided:
 - (a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;
 - (b) either:
 - (i) a natural or manmade disaster has occurred which prohibits the pharmacist from being able to contact the practitioner; or
 - (ii) the pharmacist is unable to contact the practitioner after a reasonable effort, the effort should be documented and said documentation should be available to the Division;
 - (c) the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a greater quantity;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(e) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(f) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection; and

(g) the pharmacist affixes a label to the dispensing container as specified in Section 58-17b-602.

(12) If the prescription was originally filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(a) the patient has the prescription container label, receipt or other documentation from the other pharmacy which contains the essential information;

(b) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(c) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of (a) and (b) of this subsection; and

(d) the pharmacist complies with the requirements of Subsections (11)(c) through (g) of this section.

(13) The transfer of original prescription drug order information for legend drugs and Schedule III through V controlled substances is permissible between pharmacies on a one time basis only for the valid remaining refills except as described in Subsection R156-17b-613(9).

(a) the transfer shall be communicated directly between pharmacists or pharmacy interns or as authorized under Subsection R156-17b-613(9);

(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;

(c) the pharmacist or pharmacy intern transferring the prescription drug order shall void the prescription electronically or write void on the face of the invalidated prescription manually;

(d) the pharmacist or pharmacy intern receiving the transferred prescription drug order shall:

(i) indicate on the prescription record that the prescription was transferred electronically or manually; and

(ii) record on the transferred prescription drug order the following information:

(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;

(B) original prescription number and the number of refills authorized on the original prescription drug order;

(C) number of valid refills remaining and the date of last refill, if applicable;

(D) the name, address and, if a controlled substance, the DEA registration number of the pharmacy to which such prescription is transferred; and

(E) the name of the pharmacist or pharmacy intern transferring the prescription drug order information;

(e) the data processing system shall have a mechanism to prohibit the transfer or refilling of legend or controlled substance prescription drug orders which have been previously transferred; and

(f) a pharmacist or pharmacy intern may not refuse to transfer original prescription information to another pharmacist or pharmacy

intern who is acting on behalf of a patient and who is making a request for this information as specified in Subsections (12) and (13) of this section.

R156-17b-614. Operating Standards - Operating Standards, Class A and B Pharmacy.

(1) In accordance with Subsection 58-17b-601(1), standards for the operations for a Class A and Class B pharmacy include:

(a) shall be well lighted, well ventilated, clean and sanitary;

(b) the dispensing area, if any, shall have a sink with ~~hot~~ hot and cold culinary water separate and apart from any restroom facilities. This does not apply to clean rooms where sterile products are prepared. Clean rooms should not have sinks or floor drains that expose the area to an open sewer. All required equipment shall be clean and in good operating condition;

(c) be equipped to permit the orderly storage of prescription drugs and devices in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of the product inventory;

(d) be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice to be conducted within that facility;

(e) be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public health, safety and welfare; and

(f) be equipped with a security system to permit detection of entry at all times when the facility is closed.

(2) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. The temperature of the refrigerator and freezer shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing.

(3) Facilities engaged in extensive compounding activities shall be required to maintain proper records and procedure manuals and establish quality control measures to ensure stability, equivalency where applicable and sterility. The following requirements shall be met:

(a) must follow USP-NF Chapter 795, compounding of non-sterile preparations;

(b) may compound in anticipation of receiving prescriptions in ~~very~~ limited amounts;

(c) bulk active ingredients must be component of FDA approved drugs listed in the approved drug products prepared by the Center for Drug Evaluation and Research of the FDA;

(d) compounding using drugs that are not part of a FDA approved drug listed in the approved drug products prepared by the Center for Drug Evaluation and Research of the FDA requires an investigational new drug application (IND). The IND approval shall be kept in the pharmacy for five years for inspection;

(e) a master worksheet sheet shall be developed and approved by a pharmacist for each batch of sterile or non-sterile pharmaceuticals to be prepared. Once approved, a duplicate of the master worksheet sheet shall be used as the preparation worksheet sheet from which each batch is prepared and on which all documentation for that batch occurs. The master worksheet sheet shall contain at a minimum:

(i) the formula;

(ii) the components;

(iii) the compounding directions;

(iv) a sample label;

(v) evaluation and testing requirements;

(vi) sterilization methods, if applicable;

(vii) specific equipment used during preparation such as specific compounding device; and

(viii) storage requirements;

(f) a preparation worksheet sheet for each batch of sterile or non-sterile pharmaceuticals shall document the following:

(i) identity of all solutions and ingredients and their corresponding amounts, concentrations, or volumes;

(ii) manufacturer lot number for each component;

(iii) component manufacturer or suitable identifying number;

(iv) container specifications (e.g. syringe, pump cassette);

(v) unique lot or control number assigned to batch;

(vi) expiration date of batch prepared products;

(vii) date of preparation;

(viii) name, initials or electronic signature of the person or persons involved in the preparation;

(ix) names, initials or electronic signature of the responsible pharmacist;

(x) end-product evaluation and testing specifications, if applicable; and

(xi) comparison of actual yield to anticipated yield, when appropriate;

(g) the label of each batch prepared of sterile or non-sterile pharmaceuticals shall bear at a minimum:

(i) the unique lot number assigned to the batch;

(ii) all solution and ingredient names, amounts, strengths and concentrations, when applicable;

(iii) quantity;

(iv) expiration date and time, when applicable;

(v) appropriate ancillary instructions, such as storage instructions or cautionary statements, including cytotoxic warning labels where appropriate; and

(vi) device-specific instructions, where appropriate;

(h) the expiration date assigned shall be based on currently available drug stability information and sterility considerations or appropriate in-house or contract service stability testing;

(i) sources of drug stability information shall include the following:

(A) references can be found in Trissel's "Handbook on Injectable Drugs", 13th Edition, 2004;

(B) manufacturer recommendations; and

(C) reliable, published research;

(ii) when interpreting published drug stability information, the pharmacist shall consider all aspects of the final sterile product being prepared such as drug reservoir, drug concentration and storage conditions; and

(iii) methods for establishing expiration dates shall be documented; and

(i) there shall be a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities that follows the USP-NF Chapters 795 and 797 standards.

(4) The facility shall have current and retrievable editions of the following reference publications in print or electronic format and readily available and retrievable to facility personnel:

(a) Title 58, Chapter 1, Division of Occupational and Professional Licensing Act'

(b) R156-1, General Rules of the Division of Occupational and Professional Licensing;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) R156-17b, Utah Pharmacy Practice Act Rules;

(e) Title 58, Chapter 37, Utah Controlled Substances Act;

(f) R156-37, Utah Controlled Substances Act Rules;

(g) Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end or equivalent such as the USP DI Drug Reference Guides;

(h) current FDA Approved Drug Products (orange book); and

(i) any other general drug references necessary to permit practice dictated by the usual and ordinary scope of practice to be conducted within that facility.

(5) The facility shall post the license of the facility and the license or a copy of the license of each pharmacist, pharmacy intern and pharmacy technician who is employed in the facility, but may not post the license of any pharmacist, pharmacy intern or pharmacy technician not actually employed in the facility.

(6) Facilities shall have a counseling area to allow for confidential patient counseling, where applicable.

(7) If the pharmacy is located within a larger facility such as a grocery or department store, and a licensed Utah pharmacist is not immediately available in the facility, the pharmacy shall not remain open to pharmacy patients and shall be locked in such a way as to bar entry to the public or any non-pharmacy personnel. All pharmacies located within a larger facility shall be locked and enclosed in such a way as to bar entry by the public or any non-pharmacy personnel when the pharmacy is closed.

(8) Only a licensed Utah pharmacist or authorized pharmacy personnel shall have access to the pharmacy when the pharmacy is closed.

(9) The facility shall maintain a permanent log of the initials or identification codes which identify each dispensing pharmacist by name. The initials or identification code shall be unique to ensure that each pharmacist can be identified; therefore identical initials or identification codes shall not be used.

(10) The pharmacy facility must maintain copy 3 of DEA order form (Form 222) which has been properly dated, initialed and filed and all copies of each unaccepted or defective order form and any attached statements or other documents.

(11) If applicable, a hard copy of the power of attorney authorizing a pharmacist to sign DEA order forms (Form 222) must be available to the Division whenever necessary.

(12) Pharmacists or other responsible individuals shall verify that the suppliers' invoices of legend drugs, including controlled substances, are listed on the invoices and were actually received by clearly recording their initials and the actual date of receipt of the controlled substances.

(13) The pharmacy facility must maintain a record of suppliers' credit memos for controlled substances and legend drugs.

(14) A copy of inventories required under Section R156-17b-605 must be made available to the Division when requested.

(15) The pharmacy facility must maintain hard copy reports of surrender or destruction of controlled substances and legend drugs submitted to appropriate state or federal agencies.

R156-17b-614d. Operating Standards - Class B - Nuclear Pharmacy.

In accordance with Subsection~~[s-58-17b-303(4)(d) and]~~ 58-17b-601(1), the operating standards for a Class B pharmacy designated as a nuclear pharmacy shall have the following:

(1) A nuclear pharmacy shall have the following:

(a) have applied for or possess a current Utah Radioactive Materials License; and

(b) adequate space and equipment commensurate with the scope of services required and provided.

(2) Nuclear pharmacies shall only dispense radiopharmaceuticals that comply with acceptable standards of quality assurance.

(3) Nuclear pharmacies shall maintain a library commensurate with the level of radiopharmaceutical service to be provided.

(4) A licensed Utah pharmacist shall be immediately available on the premises at all times when the facility is open or available to engage in the practice of pharmacy.

(5) In addition to Utah licensure, the pharmacist shall ~~be currently certified by the Board of Pharmaceutical Specialties in Nuclear Pharmacy or~~ have ~~[equivalent]~~ classroom and laboratory training and experience as required by the Utah Radiation Control Rules.

(6) This rule does not prohibit:

(a) a licensed pharmacy intern or technician from acting under the direct supervision of an approved preceptor who meets the requirements to supervise a nuclear pharmacy; or

(b) a Utah Radioactive Materials license from possessing and using radiopharmaceuticals for medical use.

(7) A hospital nuclear medicine department or an office of a physician/surgeon, osteopathic physician/surgeon, veterinarian, pediatric physician or dentist that has a current Utah Radioactive Materials License does not require licensure as a Class B pharmacy.

R156-17b-615. Operating Standards - Class C Pharmacy - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer in Utah.

In accordance with Subsections 58-17b-102(48) and 58-17b-601(1), the operating standards for Class C pharmacies designated as pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensees includes the following:

(1) A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs.

(2) The licensee need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a responsible officer or management employee.

(3) All Class C pharmacies shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;

(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed or in any other way unsuitable for use or entry into distribution or manufacturing;

(e) be maintained in a clean and orderly condition; and

(f) be free from infestation by insects, rodents, birds or vermin of any kind.

(4) Each facility used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building codes, life and safety codes and control access to persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs or prescription drug precursors are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification of appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacturing of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(5) Each facility shall provide the storage of prescription drugs and prescription drug precursors in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the USP-NF;

(b) if no storage requirements are established for a specific prescription drug or prescription drug precursor, the products shall be held in a condition of controlled temperature and humidity as defined in the USP-NF to ensure that its identity, strength, quality and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs or prescription drug precursors are held to permit review of the record and ensure that the products have not been subjected to conditions which are outside of established limits.

(6) Each facility shall ensure that:

(a) upon receipt, each outside shipping container containing prescription drugs or prescription drug precursors shall be visibly examined for identity and to prevent the acceptance of prescription drugs or prescription drug precursors that are contaminated, reveal damage to the containers or are otherwise unfit for distribution; and

(b) each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(7) Each facility shall ensure that:

(a) prescription drugs or prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated from other prescription drugs or prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(b) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier; and

(c) if the conditions or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality or purity, then the

drug shall be appropriately destroyed or returned to the supplier, unless examination, testing or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality and purity.

(8) Each facility shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(9) Each facility shall establish, maintain and adhere to written policies and procedures which shall be followed for the receipt, security, storage, inventory, manufacturing, distribution or other disposal of prescription drugs or prescription drug precursors, including policies and procedures for identifying, recording and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the FDA or other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacement of existing product with an improved product or new package design;

(c) a procedure to prepare for, protect against or handle any crisis that affects security or operation of any facility in the event of strike, fire, flood or other natural disaster or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed; and

(e) a procedure for providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state or local authorities for a period of two years after disposition of the product.

(10) Each facility shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers and other persons in charge which lists shall include a description of their duties and a summary of their background and qualifications.

(11) Each facility shall comply with laws including:

(a) operating within applicable federal, state and local laws and regulations;

(b) permitting the state licensing authority and authorized federal, state and local law enforcement officials, upon presentation of proper credentials, to enter and inspect their premises and delivery vehicles and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtaining a controlled substance license from the Division and registering with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacturing of controlled substances and shall comply with all federal, state and local regulations applicable to the distribution or manufacturing of controlled substances.

(12) Each facility shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

(13) A person who is engaged in the wholesale distribution or manufacturing of prescription drugs but does not have a facility located within Utah in which prescription drugs are located, stored, distributed or manufactured is exempt from Utah licensure as a Class C pharmacy, if said person is currently licensed and in good standing in each state of the United States in which that person has a facility engaged in distribution or manufacturing of prescription drugs entered into interstate commerce.

R156-17b-616. Operating Standards - Class D Pharmacy - Non-Residence Pharmacies.

(1) In accordance with Subsections 58-1-301(3) and 58-17b-306(2), an application for licensure as a Class D pharmacy shall include:

(a) a pharmacy care protocol that includes the operating standards established in Subsections R156-17b-610(1) and (8) and R156-17b-614(1) through (4);

(b) a copy of the pharmacist's license for the pharmacist-in-charge; and

(c) a copy of the most recent state inspection showing the status of compliance with the laws and regulations for physical facility, records and operations.]

~~—(2) Any Internet pharmacy located in another state but providing drugs to citizens of Utah must meet VIPPS standards as outlined by NABP. Any Internet pharmacy located within the state and providing services to Utah citizens shall be licensed as a Class A pharmacy.]~~

~~[R156-17b-617a. Operating Standards — Class E — Animal Euthanasia Agency.~~

~~—In accordance with Section 58-17b-302 and Subsection 58-17b-601(1), the operating standards for a Class E pharmacy operating as an animal euthanasia agency concerning the use of prescription drugs shall include:~~

~~—(1) A veterinarian licensed in Utah shall supervise the use of prescription drugs used for animal euthanasia.~~

~~—(2) The veterinarian shall be responsible for:~~

~~—(a) identifying each euthanasia drug for which authorization is requested;~~

~~—(b) identifying the location where euthanasia drugs and records will be maintained;~~

~~—(c) identifying each person to be authorized to purchase, possess or administer euthanasia drugs;~~

~~—(d) describing the training program for each person authorized to purchase, possess or administer euthanasia drugs as well as attesting to be responsible for that training; and~~

~~—(e) maintaining euthanasia drug records.~~

~~R156-17b-617b. Operating Standards — Class E — Pharmaceutical Dog Trainer.~~

~~—In accordance with Section 58-17b-302 and Subsections 58-17b-601(1), the operating standards for a Class E pharmacy operating as a pharmaceutical dog trainer shall require an affiliation with a law enforcement official from a Utah law enforcement agency who is responsible for the purchase, storage and use of the authorized prescription drugs.~~

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R156-17b-619. Operating Standards - Automated Pharmacy System.

In accordance with Section 58-17b-621, automated pharmacy systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Division and licensed health care facilities where legally permissible and shall comply with the following provisions:

(1) Documentation as to type of equipment, serial numbers, content, policies and procedures and location shall be maintained on site in the pharmacy for review upon request of the Division. Such documentation shall include~~[, but is not limited to]:~~

(a) name and address of the pharmacy or licensed health care facility where the automated pharmacy system is being used;

(b) manufacturer's name and model;

(c) description of how the device is used;

(d) quality assurance procedures to determine continued appropriate use of the automated device; and

(e) policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access and malfunction.

(2) Automated pharmacy systems should be used only in settings where there is an established program of pharmaceutical care that ensures that before dispensing, or removal from an automated storage and distribution device, a pharmacist reviews all

prescription or medication orders unless a licensed independent practitioner controls the ordering, preparation and administration of the medication; or in urgent situations when the resulting delay would harm the patient including situations in which the patient experiences a sudden change in clinical status.

(3) All policies and procedures must be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where the system is being used.

(4) Automated pharmacy systems shall have:

(a) adequate security systems and procedures to:

(i) prevent unauthorized access;

(ii) comply with federal and state regulations; and

(iii) prevent the illegal use or disclosure of protected health information;

(b) written policies and procedures in place prior to installation to ensure safety, accuracy, security, training of personnel, and patient confidentiality and to define access and limits to access to equipment and medications.

(5) Records and electronic data kept by automated pharmacy systems shall meet the following requirements:

(a) all events involving the contents of the automated pharmacy system must be recorded electronically;

(b) records must be maintained by the pharmacy for a period of five years and must be readily available to the Division. Such records shall include:

(i) identity of system accessed;

(ii) identify of the individual accessing the system;

(iii) type of transaction;

(iv) name, strength, dosage form and quantity of the drug accessed;

(v) name of the patient for whom the drug was ordered; and

(vi) such additional information as the pharmacist-in-charge may deem necessary.

(6) Access to and limits on access to the automated pharmacy system must be defined by policy and procedures and must comply with state and federal regulations.

(7) The pharmacist-in-charge or pharmacist designee shall have the sole responsibility to:

(a) assign, discontinue or change access to the system;

(b) ensure that access to the medications comply with state and federal regulations; and

(c) ensure that the automated pharmacy system is filled and stocked accurately and in accordance with established written policies and procedures.

(8) The filling and stocking of all medications in the automated pharmacy system shall be accomplished by qualified licensed healthcare personnel under the supervision of a licensed pharmacist.

(9) A record of medications filled and stocked into an automated pharmacy system shall be maintained for a period of five years and shall include the identification of the persons filling, stocking and checking for accuracy.

(10) All containers of medications stored in the automated pharmacy system shall be packaged and labeled in accordance with federal and state laws and regulations.

(11) All aspects of handling controlled substances shall meet the requirements of all state and federal laws and regulations.

(12) The automated pharmacy system shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the automated pharmacy system, all in accordance with existing state and federal law. Written

policies and procedures shall address situations in which medications removed from the system remain unused and must be secured and accounted for.

(13) The automated pharmacy system shall provide a mechanism for securing and accounting for wasted medications or discarded medications in accordance with existing state and federal law. Written policies and procedures shall address situations in which medications removed from the system are wasted or discarded and must be secured.

KEY: pharmacists, licensing, pharmacies

2005

58-17b-101

58-17b-601(1)

58-37-1

58-1-106(1)(a)

58-1-202(1)(a)



End of the Notices of Changes in 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 responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Agriculture and Food, Animal Industry **R58-7** Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27688
FILED: 02/01/2005, 14:46

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 4-30-3 and 4-2-2 authorize the Department of Agriculture and Food to make and enforce this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The intent of this rule is to provide uniformity and fairness in the marketing of livestock within the state, whether sold through regularly established livestock markets or other types of sales. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mike Marshall, Marolyn Leetham, Earl Rogers, or Kyle Stephens at the above address, by phone at 801-538-7160, 801-538-7114, 801-538-7162, or 801-538-7102, by FAX at 801-538-7169, 801-538-7126, 801-538-7169, or 801-538-7126, or by Internet E-mail at mmarshall@utah.gov, mleetham@utah.gov, erogers@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/01/2005



Health, Health Systems Improvement, Licensing **R432-7** Specialty Hospital - Psychiatric Hospital Construction

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 27674
FILED: 01/28/2005, 13:55

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Specialty Hospital - Psychiatric Hospital Construction rule adopts the current codes and architectural guidelines for construction of psychiatric hospitals. Without the authority provided, standards for construction of psychiatric hospitals would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of psychiatric hospitals. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-8
Specialty Hospital - Chemical
Dependency/Substance Abuse
Construction

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27675
FILED: 01/28/2005, 13:58

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Specialty Hospital - Chemical Dependency/Substance Abuse Construction rule adopts the current codes and architectural guidelines for construction of Chemical Dependency/Substance Abuse hospitals. Without the authority provided, standards for construction of Chemical Dependency/Substance Abuse hospitals would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of chemical dependency/substance abuse hospitals. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-9
Specialty Hospital - Rehabilitation
Construction Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27676
FILED: 01/28/2005, 14:00

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Specialty Hospital - Rehabilitation Construction Rule adopts the current codes and architectural guidelines for construction of Rehabilitation hospitals. Without the authority provided, standards for construction of Rehabilitation hospitals would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Rehabilitation hospitals. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-10
Specialty Hospital - Long-Term Acute
Care Construction Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27677
FILED: 01/28/2005, 14:03

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Specialty Hospital - Long-Term Acute Care Construction Rule adopts the current codes and architectural guidelines for construction of Long-Term Acute Care hospitals. Without the authority provided, standards for construction of Long-Term Acute Care hospitals would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Long-Term Acute Care hospitals. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-11
Specialty Hospital - Orthopedic Hospital
Construction

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27678
FILED: 01/28/2005, 14:05

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Specialty Hospital - Orthopedic Hospital Construction rule adopts the current codes and architectural guidelines for construction of Orthopedic hospitals. Without the authority provided, standards for construction of Orthopedic hospitals would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Orthopedic hospitals. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-12
Small Health Care Facility (Four to
Sixteen Beds) Construction Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27679
FILED: 01/28/2005, 14:07

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Small Health Care Facility Construction Rule adopts the current codes and architectural guidelines for construction of Small Health Care Facilities. Without the authority provided, standards for construction of Small Health Care Facilities would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Small Health Care Facilities. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-13
Freestanding Ambulatory Surgical
Center Construction Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 27680
FILED: 01/28/2005, 14:09

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Freestanding Ambulatory Surgical Center Construction Rule adopts the current codes and architectural guidelines for construction of Ambulatory Surgical Centers. Without the authority provided, standards for construction of Ambulatory Surgical Centers would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Ambulatory Surgical Centers. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-14
Birthing Center Construction Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 27681
FILED: 01/28/2005, 14:12

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Birthing Center Construction Rule adopts the current codes and architectural guidelines for construction of Birthing Centers. Without the authority provided, standards for construction of Birthing Centers would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule. The rule ensures proper construction of Birthing Centers. The Health Facility Committee updated and reviewed the rule in 2002.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005



Health, Health Systems Improvement,
Licensing
R432-30
Adjudicative Procedure

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 27682
FILED: 01/28/2005, 14:14

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, requires the Department to adopt rules that define due process and appeal rights when the Department takes an action regarding a licensed health care facility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency agrees with the need to continue the rule because it defines the process to follow when a Notice of Agency Action is taken regarding a licensed health care facility, such as determinations to grant, deny, revoke, modify, withdraw, or amend a license.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joel Hoffman at the above address, by phone at 801-538-6165, by FAX at 801-538-6163, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/28/2005

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Health, Health Systems Improvement, Licensing **R432-270** Assisted Living Facilities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27683
FILED: 01/31/2005, 10:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for health care facilities. The Assisted Living Facilities rule adopts the current codes for operating Assisted Living Type I and Type II facilities. Without the authority provided, standards for operating an Assisted Living facility would not be available.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Health Facility Committee established a subcommittee that consisted of representatives from the Utah Assisted Living Association, licensed providers, and other interested parties to review and recommend changes to the Assisted Living rule. Amendments to the rule were made based on the input from the committee. 1) There were many comments to not restrict the number of ADLs (Activities of Daily Living) that a resident can have total assistance with in a Type I facility. 2) There was comment and discussion of what constitutes an ADL. 3) There was comment to support changes to the medication administration portion of the rule to clarify the facility responsibilities. 4) There was comment to request more clarification on the proposed changes to medication

administration. 5) There was comment to clarify what types of licensed professionals can do assessments for residents.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The comments that were made were addressed and clarified during the rule change process in 2001. The agency agrees with the need to continue the rule. No new changes are proposed at this time.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael G. Broschinsky at the above address, by phone at 801-538-3003, by FAX at 801-538-1773, or by Internet E-mail at mbroschi@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 01/31/2005

▼ ————— ▼

Human Services, Administration, Administrative Services, Licensing **R501-18** Abuse Background Screening

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 27673
FILED: 01/27/2005, 15:31

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-2-121 and 62A-4a-116 require that a review of the Management Information System shall be conducted on licensees and individuals associated with the licensee as part of the initial and annual licensing process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Office of Licensing has not received any written comments during the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There is a continued and

increasing need for abuse background screening to protect children and vulnerable adults from individuals who may have committed acts of abuse, neglect, or exploitation of a child or vulnerable adult.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi at the above address, by phone at 801-538-4153, by FAX at 801-538-4553, or by Internet E-mail at jbohi@utah.gov

AUTHORIZED BY: Ken Stettler, Director

EFFECTIVE: 01/27/2005



Insurance, Administration
R590-88
Prohibited Transactions Between
Agents and Unauthorized Multiple
Employer Trusts

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE NO.: 27684
FILED: 01/31/2005, 14:53

NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 authorizes the commissioner to write rules to implement the Insurance code. Specific rulemaking authority comes from Section 31A-23-302, which is now Section 31A-23a-402. The renumbering of this part of the code was a result of H.B. 374, Insurance Producers Amendments, in the 2003 Legislature. The language in this section did not change. It authorizes the commissioner to set guidelines for determining what is unfair discrimination and allows the commissioner to make rules defining unfair marketing acts or practices. The rule identifies prohibited transactions of unauthorized multiple employer trusts and sets sanctions to be applied against those participating in these prohibited transactions. (DAR NOTE: H.B. 374 is found at UT L 2003 Ch 298, and was effective 05/05/2005.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has

received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule protects consumers from agents or organizations selling insurance for unauthorized multiple employer trusts. This insurance is not backed by a licensed insurer. The rule also provides sanctions against producers transacting this type of business. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 01/31/2005



Insurance, Administration
R590-128
Unfair Discrimination Based Solely on
the Failure to Maintain Auto Insurance
(Revised)

FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

DAR FILE NO.: 27685
FILED: 01/31/2005, 15:22

NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule gets its specific rulemaking authority from Subsection 31A23-302(3) and (8), which is now Subsections 31A-23a-402(3) and (8). The renumbering of this part of the code was a result of H.B. 374, Insurance Producers Amendments, in the 2003 Legislature. This legislation did not change the language in Subsections 31A-23a-402(3) and 31A-23a-402(8). Subsection 31A-23a-402(3) gives the commissioner authority to set guidelines for determining what is unfair discrimination and Subsection 31A-23a-402(8) allows the commissioner to make rules defining unfair marketing acts or practices. The rule identifies acts or

practices classed as unfair discrimination when applied against an applicant who has failed to maintain auto insurance for a period of time. (DAR NOTE: H.B. 374 is found at UT L 2003 Ch 298, and was effective 05/05/2003.)

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to continue in force to prevent auto insurers from discriminating against an applicant of automobile insurance based solely upon the fact that they failed to maintain auto insurance for a period of time. An insurer must demonstrate that there are other reasons for denying coverage or increasing their premium, such as, poor driving record, or loss history.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 01/31/2005



**Insurance, Administration
 R590-132**

**Insurance Treatment of Human
 Immunodeficiency Virus (HIV) Infection**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE NO.: 27686
 FILED: 01/31/2005, 15:33

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-2-201(3) and (4) authorize the commissioner to write rules to implement the Insurance code. The rule identifies and restricts certain underwriting, classification, or declination practices that have

been used to discriminate against individuals with HIV infection. The rule also provides guidelines regarding confidentiality of AIDS-related testing.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued in force to make sure that the privacy of those tested for AIDS for insurance purposes, is protected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 01/31/2005



**Natural Resources, Water Rights
 R655-3
 Reports of Water Right Conveyance**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE NO.: 27690
 FILED: 02/01/2005, 18:09

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: These rules are issued pursuant to Section 73-1-10 which provides that the state engineer shall adopt rules that specify: when a water right owner is authorized to prepare a Report of Conveyance to the state engineer; the kinds of information required in such reports; and the procedures for processing such reports.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 73-1-10 requires the State Engineer to adopt rules for preparing Reports of Water Right Conveyance and updating water right title with the Division of Water Rights. The rule specifies the information required in a Report of Conveyance and the procedure for processing the reports. The rule provides specific information to water right owners on how to update title, so necessary information provided to the State Engineer is submitted correctly and accurately. Title can then be updated to the new owner. Upon new owner title update, the administrative actions concerning the water rights involved can then be sent to the current owner. No opposing comments received.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 02/01/2005

▼ ————— ▼

Natural Resources, Water Rights **R655-4** Water Well Drillers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 27691
FILED: 02/01/2005, 18:28

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The administrative rules for Water Well Drillers were promulgated under the statutory provisions of Section 73-3-25, which states in part, "Every person that constructs a well in the state shall obtain a license from the state engineer. The state engineer shall enact rules defining the form, the expiration date, and the renewal cycle of the application for a license. Well drillers' licenses are not transferable. The state engineer shall enact rules for well construction according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act. A person who constructs a well in this state must first obtain a

license as provided in this section. Before a well driller's license will be issued, the applicant must file a well driller bond with the state engineer. The bond shall be made payable to the Office of the State Engineer. In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the state engineer may make rules to set the amount, form, and general administrative requirements of a well driller bond. Proper compliance with the provisions of this section and the rules enacted under the authority of this section are required to obtain or renew a license. Well drillers shall comply with the rules enacted by the state engineer under this chapter."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of the administrative rules for Water Well Drillers is to assist in the orderly development of underground water; insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, and abandonment of water wells and other regulated wells; prevent pollution of aquifers within the state; prevent wasting of water from flowing wells; obtain accurate records of well construction operations; and insure compliance with the state engineer's authority for appropriating water. The rule currently applies to over 160 licensed drillers, 150 registered operators, who drill over 1,400 wells per year. In order to accomplish these purposes and effectively regulate the well drillers, the rule is still necessary. Changes to the rule are not required at this time. In 2004, the rule underwent a major revision as a result of a revision to the well drilling statute (Section 73-3-25). These revisions were supported by the State's driller association (Utah Ground Water Association), as well as the drilling community at large within the State. The changes resulted in an increase in efficiency and a reduction in administrative effort for both the Division of Water Rights and the drillers. The revisions also clarified several ambiguous sections within the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@utah.gov

AUTHORIZED BY: Jerry Olds, Director

EFFECTIVE: 02/01/2005

▼ ————— ▼

Regents (Board Of), Administration
R765-604
 New Century Scholarship

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 27663
 FILED: 01/19/2005, 11:30

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53B-8-105: Scholarships awarded by the State Board of Regents for high school students who complete the requirements for an associate's degree in high school are authorized by this statute. Funds are appropriated by the legislature annually to cover authorized costs for these scholarships. This rule is required to provide guidelines for the State Board of Regents to award a New Century Scholarship authorized by Section 53B-8-105.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule will

make available scholarship opportunities for secondary school students wishing to pursue higher education and who demonstrate their desire by accelerating their training to receive an associate's degree early. The opportunity for scholarship funds to complete a bachelor's degree provides an incentive for students to begin, continue, and complete requirements for an associate's degree early and thus decreases the time to complete a bachelor's degree. The result is less competition for class space and resources since those qualifying for and receiving this New Century Scholarship would not add to the burden high enrollment numbers may cause.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

REGENTS (BOARD OF)
 ADMINISTRATION
 BOARD OF REGENTS BUILDING, THE GATEWAY
 60 SOUTH 400 WEST
 SALT LAKE CITY UT 84101-1284, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

AUTHORIZED BY: Mark H. Spencer, Associate Commissioner

EFFECTIVE: 01/19/2005



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 27570 (AMD): R58-1. Admission and Inspection of Livestock, Poultry, and Other Animals.

Published: December 15, 2004

Effective: January 18, 2005

No. 27581 (AMD): R58-2. Diseases, Inspections and Quarantines.

Published: January 1, 2005

Effective: February 1, 2005

Commerce

Occupational and Professional Licensing

No. 27435 (CPR): R156-50. Private Probation Provider Licensing Act Rules.

Published: December 15, 2004

Effective: January 18, 2005

No. 27435 (AMD): R156-50. Private Probation Provider Licensing Act Rules.

Published: October 15, 2004

Effective: January 18, 2005

Education

Administration

No. 27592 (AMD): R277-733. Adult Education Programs.

Published: January 1, 2005

Effective: February 1, 2005

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 27589 (AMD): R414-34-6. Qualified Providers.

Published: January 1, 2005

Effective: February 1, 2005

No. 27591 (AMD): R414-36-6. Qualified Providers.

Published: January 1, 2005

Effective: February 1, 2005

No. 27586 (AMD): R414-61-2. Incorporation by Reference.

Published: January 1, 2005

Effective: February 1, 2005

No. 27549 (AMD): R414-63. Medicaid Policy for Pharmacy Reimbursement.

Published: December 15, 2004

Effective: January 26, 2005

No. 27557 (AMD): R414-90. Diabetes Self-Management Training.

Published: December 15, 2004

Effective: January 19, 2005

No. 27588 (AMD): R414-200. Non-Traditional Medicaid Health Plan Services.

Published: January 1, 2005

Effective: February 1, 2005

Health Systems Improvement, Emergency Medical Services

No. 27519 (AMD): R426-12. Emergency Medical Services Training and Certification Standards.

Published: November 15, 2004

Effective: February 1, 2005

No. 27521 (AMD): R426-13. Emergency Medical Services Provider Designations.

Published: December 1, 2004

Effective: February 1, 2005

No. 27522 (AMD): R426-15. Licensed and Designated Provider Operations.

Published: December 1, 2004

Effective: February 1, 2005

Human Services

Services for People with Disabilities

No. 27568 (AMD): R539-1. Eligibility.

Published: December 15, 2004

Effective: January 25, 2005

Judicial Conduct Commission

Administration

No. 27330 (NEW): R595-1. General Provisions.

Published: September 1, 2004

Effective: February 1, 2005

No. 27330 (CPR): R595-1. General Provisions.

Published: December 15, 2004

Effective: February 1, 2005

NOTICES OF RULE EFFECTIVE DATES

No. 27580 (REP): R595-1. Rules of Procedure.
Published: January 1, 2005
Effective: February 1, 2005

No. 27331 (NEW): R595-2. Administration.
Published: September 1, 2004
Effective: February 1, 2005

No. 27331 (CPR): R595-2. Administration.
Published: December 15, 2004
Effective: February 1, 2005

No. 27332 (NEW): R595-3. Procedure.
Published: September 1, 2004
Effective: February 1, 2005

No. 27332 (CPR): R595-3. Procedure.
Published: December 15, 2004
Effective: February 1, 2005

No. 27333 (NEW): R595-4. Sanctions.
Published: September 1, 2004
Effective: February 1, 2005

No. 27333 (CPR): R595-4. Sanctions.
Published: December 15, 2004
Effective: February 1, 2005

Labor Commission

Safety

No. 27590 (AMD): R616-3-3. Safety Codes for Elevators.
Published: January 1, 2005
Effective: February 1, 2005

Natural Resources

Parks and Recreation

No. 27560 (AMD): R651-202. Boating Advisory Council.
Published: December 15, 2004
Effective: January 15, 2005

No. 27559 (AMD): R651-205-7. Palisade Lake.
Published: December 15, 2004
Effective: January 15, 2005

No. 27561 (AMD): R651-206. Carrying Passengers for Hire.
Published: December 15, 2004
Effective: January 15, 2005

No. 27562 (REP): R651-209. Registration Expiration.
Published: December 15, 2004
Effective: January 15, 2005

No. 27563 (AMD): R651-211. Assigned Numbers.
Published: December 15, 2004
Effective: January 15, 2005

No. 27564 (AMD): R651-212. Display of Yearly Registration Decals and Month of Expiration Decals.
Published: December 15, 2004
Effective: January 15, 2005

No. 27565 (AMD): R651-215. Personal Flotation Devices.
Published: December 15, 2004
Effective: January 15, 2005

No. 27566 (AMD): R651-401. Off-Highway Vehicle and Registration Stickers.
Published: December 15, 2004
Effective: January 15, 2005

Wildlife Resources

No. 27550 (AMD): R657-5. Taking Big Game.
Published: December 15, 2004
Effective: January 15, 2005

No. 27551 (AMD): R657-37. Cooperative Wildlife Management Units for Big Game.
Published: December 15, 2004
Effective: January 15, 2005

No. 27552 (AMD): R657-38. Dedicated Hunter Program.
Published: December 15, 2004
Effective: January 15, 2005

No. 27553 (AMD): R657-42-4. Surrenders.
Published: December 15, 2004
Effective: January 15, 2005

Public Safety

Fire Marshal

No. 27573 (AMD): R710-6. Liquefied Petroleum Gas Rules.
Published: December 15, 2004
Effective: January 19, 2005

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 1, 2005, including notices of effective date received through February 1, 2005, the effective dates of which are no later than February 15, 2005. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Fleet Operations</u>					
R27-1-2	Definitions	27546	AMD	01/10/2005	2004-23/3
R27-4	Vehicle Replacement and Expansion of State Fleet	27543	AMD	01/10/2005	2004-23/5
R27-6	Fuel Dispensing Program	27544	AMD	01/10/2005	2004-23/7
Agriculture and Food					
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	27570	AMD	01/18/2005	2004-24/5
R58-2	Diseases, Inspections and Quarantines	27581	AMD	02/01/2005	2005-1/9
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	27688	5YR	02/01/2005	2005-4/46
R58-10	Meat and Poultry Inspection	27693	5YR	02/03/2005	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R58-17	Aquaculture and Aquatic Animal Health.	27696	5YR	02/03/2005	Not Printed
R58-21	Trichomoniasis	27694	5YR	02/03/2005	Not Printed
R58-22	Equine Infectious Anemia (EIA)	27695	5YR	02/03/2005	Not Printed
<u>Plant Industry</u>					
R68-3	Utah Fertilizer Act Governing Fertilizers and Soil Amendments	27645	5YR	01/07/2005	2005-3/58
R68-20	Utah Organic Standards	27697	5YR	02/04/2005	Not Printed
<u>Regulatory Services</u>					
R70-440	Egg Products Inspection	27514	NSC	01/01/2005	Not Printed
R70-960-7	Registration Certificate Displayed	27523	NSC	01/01/2005	Not Printed
Commerce					
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	27499	NSC	01/01/2005	Not Printed
R156-50	Private Probation Provider Licensing Act Rules	27435	AMD	01/18/2005	2004-20/12
R156-50	Private Probation Provider Licensing Act Rules	27435	CPR	01/18/2005	2004-24/58
R156-56	Utah Uniform Building Standard Act Rules	27489	AMD	01/01/2005	2004-21/6
R156-56-704	Statewide Amendments to the IBC	27490	AMD	01/01/2005	2004-21/11
R156-61-502	Unprofessional Conduct	27538	AMD	01/04/2005	2004-23/40
R156-71-202	Naturopathic Physician Formulary	27533	AMD	01/04/2005	2004-23/41
Community and Economic Development					
<u>Community Development, Community Services</u>					
R202-202-202	Opening and Closing Dates for HEAT Program	27418	AMD	01/12/2005	2004-19/24
R202-203-324	Income Deductions	27421	AMD	01/12/2005	2004-19/25
R202-203-328	Self-Employment Income	27419	AMD	01/12/2005	2004-19/26
R202-207-702	Records Management	27420	AMD	01/12/2005	2004-19/27
Education					
<u>Administration</u>					
R277-400	School Emergency Response Plans	27539	NSC	01/01/2005	Not Printed
R277-473	Testing Procedures	27547	AMD	01/04/2005	2004-23/43
R277-725	Electronic High School	27507	NSC	01/01/2005	Not Printed
R277-733	Adult Education Programs	27592	AMD	02/01/2005	2005-1/10
R277-746	Driver Education Programs for Utah Schools	27520	NSC	01/01/2005	Not Printed
Environmental Quality					
<u>Air Quality</u>					
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	CPR	01/04/2005	2004-23/53
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	27343	AMD	01/04/2005	2004-17/12
<u>Water Quality</u>					
R317-4	Individual Wastewater Disposal Systems	27699	5YR	02/10/2005	Not Printed
Health					
<u>Administration</u>					
R380-40	Local Health Department Minimum Performance Standards	27571	AMD	02/02/2005	2004-24/9

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-7D	Intermediate Care Facility for the Mentally Retarded Transition Project	27505	NEW	01/03/2005	2004-22/15
R414-10A-6	Prior Authorization	27486	NSC	01/01/2005	Not Printed
R414-34-6	Qualified Providers	27589	AMD	02/01/2005	2005-1/21
R414-36-6	Qualified Providers	27591	AMD	02/01/2005	2005-1/22
R414-61-2	Incorporation by Reference	27586	AMD	02/01/2005	2005-1/23
R414-63	Medicaid Policy for Pharmacy Reimbursement	27549	AMD	01/26/2005	2004-24/13
R414-90	Diabetes Self-Management Training	27557	AMD	01/19/2005	2004-24/15
R414-200	Non-Traditional Medicaid Health Plan Services	27588	AMD	02/01/2005	2005-1/24
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-12	Emergency Medical Services Training and Certification Standards	27519	AMD	02/01/2005	2004-22/26
R426-13	Emergency Medical Services Provider Designations	27521	AMD	02/01/2005	2004-23/47
R426-15	Licensed and Designated Provider Operations	27522	AMD	02/01/2005	2004-23/48
<u>Health Systems Improvement, Licensing</u>					
R432-7	Specialty Hospital - Psychiatric Hospital Construction	27674	5YR	01/28/2005	2005-4/46
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	27675	5YR	01/28/2005	2005-4/47
R432-9	Specialty Hospital - Rehabilitation Construction Rule	27676	5YR	01/28/2005	2005-4/48
R432-10	Specialty Hospital - Long-Term Acute Care Construction Rule	27677	5YR	01/28/2005	2005-4/48
R432-11	Specialty Hospital - Orthopedic Hospital Construction	27678	5YR	01/28/2005	2005-4/49
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	27679	5YR	01/28/2005	2005-4/49
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	27680	5YR	01/28/2005	2005-4/50
R432-14	Birthing Center Construction Rule	27681	5YR	01/28/2005	2005-4/50
R432-30	Adjudicative Procedure	27682	5YR	01/28/2005	2005-4/51
R432-270	Assisted Living Facilities	27683	5YR	01/31/2005	2005-4/51
Human Services					
<u>Administration, Administrative Services, Licensing</u>					
R501-18	Abuse Background Screening	27673	5YR	01/27/2005	2005-4/52
<u>Recovery Services</u>					
R527-10	Disclosure of Information to the Office of Recovery Services	27640	5YR	01/06/2005	2005-3/58
R527-40	Retained Support	27642	5YR	01/06/2005	2005-3/59
R527-210	Guidelines for Setting Child Support Awards	27534	REP	01/04/2005	2004-23/49
R527-475	State Tax Refund Intercept	27641	5YR	01/06/2005	2005-3/59
<u>Services for People with Disabilities</u>					
R539-1	Eligibility	27568	AMD	01/25/2005	2004-24/17
Insurance					
<u>Administration</u>					
R590-88	Prohibited Transactions Between Agents and Unauthorized Multiple Employer Trusts	27684	5YR	01/31/2005	2005-4/52
R590-128	Unfair Discrimination Based Solely on the Failure to Maintain Auto Insurance (Revised)	27685	5YR	01/31/2005	2005-4/53
R590-132	Insurance Treatment of Human Immunodeficiency Virus (HIV) Infection	27686	5YR	01/31/2005	2005-4/54

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-147	Annual and Quarterly Statement Filing Instructions	27556	R&R	02/10/2005	2004-24/21
R590-163	Filing Quarterly Statements	27554	REP	02/10/2005	2004-24/23
R590-174	Diskette Filing of Annual and Quarterly Statements	27555	REP	02/10/2005	2004-24/24
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27644	5YR	01/07/2005	2005-3/60
R590-196	Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form	27558	AMD	02/10/2005	2004-24/25

Judicial Conduct Commission

Administration

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	27553	R657-42-4	AMD	01/15/2005	2004-24/53
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	27552	R657-38	AMD	01/15/2005	2004-24/48
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	27432	R657-13	AMD	01/03/2005	2004-20/33
	27432	R657-13	CPR	01/03/2005	2004-22/66