

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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 63G-3-402.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <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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SPECIAL NOTICES

Environmental Quality Air Quality

Notice of Public Comment Period for PM2.5 Exceptional Event - Independence Day Fireworks, July 4, 2013

Federal regulations (40 Code of Federal Regulations (CFR) Part 50) allow states to exclude air quality data that exceed or violate a National Ambient Air Quality Standard (NAAQS) if it can demonstrate that an "exceptional event" has caused the exceedance or violation. Exceptional events are unusual or naturally occurring events that can affect air quality but are not reasonably controllable or preventable using techniques implemented to attain and maintain the NAAQS. Exceptional events are events for which the normal planning and regulatory process established by the Clean Air Act are not appropriate.

Exceptional events may be caused by human activity that is unlikely to recur at a particular location, or may be due to a natural event. EPA defines a "natural event" as an event in which human activity plays little or no direct causal role to the event in question. For example, a natural event could include such things as high winds, wild fires, and seismic/volcanic activity. In addition, the EPA will allow states to exclude data from regulatory determinations on a case-by-case basis for monitoring stations that measure values that exceed or violate the NAAQS due to emissions from fireworks displays from cultural events. These events can be flagged as being affected by exceptional or natural events and then justified.

Federal regulations (40 CFR Part 50.14 (c) (3)(i)) require that all relevant flagged data, the reasons for the data being flagged, and a demonstration that the flagged data are caused by exceptional events be made available by the State for 30 days of public review and comment. These comments will be considered in the final demonstration of the event that is submitted to EPA. The following monitored values have been attributed to exceptional events:

1. Ogden Monitor Station, 63 micrograms/m³ PM2.5 (Due to Firework Display Emissions)
2. Rose Park Monitoring Station, 43.7 micrograms/m³ PM2.5 (Due to Firework Display Emissions)

The documentation to support removing this data from use in regulatory determinations will be available by 10/15/2013 for public review and comment. It can be viewed at the following website www.airquality.utah.gov/Public-Interest/Public-Comment-Hearings/Exceptional_Events/Exceptional_Events.htm or at the DEQ Building located at 150 N 1950 W in Salt Lake City, Utah.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at 801-536-4412 (TDD 536-4414).

The comment period will close at 5:00 p.m. on 11/15/2013. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to jkarmazyn@utah.gov or may be mailed to: Joel Karmazyn, Utah Division of Air Quality, PO Box 144820, Salt Lake City, UT 84114-4820

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for November 2013 Medicaid Rate Changes

Effective November 1, 2013, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

Health
Health Care Financing, Coverage and Reimbursement Policy
Non-Emergency Medical Transportation

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan through [SPA 13-031-UT Non-Emergency Medical Transportation](#). Due to a recent change to provide non-emergency medical transportation (NEMT) through a brokerage contractor service, the Centers for Medicare and Medicaid Services (CMS) is requiring DMHF to provide NEMT services under its State Plan instead of under its Non-Emergency Medical Transportation Waiver. DMHF, therefore, is amending its State Plan to specify client eligibility for medically necessary transportation and ambulance services under an NEMT broker, and to specify the method of reimbursement for NEMT providers under the new brokerage contract.

This amendment is not anticipated to result in a fiscal impact.

The proposed effective date of this amendment is January 1, 2014, and is pending CMS approval.

A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, P.O. Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of this change are also available at local county health department offices.

End of the Special Notices Section

EXECUTIVE DOCUMENTS

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

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution. All orders issued by the Governor not in conflict with existing laws have the full force and effect of law during a state of emergency when a copy of the order is filed with the Division of Administrative Rules. (See Section 63K-4-401).

Governor's Executive Order EO/007/2013: Creating the Utah Multicultural Affairs Office and Utah Multicultural Commission

EXECUTIVE ORDER

Creating the Utah Multicultural Affairs Office and Utah Multicultural Commission

WHEREAS, the character of Utah has been shaped by diverse ethnic nationalities who have settled within the State, both recently and several generations ago. This diversity enhances Utah's growth, prosperity and success;

WHEREAS, the State has a fast-growing ethnic population;

WHEREAS, the State has an interest in continuing to help maximize the potential of its constituents by remaining responsive to the needs of the ethnic community;

WHEREAS, it is in the best interest of the State to address issues of concern that impact the ethnic community by promoting inclusiveness and cultivating trust and cooperation between State government and the ethnic community; and

WHEREAS, the Governor and his administration support the intent to ensure Utah State government adequately meets the needs of Utah's ethnic community;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and laws of the State of Utah, do hereby order the following:

1. There is created within the Utah Department of Heritage and Arts the Utah Multicultural Affairs Office. The Governor shall appoint a director for the Multicultural Affairs Office.

2. There is created the Utah Multicultural Commission.

a. The Multicultural Commission shall consist of members appointed by the Governor. Members will represent State agencies and leadership within the ethnic community.

b. The Governor will appoint Commission members to serve one-year, two-year or three-year terms but at all times Commission members shall serve at the pleasure of the Governor and may be removed by the Governor at any time. The Governor may adjust the length of terms to ensure that the terms of board members are staggered.

c. The Lieutenant Governor shall serve as chair of the Commission.

- d. The Multicultural Commission shall meet at least every other month.
- 3. The Multicultural Affairs Office will support the Multicultural Commission in its work to accomplish the following:
 - a. Partner with State agencies to assure equity and access to culturally competent programs and services; to discuss policies, practices and procedures; and to make recommendations to ensure proper delivery of State services and resources to the ethnic community.
 - b. Partner with State agencies to ensure proper outreach and response to the ethnic community about State government's programs and resources.
 - c. Develop a strategic plan to identify needs, goals, and deliverables that will directly impact the most significant needs of the ethnic community.
 - d. Report to the Governor's Office as needed about State government's responsiveness to the ethnic community of Utah and other issues impacting these constituents.
- 4. The Executive Director of the Department of Heritage and Arts shall supervise the Multicultural Affairs Office.
- 5. State Agency Executive Directors shall work closely with the Director of Multicultural Affairs to coordinate projects, resources and activities to better serve the ethnic community.
- 6. The Department of Heritage and Arts shall provide necessary administrative support to assist the Office in performing its duties. The Executive Director of the Department of Heritage and Arts shall determine the types and kind of administrative support.
- 7. Funding for the Multicultural Affairs Office shall be contingent upon appropriations from the Utah State Legislature.
- 8. Members of the Commission shall receive no compensation or benefits for their services, but may receive, subject to budget availability, per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Utah Code Sections 63A-3-106 and 63A-3-107. Members may decline to receive per diem and expenses for their service. All such per diem payments and reimbursements must be approved by the Executive Director of the Department of Heritage and Arts, and must be funded from the Department's existing budget.
- 9. This Executive Order supersedes Executive Order EO/01/2012 and any other Executive Order directly referencing the State Office of Ethnic Affairs and/or State Ethnic Advisory Councils.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 29th day of August 2013.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Greg Bell
Lieutenant Governor

EO/007/2013

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 September 17, 2013, 12:00 a.m., and October 01, 2013, 11:59 p.m. are included in this, the October 15, 2013 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 between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 November 14, 2013. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through February 12, 2014, 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 seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** 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 Section 63G-3-301; 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, Horse Racing Commission (Utah)

R52-7

Horse Racing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38019

FILED: 09/24/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the existing rule and to bring the rule in line with current industry standard practices.

SUMMARY OF THE RULE OR CHANGE: The proposed changes involve: 1) removing requirements for Social Security numbers on applications; 2) requiring photo identification to verify eligibility of person applying for license; 3) changing the allowable limits, by incorporating by reference the California Horse Racing Board Rules, for drugs and medications of participating horses; and 4) increasing the accuracy of the race time from 100th of a second to 1000th of second to determine results.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-38-4(1)(e)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no cost or savings to the state budget as a result of this action because the changes do not have any fiscal impact. It is revenue neutral.
- ◆ **LOCAL GOVERNMENTS:** Local government is not involved in the horse racing regulations and therefore experience no financial impact.
- ◆ **SMALL BUSINESSES:** Small businesses are not affected because they are not involved in the horse racing regulations and therefore experience no financial impact.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Person or others are not affected financially because the requirements for providing Social Security numbers is being eliminated. The requirement for providing a photo ID may have a small impact, but it would be hard to measure due to the fact they should already be carrying a valid driver license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of compliance for affected individuals is neutral, since no money is involved with these changes. Person or others are not affected financially because the requirements for providing Social Security numbers is being eliminated. The requirement for providing a photo ID may have a small impact, but it would be hard to measure due to the fact they should already be carrying a valid driver license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is being updated to meet current industry standards for identification of participating individuals and also to update testing requirements for approved medication and drugs. The horse racing industry is small compared to other states, but the rule enables horse "owners" to establish value to their breeding stock.

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

AGRICULTURE AND FOOD
HORSE RACING COMMISSION (UTAH)
350 N REDWOOD RD
SALT LAKE CITY, UT 84114
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R52. Agriculture and Food, Horse Racing Commission (Utah).

R52-7. Horse Racing.

R52-7-3. Commission Powers and Jurisdiction.

1. **Description and Powers.** The Utah Horse Racing Commission is an administrative body created by Section 4-38-3. The Commission consists of five members which are appointed by the governor, ~~[confirmed by the senate,]~~ and whose powers and duties are prescribed by the legislature. The Commission appoints an executive director who is the administrative head of the agency, and the Commission determines the duties of the executive director. The Commission shall have supervision of all sanctioned race meetings held in the State of Utah, and all occupation and organization licensees in the State and all persons on the property of an organization licensee.

2. **Jurisdiction.** Without limitations by specific mention hereof, the stated purposes of the Rules and Regulations hereby promulgated are as follows:

- A. To encourage agriculture and breeding of horses in this State; and
- B. To maintain race meetings held in the State of the highest quality and free of any horse racing practices which are corrupt, incompetent, dishonest or unprincipled; and
- C. To maintain the appearance as well as the fact of complete honesty and integrity of horse racing in this State; and
- D. To generate public revenues.

E. Commission jurisdiction of a race meet commences one hour prior to post time and ends one hour following the last posted race.

3. Controlling Authority. The law, the rules, and the orders of the Commission supersede the conditions of a race meeting and govern Thoroughbred, Quarter Horse, Appaloosa, Arabian, Paint and Pinto racing, except in the event it can have no application to a specific type of racing. In the latter case, the Stewards may enforce rules or conditions of The Jockey Club for Thoroughbred racing; the American Quarter Horse Association for Quarter Horse racing; the Appaloosa Horse Club for Appaloosa racing; the Arabian Horse Racing Association of America for Arabian racing; the American Paint Horse Association for Paint racing; and the Pinto Horse Association of America, Inc., for Pinto racing; if such rules or conditions are not inconsistent with the Laws of the State of Utah and the Rules of the Commission.

4. Punishment By The Commission. Violation of the Act and rules promulgated by the Commission, whether or not a penalty is fixed therein, is punishable in the discretion of the Commission by denial, revocation or suspension of any license; by fine; by exclusion from all racing enclosures under the jurisdiction of the Commission; or by any combination of these penalties. Fines imposed by the Commission shall not exceed \$10,000 against individuals for each violation, any Rules or regulations promulgated by the Commission, or any Order of the Commission; or for any other action which, in the discretion of the Commission, is a detriment or impediment to horse racing, according to Subsection 4-38-9(2).

5. Extension For Compliance. If a licensee fails to perform an act or obtain required action from the Commission within the time prescribed therefore by these Rules, the Commission, at some subsequent time, may allow the performance of such act or may take the necessary action with the same effect as if the same were performed within the prescribed time.

6. Notice To Licensee. Whenever notice is required to be given by the Commission or the Stewards, such notice shall be given in writing by personal delivery to the person to be notified or by mailing, Certified Mail, Return Receipt Requested, such notice to the last known address furnished to the Commission; or may be given as is provided for service of process in a civil proceeding in the State of Utah and pursuant to the Administrative Procedures Act.

7. Location For Information Or Filing With Commission. When information is requested or a notice in any matter is required to be filed with the Commission, such notice shall be delivered to an authorized representative of the Commission at an office of the Commission on or before the filing deadline. Offices of the Commission are currently located at: State of Utah, Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, UT 84116.

8. Public Inspection Of Documents. All forms adopted by the Commission together with all Rules and other written statements of policy or interpretation; and all final orders, decisions, and opinions, formulated, adopted or used by the Commission in the discharge of its functions are available for public inspection at the above office.

9. Forms And Instruction. The following forms and instructions for their use have been adopted by the Commission:

- Apprentice Jockey Certificate
- Authorized Agent Agreement
- Fingerprint Card
- Identifier's Daily Report

- Lease Agreement
- Occupation Licensee Application(s)
- Occupation License Renewal Application(s)
- Open Claim Certificate
- Organization's Daily Report
- Organization Licensee Application
- Petition for Declaratory Ruling
- Petition for Promulgation, Amendment or Repeal of Rule
- Petition in and before the Utah Horse Commission
- Postmortem Examination Report
- Stable Name, Corporation, Partnership or Syndicate
- Registration Form
- Stewards' Daily Report
- Stewards' Hearing Notice
- Stewards' Hearing Reports
- Subpoena (Steward and Commission)
- Test Barn Diuretic Approval Form

10. Forms for substituting petitions for promulgating or repealing of rules, and for requests for declaratory ruling are available at the Utah State Department of Agriculture and Food.

R52-7-5. Occupation Licensing and Registration.

1. Occupation Licenses. No person required to be licensed shall participate in a race meeting without their holding a valid license authorizing that participation. Licenses shall be obtained prior to the time such persons engage in their vocations upon such racetrack grounds at any time during the calendar year for which the organization license has been issued. Applicant will be required to provide one form of photo identification.

A. A person whose occupation requires acting in any capacity within any area of an enclosure shall pay the required fee and procure the appropriate license or licenses.

B. A person acting in any of the following capacities shall pay the required fee and procure the appropriate license or licenses: (A list of all required fees shall be available at the Utah Department of Agriculture and Food.)

- 1. Owner/Trainer Combination
- 2. Owner
- 3. Trainer
- 4. Assistant Trainer
- 5. Jockey
- 6. Veterinarian
- 7. Jockey Room Attendant
- 8. Paddock Attendant
- 9. Pony Rider
- 10. Concessionaire
- 11. Valet
- 12. Groom

C. A person whose license-identification badge is lost or destroyed shall procure a replacement license-identification badge and shall pay the required fee.

D. The date of payment of all required fees as recorded by the Commission shall be the effective date of issuance of a continuous occupation license or registration shall expire on December 31 of the year in which it is issued. A license renewal shall be on an annual basis beginning January 1.

E. All license applicants may be required to provide two complete sets of fingerprints on forms provided by or acceptable to the Commission and pay the required fee for processing the fingerprint

cards through State and Federal Law Enforcement Agencies. If the fingerprints are of a quality not acceptable for processing, the licensee may be required to be refingerprinted.

F. All applicants for occupation licenses must be a minimum of 16 years of age. However, this shall not preclude dependent children under the age of 16 from working for their parents or guardian if said parents or guardian are licensed as a trainer or assistant trainer and permission has been obtained from the organization licensee. A trainer or his authorized representative signing a Test Barn Sample Tag must be licensed and a minimum of 18 years of age.

2. Employment Of Unlicensed Person. No organization, owner, trainer or other licensee acting as an employer within the enclosure at an authorized race meeting shall employ or harbor within the enclosure any person required to be licensed by the Commission until such organization, owner, trainer, or other employer determines that such person required to be licensed has been issued a valid license by the Commission. No organization shall permit any owner, trainer, or jockey to own, train, or ride on its premises during a recognized race meeting unless such owner, trainer, or jockey has received a license to do so from the Commission. The organization or prospective employer may demand for inspection the license of any person participating or attempting to participate at its meeting, and the organization may demand for inspection the documents relating to any horse on its grounds.

3. Notice Of Termination. Any organization, owner, trainer, or other licensee acting as an employer within the enclosure at an authorized race meeting shall be responsible for the immediate notification to the Commission and the organization conducting the race meeting of a termination of employment of a licensee. The employer shall make every effort to obtain the license badge from the employee and deliver the license badge to the Commission.

4. Application For License. An applicant for license shall apply in writing on the application forms furnished by the Commission.

5. License Identification Badge Requirements. The license identification badge may consist of the following information concerning the licensee:

- A. Full Name
- B. Permanent Address
- C. License Capacity
- D. Date of Issue
- E. Passport-Type Color Photograph

[~~_____~~ F. Social Security Number

] [~~G~~] E. Date of Birth

All license identification badges may be color coded as to capacity of occupation and eligibility for access to restricted areas. All license holders, except jockeys riding in a race, must wear a current identification badge while present in restricted areas of the enclosure or as otherwise specified in Subsection R52-7-5(1).

6. Honoring Official Credentials. Credentials issued by the Commission may be honored for admission at all gates and entrances and to all places within the enclosure. Automobiles with vehicle decals issued by the Commission to its members and employees shall be permitted ingress and egress at any point. Credentials issued by the National Association of State Racing Commissioners to its members, past members, and staff shall be honored by the organization for admission into the public enclosure when presented therefore by such persons.

7. License Subject To Conditions And Agreements.

A. Every license is subject to the conditions and agreements contained in the application therefore and to the Statutes and Rules.

B. Every license issued to a licensee by the Commission remains the property of the Commission.

C. Possession of a license does not, as such, confer any right upon the holder thereof to employment at or participation in a race.

D. The Commission may restrict, limit, place conditions on, or endorse for additional occupational classes, any license, R52-7-5(9).

8. Changes In Application Information. Each licensee or applicant for license shall file with the Commission his permanent and his current mailing address and shall report in writing to the Commission any and all changes in application information.

9. Grounds For Denial, Refusal, Suspension Or Revocation Of License. The Commission, in addition to any other valid ground or reason, may deny, refuse to issue, suspend or revoke an occupation license for any person:

A. Who has been convicted of a felony of this State, any other state, or the United States of America; or

B. Who has been convicted of violating any law regarding gambling or controlled dangerous substance of this State, any other state, or of the United States of America; or

C. Who is unqualified to perform the duties required of the applicant; or

D. Who fails to disclose or states falsely any information required in the application; or

E. Who has been found guilty of a violation of any provision of the Utah Horse Act or of the Rules and Regulations of the Commission; or

F. Whose license for any racing occupation or activity requiring a license has been or is currently suspended, revoked, refused or denied for just cause in any other competent racing jurisdiction; or

G. Who has been or is currently excluded from any racing enclosure by a competent racing jurisdiction.

10. Examinations. The Commission may require the applicant for any license to demonstrate his knowledge, qualifications, and proficiency for the license applied for by such examination as the Commission may direct.

11. Refusal Without Prejudice. A refusal to issue a license (as distinguished from a denial of a license) to an applicant by the Commission at any race meeting is without prejudice; and the applicant so refused may reapply for a license at any subsequent or other race meeting, or he may appeal such refusal to the Commission for hearing upon his qualifications and fitness for the license.

12. Hearing After Denial Of License. Any person who has had his license denied may petition the Commission to reopen the case and reconsider its decision upon a sufficient showing that there is now available evidence which could not, with the exercise of reasonable diligence, have been previously presented to the Commission. Any such petition must be filed with the Commission no later than 30 days after the effective date of the Commission's decision in the matter. Any person who has been denied a license by the Commission may not refile a similar application for license until one year from the effective date of the decision to deny the license.

13. Financial Responsibility Of Applicants. Applicants for license as horse owner or trainer must submit satisfactory evidence of their financial ability to care for and maintain the horses owned and/or trained by them when such evidence is requested by the Commission.

14. Physical Examination. The Commission or the Stewards may require that any jockey be examined at any time, and the

Commission or the Stewards may refuse to allow any jockey to ride until he has successfully passed such examination.

15. **Qualifications For Jockey.** No person under 16 years of age shall be granted a jockey's license. A person who has never ridden in a race at a recognized meeting shall not be granted a license as jockey unless he has satisfactorily worked a horse from the starting gate in company, before the Stewards or their representatives. Upon the recommendation of the Stewards, the Commission may issue a jockey's license granting permission to such person for the purpose of riding in not more than four races to establish the qualifications and ability of such person for the license. Subsequently, the Stewards may recommend the granting of a jockey's license.

16. **Jockey Agent.** A jockey agent is the authorized representative of a jockey if he is registered with the Stewards and licensed by the Commission as the Jockey's representative. No jockey agent shall represent more than two jockeys at the same time.

17. **Workers' Compensation Act Compliance.** No person may be licensed as a trainer, owner, or in any other capacity in which such person acts as the employer of any other licensee at any authorized race meeting, unless his liability for Workers' Compensation has been secured in accordance with the Workers' Compensation Act of the State of Utah and until evidence of such security for liability is provided the Commission. Should any such required security for liability for Workers' Compensation be canceled or terminated, any license held by such person shall be automatically suspended and shall be grounds for revocation of the license. If a license applicant certifies that he has no employees that would subject him to liability for Workers' Compensation, he may be licensed, but only for the period he has no employees.

18. **Program Trainer Prohibited.** No licensed trainer, for the purpose of avoiding his responsibilities or insurance requirements as set forth in these Rules, shall place any horse in the care or attendance of any other trainer.

19. **Qualifications For License As Horse Owner.** No person may be licensed as a horse owner who is not the owner of record of a properly registered race horse which he intends to race in Utah and which is in the care of a licensed trainer, or who does not have an interest in such race horse as a part owner or lessee, or who is not the responsible managing owner of a corporation, syndicate or partnership which is the legal owner of such horse.

20. **Horse Ownership By Lease.** Horses may be raced under lease provided a completed Utah Horse Commission, breed registry, approved pari-mutuel or other lease form acceptable to the Commission, is attached to the Registration Certificate and on file with the Commission. The lessor(s) and lessee must be licensed as horse owners. No lessor shall execute a lease for the purpose of avoiding insurance requirements.

21. **Statements Of Corporation, Partnership, Syndicate Or Other Association Or Entity.** All organizational documents of a corporation, partnership, syndicate or other association or entity, and the relative proportion of ownership interest, the terms of sales with contingencies, arrangements, or leases, shall be filed with the Horsemen's Bookkeeper of the organization and with the Commission. The above-said documents shall declare to whom winnings are payable, in whose names the horses shall be run, and the name of the licensed person who assumes all responsibilities as the owner. The part owner of any horse shall not assign his share or any part of it without the written consent of the other partners, and such consent shall be filed with the Horsemen's Bookkeeper and the Commission. A

person or persons conducting racing operations as a corporation, partnership, syndicate or other association or entity shall register the information required by Rules in this Article and pay the required fee(s) for the appropriate entity.

22. **Stable Name Registration.** A person or persons electing to conduct racing operations by use of a stable name shall register the stable name and shall pay the required fee.

A. The applicant must disclose the identity or identities of all persons comprising the stable name.

B. Changes in identities must be reported immediately to and approval obtained from the Commission.

C. No person shall register more than one stable name at the same time nor use his real name for racing purposes so long as he has a registered stable name.

D. Any person who has registered under a stable name may cancel the stable name after he has given written notice to the Commission.

E. A stable name may be changed by registering a new stable name and by paying the required Fee.

F. No person shall register a stable name which has been registered by any other person with any organization conducting a recognized race meeting.

G. A stable name shall be clearly distinguishable from that of another registered stable name.

H. The stable name, and the name of the owner or managing owner, shall be published in the official program. If the stable name consists of more than one person, the official program will list the name of the managing owner along with the phrase "et al."

I. If a partnership, corporation, syndicate, or other association or entity is involved in the identity comprising a stable name, the rules covering a partnership, corporation, syndicate or other association or entity must be complied with and the usual fees paid therefore in addition to the fees for the registration of a stable name.

23. **Ownership Licensing Required.** The ownership licensing procedures required by the Commission must be completed prior to the horse starting in a race and shall include all registrations, statements and payment of fees.

24. **Knowledge Of Rules.** Every licensee, in order to maintain their qualifications for any license held by them, shall be familiar with and knowledgeable of the rules, including all amendments. Every licensee is presumed to know the rules.

25. **Certain Prohibited Licenses.** Commission-licensed jockeys, veterinarians, organizations' security personnel, vendors, and such other licensees designated by the stewards with approval of the Commission, shall not hold any other license. The Commission may refuse to issue a license to a person whose spouse holds a license and which, in the opinion of the Commission, would create a conflict of interest.

R52-7-8. Veterinarian Practices, Medication and Testing Procedures.

1. **Veterinary Practices - Treatment Restricted.** Within the time period of 24 hours prior to the post time for the first race of the week until four hours after the last race of the week, no person other than Utah licensed veterinarians or animal technicians under direct supervision of a licensed veterinarian who have obtained a license from the Commission shall administer to any horse within the enclosure any veterinary treatment or any medicine, medication, or other substance recognized as a medication, except for recognized feed

supplements or oral tonics or substances approved by the Official Veterinarian.

2. Veterinarians Under Supervision Of Official Veterinarian. Veterinarians licensed by the Commission and practicing at an authorized meeting are under the supervision of the Official Veterinarian and the Stewards. The Official Veterinarian shall recommend to the Stewards or the Commission the discipline to be imposed upon a veterinarian who violates the Rules, and he or she may sit with the Stewards in any hearing before the Stewards concerning such discipline or violation.

3. Veterinarian Report. Every veterinarian who treats any horse within the enclosure for any contagious or communicable disease shall immediately report to the official veterinarian in writing on a form approved by the Commission. The form shall include the name and location of the horse treated, the name of the trainer, the time of treatment, the probable diagnosis, and the medication administered. Each practicing veterinarian shall be responsible for maintaining treatment records on all horses to which they administer treatment during a given race meeting. These records shall be available to the Commission upon subpoena when required. Any such record and any report of treatment as described above is confidential; and its content shall not be disclosed except in a proceeding before the stewards or the Commission, or in the exercise of the Commission's jurisdiction.

4. Drugs Or Medication. Except as authorized by the provisions of this Article, no drug or medication shall be administered to any horse prior to or during any race. Presence of any drug or its metabolites or analogs, or any substance foreign to the natural horse found in the testing sample of a horse participating in a Commission-sanctioned race which are outside of the approved drug threshold levels set forth by California Horse Racing Board (CHRB) Rule No. 1844 (Effective 02/14/12), Authorized Medication, with sections (h) (2),(e)(9) and (f) exempted, hereby incorporated by reference. ~~[of a horse participating in a Commission-sanctioned race]~~ shall result in disqualification by the Stewards. Accordingly clenbuterol will be treated the same as all other drugs that are not specifically authorized. If the testing laboratory detects clenbuterol or its metabolites or analogs under the laboratory's standard operating procedures, the finding will be reported as a violation. When a horse is disqualified because of an infraction of this Rule, the owner or owners of such horse shall not participate in any portion of the purse or stakes; and any trophy or other award shall be returned. (See Drugs and Medications Exceptions, Section R67-7-13.)

5. Racing Soundness Examination. Each horse entered to race may be subject to a veterinary examination by the official veterinarian or his authorized representative for racing soundness and health on race day.

6. Positive Lab Reports. A finding by a licensed laboratory that a test sample taken from a horse contains a drug or its metabolites or analog, or any substance foreign to the natural horse shall be prima facie evidence that such has been administered to the horse either internally or externally in violation of these rules. It is presumed that the sample of urine, saliva, blood or other acceptable specimen tested by the approved laboratory to which it is sent is taken from the horse in question; its integrity is preserved; that all procedures of same collection and preservation, transfer to the laboratory, and analyses of the sample are correct and accurate; and that the report received from the laboratory pertains to the sample taken from the horse in question and correctly reflects the condition of the horse during the race in which he was entered, with the burden on the trainer, assistant trainer

or other responsible party to prove otherwise at any hearing in regard to the matter conducted by the stewards or the Commission.

7. Intent Of Medication Rules. It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medication, and substances foreign to the natural horse.

8. Power To Have Tested. As a safeguard against the use of drugs, medication, and substances foreign to the natural horse, a urine or other acceptable sample shall be taken under the direction of the official veterinarian from the winner of every race and from such other horses as the stewards or the Commission may designate.

9. Pre-Race Testing. The stewards may require any horse entered to race to submit to a blood or other pre-race test, and no horse is eligible to start in a race until the owner or trainer complies with the required testing procedure.

10. Equipment For Official Testing. Organizations shall provide the equipment, necessary supplies and services prescribed by the Commission and the official veterinarian for the taking of or administration of blood, urine, saliva or other tests.

11. Taking Of Samples. Blood, urine, saliva or other samples shall be taken under the direction of the official veterinarian or persons appointed or assigned by the official veterinarian for taking samples. All samples shall be taken in a detention area approved by the Commission, unless the Official Veterinarian approves otherwise. Each horse shall be cooled out for a minimum of 30 minutes after entry into the test barn before a sample is to be taken. The taking of any test samples shall be witnessed, confirmed or acknowledged by the trainer of the horse being tested or his authorized representative or employee, and may be witnessed by the owner, trainer, or other licensed person designated by them. Samples shall be sent to racing laboratories approved and designated by the Commission, in such manner as the Commission or its designee may direct. All required samples shall be in the custody of the official veterinarian, his/her assistants or other persons approved by the official veterinarian from the time they are taken until they are delivered for shipment to the testing laboratory. No person shall tamper with, adulterate, add to, break the seal of, remove or otherwise attempt to so alter or violate any sample required to be taken by this Article, except for the addition of preservatives or substances necessarily added by the Commission-approved laboratory for preservation of the sample or in the process of analysis.

The Commission has the authority to direct the approved laboratory to retain and preserve samples for future analysis.

The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered in violation of these Rules to the horse earning such purse money.

12. Laboratories Approved By The Commission. Only laboratories approved by the Commission may be used in obtaining analysis reports on urine, or other specimens, taken from the winners or other designated horses of each race meeting. The Commission and the Board of Stewards shall receive reports directly from the laboratory.

13. Split Samples. As determined by the official veterinarian, when sample quantity permits, each test sample shall be divided into two portions so that one portion shall be used for the initial testing for unknown substances. If the Trainer or owner so requests in writing to the stewards within 48 hours of notice of positive

lab report on the test sample of his horse, the second sample shall be sent for further testing to a drug testing laboratory designated and approved by the commission. Nothing in this rule shall prevent the commission or executive director from ordering first use of both sample portions for testing purposes. The results of said split sampling may not prevent the disqualification of the horse as per R52-7-8-4 and R52-7-8-6. All costs for transportation and testing of the second sample portion shall be the responsibility of the requesting person. The official veterinarian shall have overall supervision and responsibility for the freezing, storage and safeguarding of the second sample portion.

14. **Facilitating The Taking Of Urine Samples.** When a horse has been in the test barn more than 1-1/2 hours, a diuretic may be administered by the Official Veterinarian for the purpose of facilitating the collection of a urine sample with permission of the stewards and the trainer or the trainer's authorized test barn representative. The cost of administration of the diuretic is the responsibility of the trainer. Prior to the administration of a diuretic, a blood sample may be taken from the horse.

15. **Postmortem Examination.** Every horse which dies or suffers a breakdown on the racetrack in training or in competition within any enclosure licensed by the Commission and is destroyed, may undergo, at a time and place acceptable to the official veterinarian, a postmortem examination to the extent reasonably necessary to determine the injury or sickness which resulted in euthanasia or natural death. Any other horse which expires within any enclosure may be required by the official veterinarian to undergo a postmortem examination.

A. The postmortem examination required under this rule will be conducted by a licensed veterinarian employed by the owner or his trainer in consultation with the official veterinarian, who may be present at such postmortem examination.

B. Test samples may be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the Commission for testing for foreign substances or their metabolites and natural substances at abnormal levels. When practical, samples shall be procured prior to euthanasia.

C. The owner of the deceased horse shall make payment of any charges due the veterinarian employed by him to conduct the postmortem examination.

D. A record of such postmortem shall be filed with the official veterinarian by the owner's veterinarian within 72 hours of the death and shall be submitted on a form supplied by the Commission.

E. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupation license issued by the Commission.

R52-7-9. Running the Race.

1. **Jockeys To Report.** Every jockey engaged to ride in a race shall report to the jockey room at least one hour before post time of the first race and shall weigh out at the appointed time unless excused by the stewards. After reporting, a jockey shall not leave the jockey room until all of their riding engagements have been fulfilled and/or unless excused by the stewards.

2. **Entrance To Jockey Room Prohibited.** Except with permission of the stewards or the Commission, no person shall be permitted entrance into the jockey room from one hour before post time for the first race until after the last race other than jockeys, their

attendants, racing officials and security officers on duty, and organization employees performing required duties.

3. **Weighing Out.** All jockeys taking part in a race must be weighed out by the Clerk of Scales no more than one hour preceding the time designated for the race. Any overweight in excess of one pound shall be declared by the jockey to the Clerk of Scales, who shall report such overweight and any change in jockeys to the Stewards for immediate public announcement. A jockey's weight includes the riding costume, racing saddle and pad; but shall not include the jockey's safety helmet, whip, the horse's bridle or other regularly approved racing tack. A jockey must be neat in appearance and must wear a conventional riding costume.

4. **Unruly Horses In The Paddock.** If a horse is so unruly in the saddling paddock that the identifier cannot read the tattoo number and properly identify the horse; or if the trainer or their assistant is uncooperative in the effort to identify the horse, then the horse may be scratched by order of the stewards.

5. **Use Of Equipment.** No bridle shall weigh more than two pounds, nor shall any whip weigh more than one pound or be more than 31 inches in length. No whip shall be used unless it shall have affixed to the end thereof a leather "popper." All whips are subject to inspection and approval by the stewards. Blinkers are not to be placed on the horse until after the horse has been identified by the official identifier, except with permission of the stewards.

6. **Prohibited Use Of Equipment.** Jockeys are prohibited from whipping a horse excessively, brutally, or upon the head, except when necessary to control the horse. No mechanical or electrical devices or appliances other than the ordinary whip shall be possessed by any individual or used on any horse at any time a race meeting, whether in a race or otherwise.

7. **Responsibility For Weight.** The jockey, trainer and owner shall be responsible for the weight carried by the horse after the jockey has been weighed out for the race by the clerk of scales. The trainer or owner may substitute a jockey when the engaged jockey reports an overweight in excess of two pounds.

8. **Safety Equipment Required.** All persons, when mounted on a race horse within the enclosure or riding in a race, shall wear a properly fastened safety helmet and flak jacket. The Commission or the stewards may require any other person to wear such helmet and jacket when mounted on a horse within the enclosure. All safety helmets and flak jackets so required are subject to approval of the stewards or Commission.

9. **Display Of Colors And Post Position Numbers.** In a race, each horse shall carry a conspicuous saddle cloth number and a head number, and the jockey shall wear colors and a numbered helmet cover corresponding to the number of the horse which are furnished by the organization licensee.

10. **Deposit Of Jockey Fee.** The minimum jockey mount fee for a losing mount in the race must be on deposit with the horsemen's bookkeeper, prior to the time for weighing out, and failure to have such minimum fee on deposit is cause for disciplinary action and cause for the stewards to scratch the horse for which such fee is to be deposited. The organization assumes the obligation to pay the jockey fee when earned by the engaged jockey. The jockey fee shall be considered earned when the jockey is weighed out by the clerk of scales, unless, in the opinion of the stewards, such jockey capable of riding elect to take themselves off the mount without proper cause.

11. Requirements For Horse, Trainer, And Jockey. Every horse must be in the paddock at the time appointed by the stewards before post time for their race. Every horse must be saddled in the paddock stall designated by the paddock judge unless special permission is granted by the stewards to saddle elsewhere. Each trainer or their assistant trainer having the care and custody of such horse shall be present in the paddock to supervise the saddling of the horse and shall give such instructions as may be necessary to assure the best performance of the horse. Every jockey participating in a race shall give their best effort in order to facilitate the best performance of their horse.

12. Failure To Fulfill Jockey Engagements. No jockey engaged for a certain race or for a specified time may fail or refuse to abide by his or her agreement unless excused by the stewards.

13. Control And Parade Of Horses On The Track. The horses are under the control of the starter from the time they enter the track until dispatched at the start of the race. All horses with jockey mounted shall parade and warm up carrying their weight and wearing their equipment from the paddock to the starting gate, as well as to the finish line. Any horse failing to do so may be scratched by the stewards. After passing the stands at least once, the horses may break formation and warm up until directed to proceed to the starting gate. In the event a jockey is injured during the parade to post or at the starting gate and must be replaced, the horse shall be returned to the paddock and resaddled with the replacement jockey's equipment. Such horse must carry the replacement jockey to the starting gate.

14. Start Of The Race. When the horses have reached the starting gate, they shall be placed in their starting gate stalls in the order stipulated by the starter. Except in cases of emergency, every horse shall be started by the starter from a starting gate approved by the Commission. The starter shall see that the horses are placed in their proper positions without unnecessary delay. Causes for any delay in the start shall immediately be reported to the stewards. If, when the starter dispatches the field, the doors at the front of the starting gate stall should not open properly due to a mechanical failure of malfunction of the starting gate, the stewards may declare such horse to be a nonstarter. Should a horse which is not previously scratched not be in the starting gate stall thereby causing such horse to be left when the field is dispatched by the starter, such horse shall be declared a nonstarter by the stewards.

15. Leaving The Race Course. Should a horse leave the course while moving from the paddock to starting gate, he shall return to the course at the nearest practical point to that at which he left the course, and shall complete his parade to the starting gate from the point at which he left the course. However, should such horse leave the course to the extent that he is out of the direct line of sight of the stewards, or if such horse cannot be returned to the course within a reasonable amount of time, the stewards shall scratch the horse. Any horse which leaves the course or loses its jockey during the running of a race shall be disqualified and may be placed last, or the horse may be unplaced.

16. Riding Rules. In a straightaway race, every horse must maintain position as nearly as possible in the lane in which he starts. If a horse is ridden, drifts, or swerves out of their lane in such a manner that he interferes with or impedes another horse, it is a foul. Every jockey shall be responsible for making his best effort to control and guide his mount in such a way as not to cause a foul. The stewards shall take cognizance of riding which results in a foul, irrespective of whether an objection is lodged; and if in the opinion of the stewards a

foul is committed as a result of a jockey not making his best effort to control and guide their mount to avoid a foul, whether intentionally or through carelessness or incompetence, such jockey may be penalized at the discretion of the stewards.

17. Stewards To Determine Fouls And Extent Of Disqualification. The stewards shall determine the extent of interference in cases of fouls or riding infractions. They may disqualify the offending horse and place it behind such other horses as in their judgment it interfered with, or they may place it last. The stewards may determine that a horse shall be unplaced.

18. Careless Riding. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with or impede any other horse in the race. A jockey shall not willfully strike at another horse or jockey so as to impede, interfere with, or injure the other horse or jockey. If a jockey rides in a manner contrary to this rule, the horse may be disqualified and/or the jockey may be fined and/or suspended, or otherwise disciplined.

19. Ramifications Of A Disqualification. When a horse is disqualified by the stewards, every horse in the race owned wholly or in part by the same owner, or trained by the same trainer, may be disqualified. When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus 0.01 of a second penalty, or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

20. Dead Heat. When a race results in a dead heat, the heat shall not be run off. The purse distribution due the horses involved in the dead heat shall be divided equally between them. All prizes or trophies for which a duplicate is not awardable shall be drawn for by lot.

21. Returning To The Finish After The Race. After the race, the jockey shall return their horse to the finish and before dismounting, salute the stewards. No person shall assist a jockey in removing from their horse the equipment that is to be included in the jockey's weight except by permission of the stewards. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his weight.

22. Objection - Inquiry Concerning Interference. Before the race has been declared official, a jockey, trainer or their assistant trainer, owner or their authorized agent of the horse, who has reasonable grounds to believe that their horse was interfered with or impeded or otherwise hindered during the running of a race, or that any riding rule was violated by any jockey or horse during the running of the race, may immediately make a claim of interference or foul with the stewards or their delegate. The stewards shall thereupon hold an inquiry into the running of the race; however, the stewards may upon their own motion conduct an inquiry into the running of a race. Any claim of foul, objection, and/or inquiry shall be immediately announced to the public.

23. Official Order Of Finish. When satisfied that the order of finish is correct, that all jockeys unless excused have been properly weighed in, and that the race has been properly run in accordance with the rules of the Commission, the Stewards shall declare that the order of finish is official; and it shall be announced to the public, confirmed, and the official order of finish posted for the race.

24. Time Trial Qualifiers. When two or more time trial contestants have the same qualifying time, to a degree of $[-0+] .001$ of a second, or more exact measurement if photo finish equipment permits, for fewer positions in the finals or consolation necessary for all

contestants, then a draw by lot will be conducted in accordance with Subsection R52-7-7(17). However, no contestant may draw into a finals or consolation instead of a contestant which out finished such contestant. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency as determined by the stewards.

R52-7-13. Drugs and Medication Exceptions and Illegal Practices.

1. **Horses Tested.** The winner of every race and such other horses as the stewards or commission veterinarian may designate shall be escorted by the veterinarian assistant after the race to the testing enclosure for examination by the authorized representative of the Commission and the taking of specimens shall be by the commission veterinarian or his assistant.

2. **Trainer Present at Testing.** The trainer, or his authorized representative, must be present in the testing enclosure when a urine or other specimen is taken from a horse, the sample tag attached to the specimen shall be signed by the trainer or his representative, as witness of taking of the specimen. Willful failure to be present at or a refusal to allow the taking of the specimen, or any act or threat to impede or prevent or otherwise interfere therewith, shall subject the person or persons doing so to immediate suspension and fine by the stewards and the matter shall be referred to the Commission for such further penalty as may be determined.

3. **Specimens Delivered to Laboratory.** All specimens taken by or under the direction of the commission veterinarian, or other authorized representative of the Commission, shall be delivered to the laboratory approved by the Commission for official analysis. Each specimen shall be marked by number and date and may also bear such information as may be essential to its proper analysis; but the identity of the horse from the specimen was taken or the identity of its owner, trainer, jockey or stable shall not be revealed to the laboratory. The container of specimen shall be sealed as soon as the specimen is placed therein and shall bear the name of the Commission.

4. **Medication.** The commission veterinarian, the Commission or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper medication, drugs or chemicals which would affect the racing conditions of a horse in a race and which may be found in stables or elsewhere on race track grounds or in the possession of such tracks or any person connected with racing and the same shall be delivered to the laboratory designated by the Commission.

5. **The Only Non-Steroidal Anti-Inflammatory Drug Permitted.** Phenylbutazone shall be administered to the horse no later than 24 hours prior to the time the horse is scheduled to race.

6. **Phenylbutazone Levels Permitted and Penalty.** No urine sample taken from a horse shall exceed 165 micrograms of phenylbutazone or its metabolites per milliliter of urine or shall not exceed 5 micrograms per milliliter of blood plasma. On a first violation period at phenylbutazone concentrations above 5 ug/ml but below 10 ug/ml plasma or serum: a minimum fine of \$250.00; at concentrations above 10 ug/ml plasma: a fine of up to \$500.00.

On a second violation within a 12 month period at phenylbutazone concentrations above 5 ug/ml but below 10 ug/ml plasma or serum: a minimum fine of \$500.00; at concentrations above 10 ug/ml plasma: a fine of up to \$1,000.00.

On a third or subsequent violation within a 12-month period: a fine of \$1,000.00, a suspension of 30 days, and loss of purse.

7. **Administered under Direction of Commission Licensed Veterinarian.** Phenylbutazone must be administered under the direction of a commission licensed veterinarian.

8. **List Provided.** Horses which are on phenylbutazone shall not be indicated on the daily racing programs or any other publications except that a list of horses on phenylbutazone will be kept by the stewards.

9. **Lasix Treatment.** Any horse which exhibits symptoms of Epistaxis and/or respiratory tract hemorrhage is eligible for placement on the bleeder list and for treatment on race days with the approved medication to prevent or limit bleeding during racing.

10. **Bleeders Listing.** To be placed on the bleeders list, a horse must be found to have, during or immediately following a race or workout, shed free blood from one or both nostrils or bled internally in the respiratory tract. A Commission licensed veterinarian, following his or her personal examination of a horse, or after consulting with the horses' private veterinarian, shall be allowed to certify a horse as a bleeder. A universal bleeders certificate is required.

11. **License Required.** In any and all cases, private veterinarians must be licensed with the Utah Horse Racing Commission as a veterinarian in order to administer Lasix.

12. **Horse Removed From Bleeders List.** A Commission licensed veterinarian may remove a horse from the bleeders list, provided a request is made in writing and it is the recommendation of the veterinarian of the horse, or after an examination by the veterinarian, it is determined that the horse is not a bleeder or is no longer eligible for the bleeders list.

13. **Treatment Procedure.** Horses on the bleeders list must be treated at least four hours prior to post time with the bleeder medication furosemide, (i.e. Lasix). No other treatment is permitted for bleeder treatment. Bleeder medication must be administered by a Commission licensed veterinarian, ~~[such] using dosages [not to exceed 250 mg-] pursuant to CHR B Rule No. 1845, section (e). (Effective 5/27/05), Authorized Bleeder Medication, which is hereby incorporated by reference.~~ The bleeder medication is administered by the trainers veterinarian, and must be witnessed by the trainer or his designee upon their request. Administration of the bleeder medication must be reported in writing on a form designated by the Commission, to the track management no later than two hours prior to the scheduled post time of the last live race of the program.

14. **Lasix Levels Permitted and Penalty.** Any horse whose post race blood tests contains a level in excess of the levels set forth in CHR B Rule No. 1845, sections (b)-(c), (Effective 5/27/05), Authorized Bleeder Medication, hereby incorporated by reference, ~~[80 nanograms of furosemide per milliliter of plasma]~~ will be said to be positive for Lasix overage and in violation of Utah Horse Racing Rules and Regulations. ~~[Any horse whose post-race urine creatinine is less than 40 milligrams creatinine per 100 milliliters of urine, and the ratio of urine furosemide to urine creatinine does not exceed 0.15, with urine furosemide being measured in micrograms per milliliter of urine will be said to be positive for Lasix overage and in violation of Utah Horse Racing rules.]~~

A. A finding of a chemist of furosemide (Lasix) exceeding the allowable test levels given above shall be considered prima facie evidence that the medication was administered to the horse and carried in the body of the horse while participating in the race.

B. In these cases, a fine and/or suspension will be levied to such horse trainer under the trainer responsibility rule and the horse will be disqualified from the race.

15. **Horses Designated.** The horses' trainer or designated agent is responsible to enter horses correctly indicating the prescribed medication for the horse. Horses approved for Lasix medication will be designated on the overnight and the daily program with a Lasix or "L". A list of horses approved for and using Lasix medication will be maintained by the stewards.

16. **Bleeder Disqualification.** Any horse that bleeds a second time in Utah shall not be able to race for a period of 30 days from the date of the second bleeding offense. Any horse that bleeds for a third time shall be suspended from racing for a period of one year from the date of the third offense. Any horse bleeding for the fourth time will be given a lifetime suspension from racing.

17. **Disqualification of Owner or Trainer.** A horse owner or trainer found to have committed illegal practices under this chapter or found to have administered any non-approved medication substances in violation of the rules in this chapter, shall be deemed disqualified and denied, or shall promptly return, any portion of the purse or sweepstakes or trophy awarded in the affected race, and shall be distributed as in the case of a disqualification. If the affected race is a qualifying race for a subsequent race and if a horse shall be so disqualified, the eligibility of the other horses which ran in the affected race, and which have started in the subsequent race before announcement of such disqualification shall not in any way be affected.

18. **Hypodermic Instruments Prohibited.** Except by specific written permission of the presiding steward, no person within the grounds of the racing association where the horses are lodged or kept shall have possession of, upon the premises which he occupies or has the right to occupy or in any of his personal property or effects, any hypodermic instrument, hypodermic syringes or hypodermic needle which may be used for injection into any horse of any medication prohibited by this rule. Every racing association is required to use all reasonable efforts to prevent the violation of this rule.

19. **Search Provisions.** Every racing association, the Commission or the stewards shall have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the association. Any licensee accepting a license shall be deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith.

20. **Daily Medication Reports.** All practicing veterinarians must submit daily to the commission veterinarian a medication report form furnished by the Commission containing the following:

- A. Name, age, sex and breed of the horse.
- B. The permitted drug used (Bute or Lasix).
- C. The time administered.
- D. The route of the administration.

E. The report must be dated and signed by the veterinarian so administering the medication. Any such report is confidential and its contents shall not be disclosed except in a proceeding before the stewards or the Commission or in the exercise of the Commission's jurisdiction.

21. **Prima Facia Evidence.** If the stewards find that any non-approved medication, for which the purpose of definition shall include any drug, chemical, narcotic, anesthetic, or analgesic has been administered to a horse in such a manner that it is present in a pre-race or post-race test sample, such presence shall constitute prima facia evidence that the horse has been illegally medicated.

22. **Trainer Responsibility.** Under all circumstances, the horse of record trainer shall be responsible for the horse he trains.

KEY: horses

Date of Enactment or Last Substantive Amendment: [~~April 21, 2009~~]**2013**

Notice of Continuation: August 30, 2011

Authorizing, and Implemented or Interpreted Law: 4-38-4

**Alcoholic Beverage Control,
Administration
R81-4A-7
Sale and Purchase of Alcoholic
Beverages**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38028

FILED: 09/27/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to be consistent with state statute.

SUMMARY OF THE RULE OR CHANGE: H.B. 240, passed in the 2013 General Legislative Session, codified a safe harbor provision that would protect a licensee from a violation of the act if they verified a patron's intent to dine, served them an alcoholic product, and the patron left the establishment without ordering food. This rule is being amended to reflect the change in statutory language and to remove the "gratuitously provided" and replace that language with "food items normally provided without charge" for purposes of clarity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-202(1) and Subsection 32B-6-205(8)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This rule filing makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.

◆ **LOCAL GOVERNMENTS:** None--This rule filing makes the DABC rules consistent with state statute.

♦ **SMALL BUSINESSES:** None--This rule filing makes the DABC rules consistent with state statute.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing makes the DABC rules consistent with state statute.

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:
 ♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Sal Petilos, Executive Director

**R81. Alcoholic Beverage Control, Administration.
 R81-4A. Restaurant Liquor Licenses.
 R81-4A-7. Sale and Purchase of Alcoholic Beverages.**

(1) Alcoholic beverages (including light beer) may be furnished after the licensee or their employee confirms that the patron has the intent to [must be sold in connection with an] order [for] food [placed and paid for by a patron] that is prepared and sold for consumption on site. An order for food may not include food items normally provided to patrons without charge [gratuitously provided by the restaurant to patrons]. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32B-6-205(4), shall be commenced upon the patron's first purchase and shall be maintained by the restaurant during the course of the patron's stay at the restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section 32B-6-205(7).

(a) The restaurant shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, liquor, wine, set-ups, and food. These shall be available for inspection and audit by

representatives of the department, and maintained for a period of three years.

(b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within the probationary period shall result in issuance of an order to show cause by the department to determine why the license should not be revoked by the commission.

(3) Liquor dispensing shall be in accordance with Section 32B-5-304; Section R81-1-9 (Liquor Dispensing Systems), and Section R81-1-11 (Multiple Licensed Facility Storage and Service) of these rules.

KEY: alcoholic beverages
Date of Enactment or Last Substantive Amendment: [July 30,] 2013
Notice of Continuation: May 10, 2011
Authorizing, and Implemented or Interpreted Law: 32B-1-607; 32B-2-202; 32B-5-303(3); 32B-6-202; 32B-6-206

**Alcoholic Beverage Control,
 Administration
 R81-4C-7
 Sale and Purchase of Alcoholic
 Beverages**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38029
 FILED: 09/27/2013**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to be consistent with state statute.

SUMMARY OF THE RULE OR CHANGE: H.B. 240, passed in the 2013 General Legislative Session, codified a safe harbor provision that would protect a licensee from a violation of the act if they verified a patron's intent to dine, served them an alcoholic product, and the patron left the establishment without ordering food. This rule is being amended to reflect the change in statutory language and to remove the "gratuitously provided" and replace that language with "food items normally provided without charge" for purposes of clarity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-2-202(1) and Subsection 32B-6-305(8)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--This rule filing makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.
- ◆ **LOCAL GOVERNMENTS:** None--This rule filing makes the DABC rules consistent with state statute.
- ◆ **SMALL BUSINESSES:** None--This rule filing makes the DABC rules consistent with state statute.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing makes the DABC rules consistent with state statute.

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:

- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.**R81-4C. Limited Restaurant Licenses.****R81-4C-7. Sale and Purchase of Alcoholic Beverages.**

(1) Alcoholic beverages (including light beer) may be furnished after the licensee or their employee confirms that the patron has the intent to~~must be sold in connection with an~~ order ~~[for] food [placed and paid for by a patron]~~that is prepared and sold for consumption on site. An order for food may not include food items normally provided to patrons without charge~~[gratuitously provided by the limited restaurant to patrons]~~. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32B-6-305(4), shall be commenced upon the patron's first purchase and shall be maintained by the limited restaurant during the course of the

patron's stay at the limited restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The limited restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section 32B-6-305(7).

(a) The limited restaurant shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, wine, and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within the probationary period shall result in issuance of an order to show cause by the department to determine why the license should not be revoked by the commission.

(3) Wine dispensing shall be in accordance with Section 32B-5-304(2); and R81-1-11 (Multiple-Licensed Facility Storage and Service) of these rules.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~[July 30,] 2013~~

Notice of Continuation: July 10, 2013

Authorizing, and Implemented or Interpreted Law: ~~[32-1-607,] 32B-2-202; 32B-5-303(3); 32B-6-207; 32B-6-301 through 305.1~~

**Alcoholic Beverage Control,
Administration
R81-10C-6
Sale and Purchase of Beer**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38027

FILED: 09/27/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to be consistent with state statute.

SUMMARY OF THE RULE OR CHANGE: H.B. 240, passed in the 2013 General Legislative Session, codified a safe harbor provision that would protect a licensee from a violation of the act if they verified a patron's intent to dine, served them a beer, and the patron left the establishment without ordering food. This rule is being amended to reflect the change in statutory language and to remove the "gratuitously provided" and replace that language with "food items normally provided without charge" for purposes of clarity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 32B-6-905(8)(a)**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** None--This rule filing makes the Department of Alcoholic Beverage Control (DABC) rules consistent with state statute.
- ◆ **LOCAL GOVERNMENTS:** None--This rule filing makes the DABC rules consistent with state statute.
- ◆ **SMALL BUSINESSES:** None--This rule filing makes the DABC rules consistent with state statute.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule filing makes the DABC rules consistent with state statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule filing makes the DABC rules consistent with state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule filing makes the DABC rules consistent with state statute.

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:

- ◆ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.**R81-10C. Beer-Only Restaurant Licenses.****R81-10C-6. Sale and Purchase of Beer.**

(1) Beer may be furnished after the licensee or their employee confirms that the patron has the intent to~~must be sold in connection with an~~ order ~~for~~ food that is prepared and sold for consumption on site~~placed and paid for by a patron~~. An order for food may not include food items normally provided to patrons without charge~~gratuitously provided by the restaurant to patrons~~. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section 32B-6-905(4), shall be commenced upon the

patron's first purchase and shall be maintained by the restaurant during the course of the patron's stay at the restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section 32B-6-905(7).

(a) The restaurant shall maintain records separately showing quarterly expenditures and sales for beer and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within the probationary period shall result in issuance of an order to show cause by the department to determine why the license should not be revoked by the commission.

(3) Beer dispensing shall be in accordance with Section 32B-5-304(5) and Section R81-1-11 (Multiple Licensed Facility Storage and Service) of these rules.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~April 30,~~] 2013

Authorizing, and Implemented or Interpreted Law: [~~32-1-607,~~] 32B-2-202; 32B-5; 32B-6-901 through 905

Commerce, Occupational and Professional Licensing

R156-1

General Rule of the Division of Occupational and Professional Licensing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38020

FILED: 09/24/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to make corresponding changes in Section R156-1-109 made necessary by a companion filing to Section R156-46b-202, the purpose of which is to remove redundancy and make technical corrections in that section of the rule. This filing also corrects a statutory citation in the table in Section R156-1-502.

SUMMARY OF THE RULE OR CHANGE: In Section R156-1-109, the designations of presiding officers are adjusted to correspond with changes made by a companion rule filing to

Section R156-46b-202. In Section R156-1-502, an incorrect statutory citation is corrected in the table located in this section.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-1-308 and Subsection 58-1-106(1)(a) and Subsection 58-1-501(2)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The filing will not cause any other cost or savings impact because it merely removes redundancies and makes technical corrections.

◆ LOCAL GOVERNMENTS: The proposed amendments only apply to licensees in professions and occupations regulated by the Division and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ SMALL BUSINESSES: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing updates citations found within existing provisions, consistent with changes made through a companion filing to Section R156-46b-202 and updates an incorrect statute citation. No fiscal impact to businesses will result.

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:

◆ W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

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

R156-1-109. Presiding Officers.

In accordance with Subsection 63G-4-103(1)(h), Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise specified in writing by the director, or for Title 58, Chapter 55, the Construction Services Commission, the designation of presiding officers is clarified or established as follows:

(1) The Division regulatory and compliance officer is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the Division regulatory and compliance officer is unable to so serve for any reason, a replacement specified by the director is designated as the alternate presiding officer.

(2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Unless otherwise specified in writing by the director, or with regard to Title 58, Chapter 55, by the Construction Services Commission, the department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the director or commission, respectively, determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.

(3) Except as provided in Subsection (4) or otherwise specified in writing by the director, the presiding officer for adjudicative proceedings before the Division are as follows:

(a) Director. The director shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(b), and R156-46b-201(2)(a) through (c), however resolved, including stipulated settlements and hearings; and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(g), (j), (l), (m), (o), ([s]p), and ([t]q), and R156-46b-202(2)(a), (b)(ii), (c), and [through](d), however resolved, including memorand[ums]a of understanding and stipulated settlements.

(b) Bureau managers or program coordinators. Except for Title 58, Chapter 55, the bureau manager or program coordinator over the occupation or profession or program involved shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsection R156-46b-201(1)(c), for purposes of determining whether a request for a board of appeal is properly filed as set forth in Subsections R156-15A-210(1) through (4); and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (d),(f), (h), (j), (n)~~[(p)(ii) and (iii), (q)(ii) and (iii), (r)(ii) and (iii);]~~ and R156-46b-202(2)(b) (iii).

(iii) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign an informal order in the name of the licensing technician or program technician provided the wording of the order has been approved in advance by the bureau manager or program coordinator and provided the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the licensing technician's or program technician's signature.

(c) Citation Hearing Officer. The regulatory and compliance officer or other citation hearing officer designated in writing by the director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1) (k).

(d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1) (e) for convening a board of appeal under Subsection 15A-1-207(3), for serving as fact finder at any evidentiary hearing associated with a board of appeal, and for entering the final order associated with a board of appeal. An administrative law judge shall perform the role specified in Subsection 58-1-109(2).

(e) Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer for adjudicative proceedings described in Subsection R156-46b-202(1)(f) that exceed the authority of the program coordinator, as delegated by the board, or are otherwise referred by the program coordinator to the board for action.

(4) Unless otherwise specified in writing by the Construction Services Commission, the presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, are established or clarified as follows:

(a) Commission.

(i) The commission shall be the presiding officer for all adjudicative proceedings under Title 58, Chapter 55, except as otherwise delegated by the commission in writing or as otherwise provided in this rule; provided, however, that all orders adopted by the commission as a presiding officer shall require the concurrence of the director.

(ii) Unless otherwise specified in writing by the commission, the commission is designated as the presiding officer:

(A) informal adjudicative proceedings described in Subsections R156-46b-202(1)(l), (m),(o)~~[(r)(i);]~~ [(s)p], and [(t)q], and R156-46b-202(2)(b)(i), (c), and ~~through~~(d), however resolved, including memorand~~ums~~~~a~~ of understanding and stipulated settlements;

(B) to serve as fact finder and adopt orders in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed under Title 58, Chapter 55; and

(C) to review recommended orders of a board, an administrative law judge, or other designated presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, and to adopt an order of its own. In adopting its order, the commission may accept, modify or reject the recommended order.

(iii) If the commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.

(iv) Orders of the commission shall address all issues before the commission and shall be based upon the record developed in an adjudicative proceeding conducted by the commission. In cases in which the commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the commission shall consist of the findings of fact, conclusions of law, and recommended order submitted to the commission by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(v) The commission or its designee shall submit adopted orders to the director for the director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier. An adopted order shall be deemed issued and constitute a final order upon the concurrence of the director.

(vi) If the director or his designee refuses to concur in an adopted order of the commission or its designee, the director or his designee shall return the order to the commission or its designee with the reasons set forth in writing for the nonconcurrence therein. The commission or its designee shall reconsider and resubmit an adopted order, whether or not modified, within 30 days of the date of the initial or subsequent return, provided that unless the director or his designee and the commission or its designee agree to an extension, any final order must be issued within 90 days of the date of the initial recommended order, or the adjudicative proceeding shall be dismissed. Provided the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the commission or its designee and the director or his designee to resolve the reasons for the director's refusal to concur in an adopted order.

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

(viii) The final order issued by the commission and concurred in by the director may be appealed by filing a request for agency review with the executive director or his designee within the department.

(ix) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

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

(c) Administrative Law Judge. Unless otherwise specified in writing by the commission, the department administrative law judge is designated as the presiding officer to conduct formal adjudicative proceedings before the commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) Bureau Manager. Unless otherwise specified in writing by the commission, the responsible bureau manager is designated as the presiding officer for conducting informal adjudicative proceedings specified in Subsections R156-46b-202(1) (a) through (d),(h), and (n)~~[(p)(i) and (q)(i)]~~.

(e) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the wording of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.

(f) Plumbers Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Plumbers Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

(g) Electricians Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Electricians Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as electricians.

(h) Alarm System Security and Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Alarm System Security and Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

R156-1-502. Administrative Penalties.

(1) In accordance with Subsection 58-1-401(5) and Section 58-1-502, except as otherwise provided by a specific chapter under Title R156, the following fine schedule shall apply to citations issued under the referenced authority:

TABLE

FINE SCHEDULE

FIRST OFFENSE

Violation	Fine
58-1-501(1)(a)	\$ 500.00
58-1-501(1)(c)	\$ 800.00
58-1-501(1 2)(o)	\$ 0 - \$250.00

SECOND OFFENSE

58-1-501(1)(a)	\$1,000.00
58-1-501(1)(c)	\$1,600.00
58-1-501(1 2)(o)	\$251.00 - \$500.00

THIRD OFFENSE

Double the amount for a second offense with a maximum amount not to exceed the maximum fine allowed under Subsection 58-1-502(2)(j)(iii)

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) An investigative supervisor or chief investigator may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

KEY: diversion programs, licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: [~~August 22,~~ 2013

Notice of Continuation: January 5, 2012

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(2)

Commerce, Occupational and Professional Licensing
R156-37f-102
Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38031

FILED: 09/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 270 which was passed during the 2013 General Legislative Session of the Legislature requires the Division to define the term "research facility" in Subsection 58-37f-301(2)(d)(ii)(D). Designation as a research facility as defined is one of the requirements necessary for an individual conducting scientific studies in conjunction with the Department of Health to access information from the Controlled Substance Database (CSD) or from other state or federal prescription monitoring programs by means of the CSD.

SUMMARY OF THE RULE OR CHANGE: The definition of "research facility" in Subsection R156-37f-102(6) is consistent with the definition to be used in a proposed revision of the Pharmacy Practice Act Rule, Subsection R156-17b-102(42). Although loosely defined in this rule, when combined with the other requirements of this section, effectively limits access to CSD information to researchers affiliated with the Department of Health and whose scientific studies have been approved by an institutional review board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-37f-301(1)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. Research conducted under agreements with the Department of Health may increase as a result of this legislation which may increase the workloads of various state agencies that are conducting research with the Department of Health as research collaborator.

◆ **LOCAL GOVERNMENTS:** The proposed amendment only applies to research facilities working in conjunction with the Utah Department of Health and as a result, the amendment does not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendment only applies to research facilities working in conjunction with the Utah Department of Health. Research facilities working in conjunction with the Utah Department of Health may qualify as a small business, but the Division does not anticipate any costs as a result of this proposed rule filing beyond those considered in the fiscal note for H.B. 270 (2013).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment only applies to research facilities working in conjunction with the Utah Department of Health. The Division does not anticipate any costs as a result of this proposed rule filing beyond those considered in the fiscal note for H.B. 270 (2013).

COMPLIANCE COSTS FOR AFFECTED PERSONS: State agencies and the Utah Department of Health may experience increased research activity as a result of this amendment and the provisions in H.B. 270 (2013). However, the Division is unable to quantify state agency costs that may be associated with this increased research activity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing responds to H.B. 270 (2013) which requires that the term "research facility" be defined. No fiscal impact to businesses is anticipated beyond that contemplated by the Legislature in determining to pass the bill.

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:

◆ Debra Hobbins by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at dhobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-37f. Controlled Substance Database Act Rule.**

R156-37f-102. Definitions.

In addition to the definitions in Sections 58-17b-102, 58-37-2 and 58-37f-102, as used in this chapter:

(1) "ASAP" means the American Society for Automation in Pharmacy system.

(2) "DEA" means Drug Enforcement Administration.

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

(4) "NCPDP" means National Council for Prescription Drug Programs.

(5) "NDC" means National Drug Code.

(6) "Research facility" means a facility in which research takes place that has policies and procedures describing such research.

([6]Z) "Rx" means a prescription.

KEY: controlled substance database, licensing

Date of Enactment or Last Substantive Amendment: [January 8,]2013

Authorizing, and Implemented or Interpreted Law: 58-1-106(1) (a); 58-37f-301(1)

Commerce, Occupational and
Professional Licensing
R156-46b-202
Informal Adjudicative Proceedings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38021

FILED: 09/24/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing is to remove redundancy in this section of rule and to make technical corrections.

SUMMARY OF THE RULE OR CHANGE: Subsections R156-46b-202(1)(p), (q) and (r) are redundant with Subsections R156-46b-202(1)(c) and R156-46b-202(2) (b), respectively, and are being deleted in this filing. Subsections R156-46b-202(s) and (t) are renumbered accordingly.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 63G-4-102(6)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The filing will not cause any other cost or savings impact because it merely removes redundancies and makes technical corrections.

◆ LOCAL GOVERNMENTS: The proposed amendments only apply to licensees in professions and occupations regulated by the Division and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

◆ SMALL BUSINESSES: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing removes redundancies in existing provisions. No fiscal impact to businesses will result.

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:

◆ W. Ray Walker by phone at 801-530-6256, by FAX at 801-530-6511, or by Internet E-mail at raywalker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-46b. Division Utah Administrative Procedures Act Rule.
R156-46b-202. Informal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by [a request for agency action] other than by a notice of agency action are classified as informal adjudicative proceedings:

- (a) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;
- (b) denial of application for initial licensure or relicensure;
- (c) denial of application for renewal or reinstatement of licensure;
- (d) approval or denial of application for inactive or emeritus licensure status;
- (e) board of appeal under Subsection 15A-1-207(3);
- (f) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11;
- (g) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (g);
- (h) approval or denial of request to surrender licensure;
- (i) approval or denial of request for entry into diversion program under Section 58-1-404;
- (j) matters relating to diversion program;
- (k) citation hearings held in accordance with citation authority established under Title 58;
- (l) approval or denial of request for modification of disciplinary order;
- (m) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;
- (n) approval or denial of request for correction of procedural or clerical mistakes;
- (o) approval or denial of request for correction of other than procedural or clerical mistakes;
- (p) ~~denial of application for renewal of:~~
 - ~~(i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~
 - ~~(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~
 - ~~(iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~
- (q) ~~denial of application for reinstatement of:~~
 - ~~(i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~
 - ~~(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~
 - ~~(iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~
- (r) ~~disciplinary proceedings against:~~
 - ~~(i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~
 - ~~(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~

~~_____ (iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~

~~_____ (s)]disciplinary sanctions imposed in a stipulation or memorandum of understanding with an applicant for licensure; and~~

~~([f]q) all other requests for agency action permitted by statute or rule governing the Division not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).~~

(2) The following adjudicative proceedings initiated by a notice of agency action are classified as informal adjudicative proceedings:

(a) nondisciplinary proceeding which results in cancellation of licensure;

(b) disciplinary proceedings against:

(i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;

(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and

(iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306.

(c) disciplinary proceedings initiated by a notice of agency action and order to show cause concerning violations of an order governing a license;

(d) disciplinary proceedings initiated by a notice of agency action in which the allegations of misconduct are limited to one or more of the following:

(i) Subsection 58-1-501(2)(c) or (d); or

(ii) Subsections R156-1-501(1) through (5).

KEY: administrative procedures, government hearings, occupational licensing

Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~2013]

Notice of Continuation: January 31, 2011

Authorizing, and Implemented or Interpreted Law: 63G-4-102(6); 58-1-106(1)(a)

Commerce, Occupational and Professional Licensing

R156-60d

Substance Use Disorder Counselor Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38017

FILED: 09/23/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2013 General Legislative Session, H.B. 244 was passed which amended provisions of Title 58, Chapter 60, the Mental Health Professional Practice Act, by amending the licensing provisions in the Substance Use

Disorder Counselor Act. As a result, the Division and the Substance Use Disorder Counselor Licensing Board need to define what constitutes course work that is equivalent to an associate's degree. In addition, the American Psychiatric Association released the Diagnostic Statistical Manual (DSM-5) in May 2013 so the updated edition needs to be referenced in this rule.

SUMMARY OF THE RULE OR CHANGE: In Subsections R156-60d-102(3) and (11), a reference to DSM-5 is added because the American Psychiatric Association released DSM-5 in May 2013 and it is already in use. The rule should still reference DSM-IV because it continues to be used by many practitioners. In Subsection R156-60d-302a(1), the requirement for applicants for the substance use disorder counselor license to complete a course in human biology is removed. The Board recommended its removal because they felt it was an unnecessary requirement. Subsection R156-60d-302a(2) defines what constitutes course work that is equivalent to an associate's degree. H.B. 244 (2013) created the possibility for applicants to qualify for the substance use disorder counselor license if they have course work "equivalent" to that of an associate's degree. The bill directed the Division to define "equivalent" in rule. Research completed by the Division found that most associates degrees require completion of at least 90 quarter or 60 semester credit hours.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-60-501 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Division will incur minimal costs of approximately \$100 to print and distribute the rule once the proposed amendments become effective. Any costs incurred will be absorbed in the Division's current budget. Any additional cost impact to the state budget results from statutory amendments and was covered in the fiscal note completed for H.B. 244 (2013).

♦ LOCAL GOVERNMENTS: The proposed amendments only apply to licensed substance use disorder counselors and applicants for licensure in that classification. As a result, the proposed amendment does not apply to local governments.

♦ SMALL BUSINESSES: The proposed amendments only impact substance use disorder counselors and applicants for licensure in that classification. Small businesses that employ substance use disorder counselors will be impacted as well. Any cost impact to small businesses results from statutory amendments and was covered in the fiscal note completed for H.B. 244 (2013).

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only impact substance use disorder counselors and applicant for licensure in that classification. Applicants without a human biology course will experience a cost savings because the filing removes the course as a requirement. The amount of the cost savings depends on several factors such as the tuition of the school

where the applicant takes the course and whether the applicant is a matriculated student. As a result, the Division is not able to determine an exact cost savings to these individuals. In addition, the definition of course work equivalent to an associate's degree results in a cost savings for applicants without an associate's degree but who have 60 semester or 90 quarter hours of course work. Any cost savings to these individuals results from statutory amendments and was covered in the fiscal note completed for H.B. 244 (2013).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only impact substance use disorder counselors and applicant for licensure in that classification. Applicants without a human biology course will experience a cost savings because the filing removes the course as a requirement. The amount of the cost savings depends on several factors such as the tuition of the school where the applicant takes the course and whether the applicant is a matriculated student. As a result, the Division is not able to determine an exact cost savings to these individuals. In addition, the definition of course work equivalent to an associate's degree results in a cost savings for applicants without an associate's degree but who have 60 semester or 90 quarter hours of course work. Any cost savings to these individuals results from statutory amendments and was covered in the fiscal note completed for H.B. 244 (2013).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing responds to H.B. 244 (2013) which requires the Division to define the education that is considered equivalent to an associate degree. Any attendant costs were considered by the Legislature in determining to pass the bill. No additional costs to businesses are anticipated from these amendments.

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:

◆ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at roborn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 10/23/2013 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-60d. Substance Use Disorder Counselor Act Rule.
R156-60d-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60 or this rule:

(1) "Accredited institution of higher education that meet division standards", as used in Subsections 58-60-506(2)(a)(i) and (5)(a)(i), means an educational institution that has accreditation that is recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA).

(2) "ASAM" means the American Society of Addiction Medicine Patient Placement Criteria.

(3) "DSM-IV_or_5" means the Diagnostic Statistical Manual of Mental Health Disorders published by the American Psychiatric Association.

(4) "General supervision" means that the supervisor provides consultation with the supervisee by personal face to face contact, or direct voice contact by telephone or some other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(5) "ICRC" means the International Certification and Reciprocity Consortium.

(6) "Initial assessment" means the procedure of gathering psycho-social information, which may include the application of the Addiction Severity Index, in order to recommend a level of treatment and to assist the mental health therapist supervisor in the information collection process and may include a referral to an appropriate treatment program.

(7) "NAADAC" means the National Association of Alcohol and Drug Abuse Counselors.

(8) "Prerequisite courses, as used in Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii) means courses completed before qualifying for licensure.

(9) "SASSI" means Substance Abuse Subtle Screening Inventory.

(10) "Screening", as used in Subsection 58-60-502(9)(b) and (10)(b), means a brief interview conducted in person or by telephone to determine if there is a potential substance abuse problem. If a potential problem is identified, the screening may include a referral for an initial assessment or a substance use disorder evaluation. The screening may also include a preliminary ASAM level recommendation in order to expedite the subsequent assessment and evaluation process. Screening instruments such as the SASSI may be included in the screening process.

(11) "Substance use disorder evaluation" means the process used to interpret information gathered from an initial assessment, other instruments as needed, and a face to face interview by a licensed mental health therapist in order to determine if an individual meets the DSM-IV_or_5 criteria for substance abuse or dependence and is in need of treatment. If the need for treatment is determined, the substance use disorder evaluation process includes the determination of a DSM-IV_or_5 diagnosis and the determination of an individualized treatment plan.

(12) "Substance use disorder education program", as used in Subsection 58-60-506(2)(b) and (5)(b), means college or university coursework at an accredited institution.

(13) "Unprofessional conduct," as defined in Title 58 Chapters 1 and 60, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-60d-502.

R156-60d-302a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsection 58-60-506(2)(a)(iii) and (5)(a)(iii), three prerequisite courses shall be completed at an accredited institution and shall cover the following subjects:

- (a) human development across the lifespan; and
- (b) general psychology; ~~and~~
- ~~(c) human biology.~~

(2) In accordance with Subsection 58-60-506(5)(a)(ii), completion of the equivalent of an associate's degree includes not less than 90 quarter or 60 semester credit hours of course work from accredited institutions of higher education that have accreditation recognized by the Council for Higher Education Accreditation of the American Council on Education (CHEA).

KEY: licensing, substance use disorder counselors

Date of Enactment or Last Substantive Amendment: ~~July 30, 2012~~ 2013

Notice of Continuation: January 31, 2011

Authorizing, and Implemented or Interpreted Law: 58-60-501; 58-1-106(1)(a); 58-1-202(1)(a)

**Governor, Economic Development,
Pete Suazo Utah Athletic Commission
R359-1-604
Boxing - Gloves**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 38033
FILED: 09/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment will increase the specified weight of the boxing gloves worn by 154-pound weight class boxing contestants to be consistent with the Unified Boxing Rules adopted by the Association of Boxing Commissions and implemented by most other member commissions.

SUMMARY OF THE RULE OR CHANGE: The proposed rule will increase the specified weight of the boxing gloves worn by 154-pound weight class boxing contestants from eight ounces to ten ounces to be consistent with the Unified Boxing Rules adopted by the Association of Boxing Commissions and implemented by most other member commissions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63C, Chapter 11

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed rule change only changes the weight of the gloves worn by 154-pound weight class boxing contestants. The state does not supply gloves to the contestants, so there will be no cost or savings to the state budget. The regulatory oversight will not change.

◆ **LOCAL GOVERNMENTS:** This proposed rule change only changes the weight of the gloves worn by 154-pound weight class boxing contestants. Local governments do not supply gloves to the contestants, so there will be no cost or savings to the state budget.

◆ **SMALL BUSINESSES:** This proposed rule change only changes the weight of the gloves worn by 154-pound weight class boxing contestants. Promoters are currently required to provide eight or ten ounce gloves to boxing contestants competing in their events. The commission does not anticipate that promoters will be required to purchase any additional gloves over than what is currently required and through attrition from use in competitive events.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities do not supply gloves to boxing contestants during competition, so there is no anticipated cost or savings to these entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule change only changes the weight of the gloves worn by 154-pound weight class boxing contestants. Promoters are currently required to provide eight or ten-ounce gloves to boxing contestants competing in their events. The commission does not anticipate that promoters will be required to purchase any additional gloves over than what is currently required and through attrition from use in competitive events and there will be no additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Requiring the 154-lb weight class boxing contestants to wear ten ounce gloves will not require businesses (promoters) to purchase additional gloves since they are currently required to provide eight and ten ounce gloves to cover all weight class opponents. Consequently, the proposed rule will impose no new cost or provide any savings to businesses.

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

GOVERNOR
ECONOMIC DEVELOPMENT,
PETE SUAZO UTAH ATHLETIC COMMISSION
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2013

AUTHORIZED BY: Bill Colbert, Director

R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

R359-1. Pete Suazo Utah Athletic Commission Act Rule.

R359-1-604. Boxing - Gloves.

(1) A boxing contestant's gloves shall be examined before a contest by the referee and the designated Commission member. If gloves are found to be broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins.

(2) A promoter shall be required to have on hand an extra set of gloves that are to be used if a contestant's gloves are broken or damaged during the course of a contest.

(3) Gloves for a main event may be put on in the ring after the referee has inspected the bandaged hands of both contestants.

(4) During a contest, male contestants shall wear gloves weighing not less than eight ounces each if the contestant weighs ~~147~~¹⁵⁴ lbs. (~~66.678~~^{69.853} kgs.) or less. Contestants who weigh more than ~~147~~¹⁵⁴ lbs. (~~66.678~~^{69.853} kgs.) shall wear gloves weighing ten ounces each. Female contestants' gloves shall be ten-ounce gloves. The designated Commission member shall have complete discretion to approve or deny the model and style of the gloves before the contest.

(5) The laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured. The tips of the laces shall be removed.

KEY: licensing, boxing, unarmed combat, white-collar contests

Date of Enactment or Last Substantive Amendment: [September 13, 2013]

Notice of Continuation: March 30, 2012

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

Labor Commission, Industrial Accidents

R612-300

**Workers' Compensation Rules -
Medical Care**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 38036

FILED: 09/30/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Labor Commission's regulations for medical care of injured workers are currently found in two locations: 1) rules set forth in Rule R612-300; and 2) a Medical Fee Schedule, which is incorporated by reference into the rules. Under this system, it has been necessary for those affected by the regulations to search both the rules and the Medical Fee Schedule. The difficulty of having to search in both places is compounded by the fact that the rules and the Medical Fee Schedule are redundant in some places, ambiguous in others, and also contain provisions that have become outmoded as a result of the Commission's adoption of the CPT/RBRVS methodology for calculating medical fees. To address these problems, the proposed rule repeals the existing rules and Medical Fee Schedule, but takes the provisions of those regulations that remain necessary and reenacts them in the new Rule R612-300, which is organized in a more logical manner. This will allow stakeholders to look to a single source--the reenacted Rule R612-300--for the standards regarding medical care of injured workers. It also allows the Commission to eliminate the redundant, ambiguous and archaic provisions that had been present in the old rules and Medical Fee Schedule.

SUMMARY OF THE RULE OR CHANGE: The proposed rule repeals the Labor Commission's existing Rule R612-300, governing medical care for injured workers. The proposed rule also eliminates the Commission's Medical Fee Schedule, which had been incorporated by reference into the former Rule R612-300. The proposed rule then combines the substantive provisions of both the old rule and Medical Fee Schedule into the new Rule R612-300. Because the enacted rule is a composite of existing standards found in either the old Rule R612-300 or the Medical Fee Standards, the enacted rule contains few substantive changes to the provisions of the old Rules and Fee Standards. The significant changes are as follows: Section R612-300-1 adds definitions of terms frequently used in the rule, updated CPT and RBRVS. Section R612-300-4 incorporates by reference the newest versions of the Optum CPT codes and the Optum RBRVS, to be used in computing fees for medical services to injured workers. Increased conversion factor for anesthesiology. As recommended by the Commission's Medical Advisory Committee and the Workers' Compensation Advisory Council, Subsection R612-300-4(1) increases the conversion factor for anesthesiology from \$41 to \$50. Elimination of provisions redundant with CPT/RBRVS methodology. For several years, the Labor Commission has adopted the standardized coding system of the CPT and the relative value system of the RBRVS to serve as the basis for computing medical fees. As this CPT/RBRVS methodology has expanded and matured, it has become unnecessary for the Commission to address particular medical fee and treatment issues. For that reason, some of the detailed discussion of fees for procedures such as radiology, electrophysiologic testing, needle procedures, somatosensory monitoring, restorative services, and anesthesiology have been condensed or eliminated in the proposed rule. Travel

Reimbursement. Although the former Section R612-300-20 stated that injured workers' reimbursements for travel to obtain medical care are to be consistent with the State of Utah's travel reimbursement rates, the former rule also specified meal reimbursement rates that are lower than those allowed by the state. At Section R612-300-8, the new rule eliminates the specified meal reimbursement rates. This will allow the reimbursement rates for injured workers to mirror the state reimbursement rates. The immediate effect of this change is to increase the breakfast allowance from \$6 to \$10; the lunch allowance from \$9 to \$13; and the dinner allowance from \$15 to \$16.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-104 and Section 34A-2-201

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Optum 2013 The Essential RBRVS, published by Optum, 2013 1st Qtr Emr Upd
- ◆ Adds Optum 2013 Current Procedural Coding Expert, CPT codes, published by Optum, 2013 edition
- ◆ Adds Utah's 2006 Impairment Guides, published by Utah Labor Commission, 2006

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Repeal and reenactment of Rule R612-300 will not impose any additional administrative or enforcement costs on the state budget. Regarding the state's workers' compensation coverage costs, the rule's minor increases to injured worker travel allowances and anesthesiology payment rates are such a small part of overall workers' compensation costs factors as to be negligible. Likewise, the Commission does not anticipate that other nonsubstantive changes incorporated in Rule R612-300 will have any cost impact on the state budget.
- ◆ LOCAL GOVERNMENTS: Rule R612-300's minor increases to injured worker travel allowances and anesthesiology payment rates are such a minor part of overall workers' compensation cost facts as to be negligible with respect to local government's workers' compensation expenses. Likewise, the Commission does not anticipate that other nonsubstantive changes incorporated in Rule 612-300 will have any cost impact on local governments.
- ◆ SMALL BUSINESSES: Rule R612-300's minor increases to injured worker travel allowances and anesthesiology payment rates are such a negligible part of overall workers' compensation cost facts as to be negligible with respect to small business's workers' compensation expenses. Likewise, the Commission does not anticipate that other nonsubstantive changes incorporated in Rule R612-300 will have any cost impact on small business.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Rule R612-300 will require workers' compensation payors to pay slightly higher travel reimbursements to some injured workers, and also pay higher fees to anesthesiologists

treating injured workers. In the context of the payors' overall workers' compensation expenses, the modest increases to these two payment categories will have negligible impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs of compliance with the proposed Rule R612-300 are limited to workers' compensation payors, who will be required to pay slightly more for injured worker travel and anesthesiology. In the context of payors' overall workers' compensation expenses, the modest increases to these two minor payment categories are unlikely to appreciably increase payors' costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All workers' compensation stakeholders, including businesses, will benefit from the streamlining and updating of Rule R612-300. The proposed rule eliminates the need to search between two documents--the rule and the Medical Fee Schedule--to resolve issues arising from the medical care of injured workers. The slight increases to travel allowances and anesthesiology expenses provided by the rule are such small parts of overall workers' compensation costs that it is unlikely they will necessitate any appreciable cost in businesses' workers' compensation costs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 LABOR COMMISSION
 INDUSTRIAL ACCIDENTS
 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:
 ◆ Ron Dressler by phone at 801-530-6841, by FAX at 801-530-6804, or by Internet E-mail at rdressler@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/24/2013

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R612. Labor Commission, Industrial Accidents.
 R612-300. Workers' Compensation Rules - Medical Care.
 [R612-300-1. Whom May Attend Industrial Patients:**

- ~~_____ A. The employer has first choice of physicians; but if the employer fails or refuses to provide medical attention, the employee has the choice of physicians.~~
- ~~_____ B. An employee of an employer with an approved medical program may procure the services of any qualified practitioner for emergency treatment if a physician employed in the program is not available for any reason.~~

R612-300-2. Injured Workers' Right to Privacy.

A. No agent of the employer or the employer's insurance carrier shall be present during an injured worker's visit with a medical provider, unless agreed upon by the claimant.

B. If an agent of the employer or the employer's insurance carrier is excluded from the medical visit, the medical provider and the injured worker shall meet with the agent at the conclusion of the visit so as to communicate regarding medical care and return to work issues.

R612-300-3. Changes of Doctors and Hospitals.

A. It shall be the responsibility of the insurance carrier or self-insured employer to notify each claimant of the change of doctor rules. Those rules are as follows:

1. If a company doctor, designated facility or PPO is named, the employee must first treat with that designated provider. The insurance carrier or self-insured employer shall be responsible for payment for the initial visit, less any health insurance copays and subject to any health insurance reimbursement, if the employee was directed to and treated by the employer's or insurance carrier's designated provider, and liability for the claim is denied and if the treating physician provided treatment in good faith and provided the insurance carrier or self-insured employer a report necessary to make a determination of liability. Diagnostic studies beyond plain x-rays would need prior approval unless the claimed industrial injury or occupational illness required emergency diagnosis and treatment.

2. The employee may make one change of doctor without requesting the permission of the carrier, so long as the carrier is promptly notified of the change by the employee.

(a) Physician referrals for treatment or consultation shall not be considered a change of doctor.

(b) Changes from emergency room facilities to private physicians, unless the emergency room is named as the "company doctor", shall not be considered a change of doctor. However, once private physician care has begun, emergency room visits are prohibited except in cases of:

(i) Private physician referral, or

(ii) Threat to life.

3. Regardless of prior changes, a change of doctor shall be automatically approved if the treating physician fails or refuses to rate permanent partial impairment.

B. Any changes beyond those listed above made without the permission of the carrier/self-insurer may be at the employee's own expense if:

1. The employee has received notification of rules, or

2. A denial of request is made.

C. An injured employee who knowingly continues care after denial of liability by the carrier may be individually responsible for payment. It shall be the burden of the carrier to prove that the patient was aware of the denial.

D. It shall be the responsibility of the employee to make the proper filings with the division when changing locale and doctor. Those forms can be obtained from the division.

E. Except in special cases where simultaneous attendance by two or more medical care practitioners has been approved by the carrier/employer or the division, or specialized services are being provided the employee by another physician under the supervision and/or by the direct referral of the treating physician, the injured employee may be attended by only one practitioner and fees will not

be paid to two practitioners for similar care during the same period of time.

F. The Director of the Division of Industrial Accidents may authorize an injured worker to be examined by another physician for the purpose of obtaining a further medical examination or evaluation pertaining to the medical issues involved, and to obtain a report addressing these medical issues in all cases where:

1. The treating physician has failed or refused to give an impairment rating, and/or

2. A substantial injustice may occur without such further evaluation.

G. The Commission has jurisdiction to decide liability for medical care allegedly related to an industrial accident.

R612-300-4. Filings.

A. Within one week following the initial examination of an industrial patient, nurse practitioners, physicians and chiropractors shall file "Form 123 - Physicians' Initial Report" with the carrier/self-insured employer, employee, and the division. This form is to be completed in as much detail as feasible. Special care should be used to make sure that the employee's account of how the accident occurred is completely and accurately reported. All questions are to be answered or marked "N/A" if not applicable in each particular instance. All addresses must include city, state, and zip code. If modified employment in #29 is marked "yes," the remarks in #29 must reflect the particular restrictions or limitations that apply, whether as to activity or time per day or both. Estimated time loss must also be given in #29. If "Findings of Examination" (#17) do not correctly reflect the coding used in billing, a reduction of payment may be made to reflect the proper coding. A physician, chiropractor, or nurse practitioner is to report every initial visit for which a bill is generated, including first aid, when a worker reports that an injury or illness is work related. All initial treatment, beyond first aid, that is provided by any health care provider other than a physician, chiropractor, or nurse practitioner must be countersigned by the supervising physician and reported on Form 123 to the Industrial Accidents Division and the insurance carrier or self-insured employer.

B.1. Any medical provider billing under the restorative services section of the Labor Commission's adopted Resource-Based Relative Value Scale (RBRVS) or the Medical Fee Guidelines shall file the Restorative Services Authorization (RSA) form with the insurance carrier or self-insured employer (payor) and the division within ten days of the initial evaluation.

2. Upon receipt of the provider's RSA form, the payor has ten days to respond, either authorizing a specified number of visits or denying the request. No more than eight visits may be incurred during the authorization process.

3. After the initial RSA form is filed with the payor and the division, an updated RSA form must be filed for approval or denial at least every six visits until a fixed state of recovery has been achieved as evidenced by either subjective or objective findings. If the medical provider has filed the RSA form per this rule, the payor is responsible for payment, unless compensability is denied by the payor. In the event the payor denies the entire compensability of a claim, the payor shall so notify the claimant, provider, and the division, after which the provider may then bill the claimant.

4. Any denial of payment for treatment must be based on a written medical opinion or medical information. The denial notification shall include a copy of the written medical opinion or

information from which the denial was based. The payor is not liable for payment of treatment after the provider, claimant, and division have been notified in writing of the denial for authorization to pay for treatment. The claimant may then become responsible for payment.

5. Any dispute regarding authorization or denial for treatment will be determined from the date the division received the RSA form or notification of denial for payment of treatment.

6. The claimant may request a hearing before the Division of Adjudication to resolve compensability or treatment issues.

7. Subjective-objective assessment plan/procedure (SOAP notes) or progress notes are to be sent to the payor in addition to the RSA form.

8. Any medical provider billing under the Restorative Services Section of the RBRVS or the Commission's Medical Fee Guidelines who fails to submit the required RSA form shall be limited to payment of up to eight visits for a compensable claim. The medical provider may not bill the patient or employer for any remaining balances.

C. S.O.A.P. notes or progress reports of each visit are to be sent to the payor by all medical practitioners substantiating the care given, the need for further treatment, the date of the next treatment, the progress of the patient, and the expected return-to-work date. These reports must be sent with each bill for the examination and treatment given to receive payment. S.O.A.P. notes are not to be sent to the division unless specifically requested.

D. "Form 110 - Release to Return to Work" must be mailed by either the medical practitioner or carrier/employer to the employee and the division within five calendar days of release.

E. The carrier/employer may request medical reports in addition to regular progress reports. A charge may be made for such additional reports, which charge should accurately reflect the time and effort expended by the physician.

R612-300-5. Regulation of Medical Practitioner Fees.

Pursuant to Section 34A-2-407(9):

A. The Labor Commission of Utah:

1. Establishes and regulates fees and other charges for medical provider services as required for the treatment of a work-related injury or illness.

2. Adopts and by this reference incorporates the Optum Essential RBRVS, 2012 1st Quarter Emergency Update, 1761/RBCU/1766R/RBRC12/RBRC/U1766R ("RBRVS"), as the method for calculating reimbursement and the 2012 American Medical Association Current Procedural Terminology ("CPT");

a. The non-facility total unit value will apply in calculating the reimbursement, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge.

b. The CPT and RBRVS, are subject to the Utah Labor Commission's Medical Fee Guidelines and the following Labor Commission conversion factors for medical care rendered for a work-related injury or illness, effective December 1, 2012: (Conversion Rates below EFFECTIVE December 1, 2012, to be used with the RBRVS procedural Unit value as per specialty:)

Anesthesiology \$41.00 (1 unit per 15 minutes of anesthesia);

Medicine, E and M \$46.00;

Evaluation and Management codes 99201 - 99204 and 99211 - 99214 \$46.00;

Pathology and Laboratory \$52.00;

Radiology \$53.00;

Restorative Services \$46.00;

Surgery \$37.00;

All 20000 codes, codes 49505 thru 49525 and all 60000 codes of the CPT-4 coding guidelines \$58.00.

3. Adopts and incorporates by this reference the Utah Labor Commission's 2013 Medical Fee Guidelines, effective December 1, 2012. The Utah Medical Fee Guidelines can be obtained from the division for a fee sufficient to recover costs of development, printing, and mailing or can be downloaded at the Labor Commission's website.

4. Decides appropriate billing procedure codes when disputes arise between the medical practitioner and the employer or its insurance carrier. In no instance will the medical practitioner bill both the employer and the insurance carrier.

B. Employees cannot be billed for treatment of their work-related injuries or illnesses.

C. Discounting from the fees established by the Labor Commission is allowed only through specific contracts between a medical provider and a payor for treatment of work-related injury or illness.

D. Restocking fee 15%. Rule R612-2-16 covers the restocking fee.

E. Dental fees are not published. Rule R612-2-18 covers dental injuries.

F. Ambulance fees are not published. Rule R612-2-19 covers ambulance charges.

G. For procedures not covered by other provisions of this rule, medical providers have three options.

1. Medical providers may request preauthorization for a procedure from the insurance carrier.

2. Medical providers may present evidence to Medical Fee Committee for incorporating a procedure into the Commission's fee schedule. However, such incorporation will have prospective effect only.

3. Medical providers may apply for hearing before the Commission's Adjudication Division pursuant to Subsection 34A-2-801(1)(e) to establish a reasonable fee for the procedure.

R612-300-6. Method of Rating.

A. For rating all impairments, which are not expressly listed in Section 34A-2-412, the Commission incorporates by reference "Utah's 2006 Impairment Guides" as published by the Commission for all injuries rated on or after July 11, 2006. For those conditions not found in "Utah's 2006 Impairment Guides," the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition" are to be used.

R612-300-7. Adjusting Resource-Based Relative Value Scale (RBRVS) Codes.

A. When adjusting any medical provider's bill who has billed per the Commission's adopted RBRVS the adjusting entity shall provide one or more of the following explanations as applies to the down coding when payment is made to the medical provider:

1. Code 99202, 99203, 99204 or 99205 - the submitted documentation for a new patient did not meet the three key components lacking in the level of history for the code billed.

2. Code 99202, 99203, 99204 or 99205 - the submitted documentation for a new patient did not meet the three key components lacking in the level of examination for the code billed.

~~3. Code 99202, 99203, 99204 or 99205 – the submitted documentation for a new patient did not meet the three key components lacking in the level of medical decision making for the code billed.~~

~~4. Code 99202, 99203, 99204, or 99205 – the submitted documentation for a new patient did not meet the three key components lacking in the level of history and exam for the code billed.~~

~~5. Code 99213, 99214 or 99215 – the submitted documentation for an established patient did not meet the two key components lacking in the level of history and exam that the code billed.~~

~~6. Code 99213, 99214 or 99215 – the submitted documentation for an established patient did not meet the two key components lacking in the level of history and medical decision-making for the code billed.~~

~~7. Code 99213, 99214 or 99215 – the submitted documentation for the established patient did not meet the two key components lacking in the level of exam and medical decision making for the code billed.~~

~~B. The above explanations may be abbreviated, with a legend provided, to accommodate the space of computerized messages.~~

R612-300-8. Fees in Cases Requiring Unusual Treatment.

~~The RBRVS scheduled fees are maximum fees except that fees higher than RBRVS scheduled may be authorized by the Commission when extraordinary difficulties encountered by the physician justify increased charges and are documented by written reports.~~

R612-300-9. Hospital or Surgery Pre-Authorization.

~~Any ambulatory surgery or inpatient hospitalization other than a life or limb threatening admission, allegedly related to an industrial injury or occupational disease, shall require pre-authorization by the employer/insurance carrier. Within two working days of a telephone request for pre-authorization, the employer/carrier shall notify the physician and employee of approval or denial of the surgery or hospitalization, or that a medical examination or review is going to be obtained. The medical examination/review must be conducted without undue delay which in most circumstances would be considered less than thirty days. If the request for pre-authorization is made in writing, the employer/carrier shall have four days from receipt of the request to notify the physician and employee. If the employee chooses to be hospitalized and/or to have the surgery prior to such pre-authorization or medical examination/review, the employee may be personally responsible for the bills incurred and may not be reimbursed for the time lost unless a determination is made in his/her favor.~~

R612-300-10. One Fee Only to be Paid in global Fee Cases.

~~In a global fee case which is transferred from one doctor to another doctor, one fee only will be paid, apportioned at the discretion of the Commission. Adequate remuneration shall also be paid to the medical practitioner who renders first aid treatment where the circumstances of the case require such treatment.~~

R612-300-11. Surgical Assistants' Fees.

~~Fees, in accordance with the Commission's adopted Resource-Based Relative Value Scale (RBRVS), in addition to the~~

~~global fee for surgical services, will be paid surgical assistants only when specifically authorized by the employer or insurance carrier involved, or in hospitals where interns and residents are not available and the complexity of the surgery makes a surgical assistant necessary.~~

R612-300-12. Separate Bills.

~~Separate bills must be presented by each surgeon, assistant, anesthetist, consultant, hospital, special nurse, or other medical practitioner within 30 days of treatment on a HCFA 1500 billing form so that payment can be made to the medical practitioner who rendered the service. All bills must contain the federal ID number of the person submitting the bill.~~

R612-300-13. Hospital Fees Separate.

~~Fees covering hospital care shall be separate from those for professional services and shall not extend beyond the actual necessary hospital care. When it becomes evident that the patient needs no further hospital treatment, he/she must be discharged. All billings must be submitted on a UB92 form and be properly itemized and coded and shall include all appropriate documentation to support the billing. There shall not be a separate fee charged for the necessary documentation in billing for payment of hospital services. The documentation of hospital services shall include at a minimum the discharge summary. The insurance carrier may request further documentation if needed in order to determine liability for the bill.~~

R612-300-14. Charges for Ordinary Supplies, Materials, or Drugs.

~~Fees covering ordinary dressing materials or drugs used in treatment shall not be charged separately but shall be included in the amount allowed for office dressings or treatment.~~

R612-300-15. Charges for Special or Unusual Supplies, Materials, or Drugs.

~~A. Charges for special or unusual supplies, materials, or drugs not included as a normal and usual part of the service or procedure shall, upon receipt of an itemized and coded billing, be paid at cost plus 15% restocking fees.~~

~~B. For purposes of part A above, the amount to be paid shall be calculated as follows:~~

~~1. Applicable shipping charges shall be added to the purchase price of the product;~~

~~2. The 15% restocking fee shall then be added to the amount determined in sub part 1;~~

~~3. The amount of taxes paid on the purchase of the supplies, materials, or drugs shall then be added to the amount determined in sub part 2, which sum shall constitute the total amount to be paid.~~

R612-300-16. Fees for Unscheduled Procedures.

~~Fees for medical or surgical procedures not appearing in the Commission's adopted RBRVS current fee schedule are subject to the Commission's approval and should be submitted to the Commission when the physician and employer or insurance carrier do not agree on the value of the service. Such fees shall be in proportion as nearly as practicable to fees for similar services appearing in the RBRVS.~~

R612-300-17. Ambulance Charges.

~~Ambulance charges must not exceed the rates adopted by the State Emergency Medical Service Commission for similar services.~~

R612-300-18. Dental Injuries.

_____A. This rule establishes procedures to obtain dental care for work-related dental injuries and sets fees for such dental care.

_____B. Initial Treatment.

_____1. If an employer maintains a medical staff or designates a company doctor, an injured worker seeking dental treatment for work-related injuries shall report to such medical staff or doctor and follow their instructions.

_____2. If an employer does not maintain a medical staff or designate a company doctor, or if such staff or doctor are not available, an injured worker may consult a dentist to obtain immediate care dental for injuries caused by a work-related accident. The insurer shall pay the dentist providing this initial treatment at 70% of UCR for the services rendered.

_____C. Subsequent care by initial treatment provider.

_____1. If additional treatment is necessary, the dentist who provided initial treatment may submit to the insurer a request for authorization to continue treatment. The transmission date of the request must be verifiable. The request itself must include a description of the injury, the additional treatment required, and the cost of the additional treatment. If the dentist proceeds with treatment without authorization, the dentist must accept 70% of UCR as payment in full and may not charge any additional sum to the injured worker.

_____2. The insurer shall respond to the request for authorization within 10 working days of the request's transmission. This 10-day period can be extended only with written approval of the Industrial Accidents Division. If the insurer does not respond to the dentist's request for authorization within 10 working days, the insurer shall pay the cost of treatment as contained in the request for authorization.

_____3. If the insurer approves the proposed treatment, the insurer shall send written authorization to the dentist and injured worker. This authorization shall include the anticipated payment amount.

_____4. On receipt of the insurer's written authorization, and if the dentist accepts the payment provisions therein, the dentist may proceed to provide the approved services. The dentist must accept the amount to be paid by the insurer as full payment for those services and may not bill the injured worker for any additional amount.

_____D. Subsequent care by other providers.

_____1. If the dentist who provided initial treatment does not agree to the payment offered by the insurer, the insurer shall within 20 calendar days direct the injured worker to a dentist located within a reasonable travel distance who will accept the insurer's payment offer.

_____2. If the insurer cannot locate another dentist to provide the necessary services, the insurer shall attempt to negotiate a satisfactory reimbursement with the dentist who provided initial treatment. The negotiated reimbursement may not include any balance billing to the claimant.

_____3. If the insurer is successful in arranging treatment with another dentist, the insurer shall notify the injured worker.

_____4. If, after having received notice that the insurer has arranged the services of another dentist, the injured worker chooses to obtain treatment from a different dentist, the insurer shall only be responsible for payment at 70% of UCR. Under the circumstances of this subsection (4), the treating dentist may bill the injured worker for the difference between the dentist's charges and the amount paid by the insurer.

_____E. Payment or treatment disputes that cannot be resolved by the parties may be submitted to the Labor Commission's Adjudication

Division for decision, pursuant to the Adjudication Division's established forms and procedures.

R612-300-19. HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Service Providers.

_____A. Authority - The HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Services Providers rule is established under the authority of U.C.A. Section 78B-8-404.

_____B. Purpose - To establish procedures pursuant to U.C.A. Section 78B-8-401 for source patient testing and reporting following a significant exposure of an emergency medical services provider.

_____C. Definitions

_____1. Department means the Utah Labor Commission.

_____2. Contact means designated person(s) within the emergency medical services agency or the employer of the emergency medical services provider.

_____3. Disease means Human Immunodeficiency Virus, acute or chronic Hepatitis B or Hepatitis C infections.

_____4. Emergency medical services provider means Emergency Medical personnel as defined in Section 26-8a-102, a public safety officer, local fire department personnel, or personnel employed by the Department of Corrections or by a county jail, who provide prehospital Emergency medical care for an emergency medical services agency either as an employee or a volunteer.

_____5. Emergency medical services (EMS) agency means an agency, entity, or organization that employs or utilizes emergency medical services providers as defined in (4) as employees or volunteers.

_____6. Source Patient means any individual cared for by a prehospital emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections.

_____7. Receiving facility means a hospital, health care or other facility where the patient is delivered by the emergency medical services provider for care.

_____8. "Significant Exposure" and "Significantly Exposed" mean:

_____a. exposure of the body of one person to the blood or body fluids visibly contaminated by blood of another person by:

_____1. percutaneous injury, including a needle stick or cut with a sharp object or instrument; or

_____2. contact with an open wound, mucous membrane, or nonintact skin because of a cut, abrasion, dermatitis, or other damage; or

_____b. exposure that occurs by any other method of transmission defined by the Department of Health as a significant exposure.

_____D. Emergency Medical Services Provider Responsibility.

_____1. The EMS provider shall document and report all significant exposures to the receiving facility and contact as defined in (C)(2).

_____2. The reporting process is as follows:

_____a. The exposed EMS provider shall complete the Exposure Report Form (ERF) at the time the patient is delivered to the receiving facility and provide a copy to the person at the receiving facility authorized by the facility to receive the form. In the event the exposed EMS provider does not accompany the source patient to the receiving facility, he/she may report the exposure incident, with information requested on the ERF, by telephone to a person authorized by the

facility to receive the form. In this event, the exposed EMS provider shall nevertheless submit a written copy of the ERF within three days to an authorized person of the receiving facility.

b. The exposed EMS provider shall, within three days of the incident, submit a copy of the ERF to the contact as defined in (C) (2).

E. Receiving Facility Responsibility:

1. The receiving facility shall establish a system to receive ERFs as well as telephoned reports from exposed EMS providers on a 24-hour per day basis. The facility shall also have available or on call, trained pre-test counselors for the purpose of obtaining consent and counseling of source patients when HIV testing has been requested by EMS providers. The receiving facility shall contact the source patient prior to release from the facility to provide the individual with counseling or, if unable to provide counseling, provide the source patient with phone numbers for a trained counselor to provide the counseling within 24 hours.

2. Upon notification of exposure, the receiving facility shall request permission from the source patient to draw a blood sample for disease testing, as defined in (C) (3). In conjunction with this request, the source patient must be advised of his/her right to refuse testing and be advised that if he/she refuses to be tested that fact will be forwarded to the EMS agency or employer of EMS provider. The source patient shall also be advised that if he/she refuses to be tested, the EMS agency or provider may seek a court order to compel the source patient to submit to a blood draw for the disease testing.

Testing is authorized only when the source patient, his/her next of kin or legal guardian consents to testing, with the exception that consent is not required from an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, or if the source patient is dead. If consent is denied, the receiving facility shall complete the ERF and send it to the EMS agency or employer of the EMS provider. If consent is received, the receiving facility shall draw a sample of the source patient's blood and send it, along with the ERF, to a qualified laboratory for testing.

3. The laboratory that the receiving facility has sent source patient's blood draw to shall send the disease test results, by Case ID number, to the EMS agency or employer of the EMS provider.

F. EMS Agency/Employer Responsibility:

1. The EMS agency/employer, upon receipt of the disease tests, from the receiving facility laboratory, shall immediately report the result, by case number, not name, to the exposed EMS provider.

2. The EMS agency/employer, upon the receipt of refusal of testing by the source, shall report that refusal to the EMS provider.

3. The agency/employer or its insurance carrier shall pay for the EMS provider and the source patient testing for the covered diseases per the Labor Commission fee schedule.

4. The EMS agency/employer shall maintain the records of any disease exposures contained in this rule per the OSHA Blood-Borne Pathogen standards.

R612-300-20. Travel Allowance and Per Diem.

A. An employee who, based upon his/her physician's advice, requires hospital, medical, surgical, or consultant services for injuries arising out of and in the course of employment and who is authorized by the self-insurer, the carrier, or the Commission to obtain such services from a physician and/or hospital shall be entitled to:

1. Subsistence expenses of \$6 per day for breakfast, \$9 per day for lunch, \$15 per day for dinner, and actual lodging expenses as per the state of Utah's in-state travel policy provided:

(a) The employee travels to a community other than his/her own place of residence and the distance from said community and the employee's home prohibits return by 10:00 p.m., and

(b) The absence from home is necessary at the normal hour for the meal billed.

2. Reasonable travel expenses regardless of distance that are consistent with the state of Utah's travel reimbursement rates, or actual reasonable costs of practical transportation modes above the state's travel reimbursement rates as may be required due to the nature of the disability:

B. This rule applies to all travel to and from medical care with the following restrictions:

1. The carrier is not required to reimburse the injured employee more often than every three months, unless:

(a) More than \$100 is involved, or

(b) The case is about to be closed.

2. All travel must be by the most direct route and to the nearest location where adequate treatment is reasonably available.

3. Travel may not be required between the hours of 10:00 p.m. and 6:00 a.m., unless approved by the Commission.

4. Requests for travel reimbursement must be submitted to the carrier for payment within one year of the authorized medical care.

5. Travel allowance shall not include picking up prescriptions unless documentation is provided substantiating a claim that prescriptions cannot be obtained locally within the injured worker's community.

6. The Commission has jurisdiction to resolve all disputes.

R612-300-21. Interest for Medical Services.

A. All hospital and medical bills must be paid promptly on an accepted liability claim. All bills which have been submitted properly on an accepted liability claim are due and payable within 45 days of being billed unless the bill or a portion of the bill is in dispute. Any portion of the bill not in dispute is payable within 45 days of the billing.

B. Per Section 34A-2-420, any award for medical treatment made by the Commission shall include interest at 8% per annum from the date of billing for the medical service.

R612-300-22. Medical Records.

A. Workers' compensation insurers, employers and the Utah Labor Commission need access to health information of individuals who are injured on the job or who have a work-related illness in order to process or adjudicate claims, or to coordinate care under Utah's workers' compensation system. Generally, this health information is obtained from health care providers who treat these individuals and who may be covered by federal "HIPAA" privacy rules.

The HIPAA Privacy Rule specifically recognizes the legitimate need of the workers' compensation system to have access to individuals' health information to the extent authorized by State law. See 45 CFR 164.512(1). The Privacy Rule also recognizes the importance of permitting disclosures required by other laws. See 45 CFR 164.512(a). Therefore, disclosures permitted by this rule for workers' compensation purposes or otherwise required by this rule do not conflict with and are not prohibited by the HIPAA Privacy Rule.

~~B. A medical provider, without authorization from the injured workers, shall:~~

~~1. For purposes of substantiating a bill submitted for payment or filing required Labor Commission forms, such as the "Physician's Initial Report of Injury/Illness" or the "Restorative Services Authorization," disclose medical records necessary to substantiate the billing, including drug and alcohol testing, to:~~

~~a. An employer's workers' compensation insurance carrier or third party administrator;~~

~~b. A self-insured employer who administers its own workers' compensation claims;~~

~~c. The Uninsured Employers' Fund;~~

~~d. The Employers' Reinsurance Fund; or~~

~~e. The Labor Commission as required by Labor Commission rules.~~

~~2. Disclose medical records pertaining to treatment of an injured worker, who makes a claim for workers' compensation benefits, to another physician for specialized treatment, to a new treating physician chosen by the claimant, or for a consultation regarding the claimed work related injury or illness:~~

~~C.1. Except as limited in C(3), a medical provider, whose medical records are relevant to a workers' compensation claim shall, upon receipt of a Labor Commission medical records release form, or an authorization form that conforms to HIPAA requirements, disclose his/her medical records to:~~

~~a. An employer's insurance carrier or third party administrator;~~

~~b. A self-insured employer who administers its own workers' compensation claims;~~

~~c. An agent of an entity listed in B(1)(a through e), which includes, but is not limited to a case manager or reviewing physician;~~

~~d. The Uninsured Employers Fund;~~

~~e. The Employers' Reinsurance Fund;~~

~~f. The Labor Commission;~~

~~g. The injured worker;~~

~~h. An injured workers' personal representative;~~

~~i. An attorney representing any of the entities listed above in an industrial injury or occupational disease claim.~~

~~2. Medical records are relevant to a workers' compensation claim if:~~

~~a. The records were created after the reported date of the accident or onset of the illness for which workers' compensation benefits have been claimed; or~~

~~b. The records were created in the past ten years (15 years if permanent total disability is claimed) and;~~

~~i. There is a specific reason to suspect that the medical condition existed prior to the reported date of the claimed work related injury or illness or~~

~~ii. The claim is being adjudicated by the Labor Commission.~~

~~3. Medical records related to care provided by a psychiatrist, psychologist, obstetrician, or care related to the reproductive organs may not be disclosed by a medical provider unless a claim has been made for a mental condition, a condition related to the reproductive organs, or the claimant has signed a separate, specific release for these records:~~

~~D. A medical provider, who has treated an injured worker for a work related injury or illness, shall disclose information to an~~

~~injured workers' employer as to when and what restrictions an injured worker may return to work.~~

~~E. Requests for medical records beyond what sections B, C, and D permit require a signed approval by the director, the medical director, a designated person(s) within the Industrial Accidents Division or an administrative law judge if the claim is being adjudicated.~~

~~F. A party affected by the decision made by a person in section E may appeal that decision to the Adjudication Division of the Labor Commission.~~

~~G. Upon receipt and within the scope of this rule, an injured worker shall provide those entities or person listed in C(1) the names, address, and dates of medical treatment (if known) of the medical providers who have provided medical care within the past 10 years (15 years for permanent total disability claim) except for those medical providers names in C(3). Labor Commission form number 307- "Medical Treatment Provider List" must be used for this purpose. Parties listed in C(1) of this rule must provide each medical provider identified on form 307 with a signed authorization for access to medical records. A copy of the signed authorization may be sent to the medical providers listed on form 307.~~

~~H. An injured worker may contest, for good reason, a request for medical records created prior to the reported date of the accident or illness for which the injured worker has made a claim for benefits by filing a complaint with the Labor Commission. Good reason is defined as the request has gone beyond the scope of this rule or sensitive medical information is contained in a particular medical record.~~

~~I.1. Any party obtaining medical records under authority of this rule may not disclose those medical records, without a valid authorization, except as required by law.~~

~~2. An employer may only use medical records obtained under the authority of this rule to:~~

~~a. Pay or adjudicate workers' compensation claims if the employer is self-insured;~~

~~b. To assess and facilitate an injured workers' return to work;~~

~~c. As otherwise authorized by the injured worker.~~

~~3. An employer obtaining medical records under authority of this rule must maintain the medical records separately from the employee's personnel file.~~

~~J. Any medical records obtained under the authority of this rule to make a determination regarding the acceptance of liability or for treatment of a condition related to a workers' compensation claim shall only be used for workers' compensation purposes and shall not be released, without a signed release by the injured worker or his/her personal representative, to any other party. An employer shall make decisions related only to the workers' compensation claim based on any medical information received under this rule.~~

~~K. When any medical provider provides copies of medical records, other than the records required when submitting a bill for payment or as required by the Labor commission rules, the following charges are presumed reasonable:~~

~~1. A search fee of \$15 payable in advance of the search;~~

~~2. Copies at \$.50 per page, including copies of microfilm; payable after the records have been prepared and~~

~~3. Actual costs of postage payable after the records have been prepared and sent. Actual cost of postage are deemed to be the~~

cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

4. The Labor Commission will release its records per the above charges to parties/entities with a signed and notarized release from the injured worker unless the information is classified and controlled under the Government Records Access and Management Act (GRAMA).

L. No fee shall be charged when the RBRVS or the Commission's Medical Fee Guidelines require specific documentation for a procedure or when medical providers are required to report by statute or rule.

M. An injured worker or his/her personal representative may obtain one copy of each of the following records related to the industrial injury or occupational disease claim, at no cost, when the injured worker or his/her personal representative have signed a form by the Industrial Accidents Division to substantiate his/her industrial injury/illness claim;

1. History and physical;
2. Operative reports of surgery;
3. Hospital discharge summary;
4. Emergency room records;
5. Radiological reports;
6. Specialized test results; and
7. Physician SOAP notes, progress notes, or specialized reports.

(a) Alternatively, a summary of the patients records may be made available to the injured worker or his/her personal representative at the discretion of the physician.

R612-300-23. Insurance Carrier's Privilege to Examine.

The employer or the employer's insurance carrier or a self-insured employer shall have the privilege of medical examination of an injured employee at any reasonable time. A copy of the medical examination report shall be made available to the Commission at any time upon request of the Commission.

R612-300-24. Notice to Health Care Providers.

Any notice from a carrier denying further liability must be mailed to the Commission and the patient on the same day as it is mailed to the health care provider. Where it can be shown, in fact, that a medical care provider and the injured employee have received a denial of further care by the insurance carrier or self-insured employer, further treatment may be performed at the expense of the employee. Any future ratification of the denial by the Commission will not be considered a retroactive denial but will serve to uphold the force and effect of the previous denial notice.

R612-300-25. Review of Medical Payments.

A. Health care providers and payors are primarily responsible to resolve disputes over fees for medical services between themselves. However, in some cases it is necessary to submit such disputes to the Division for resolution. The Commission therefore establishes the following procedure for submission and review of fees for medical services:

1. The provider shall submit a bill for services rendered, with supporting documentation, to the payor within one year of the date of service;

2. The payor shall evaluate the bill according to the guidelines contained in the Commission's Medical Fee Guidelines and

RBRVS and shall pay the provider the appropriate fee within 45 days as required by Rule R612-2-13.

3. If the provider believes that the payor has improperly computed the fee under the RBRVS, the provider or designee shall request the payor to re-evaluate the fee. The provider's request for re-evaluation shall be in writing, shall describe the specific areas of disagreement and shall include all appropriate documentation. The provider shall submit all requests for re-evaluation to the payor within one year of the date of the original payment.

4. Within 30 days of receipt of the written request for re-evaluation, the payor shall either pay the additional fee due the provider or respond with a specific written explanation of the basis for its denial of additional fees. The payor shall maintain proof of transmittal of its response.

B. If the provider continues to disagree with the payor's determination of the appropriate fee, the provider shall submit the matter to the Division by filing with the Division a written explanation of the disagreement. The provider's explanation shall include copies of:

1. The provider's original bill and supporting documentation;
2. The payor's initial payment of that bill;
3. The provider's request for re-evaluation and supporting documentation; and
4. The payor's written explanation or its denial of additional fees.

C. The Division will evaluate the dispute according to the requirements of the Medical Fee Guidelines and RBRVS and, if necessary, by consulting with the provider, payor, or medical specialists. Within 45 days from the date the Division receives the provider's request, the Division will mail its determination to both parties.

D. Any party aggrieved by the Division's determination may file an application for hearing with the Division of Adjudication to obtain formal adjudication of the dispute.

E. A payor seeking reimbursement from a provider for overpayment of a bill shall submit a written request to the provider detailing the circumstances of the payment requested within one year of submission of the bill.

1. Providers should make appropriate reimbursements, or respond in writing detailing the reasons why repayment will not be made, within 90 days of receipt of a written request from a payor.

2. If a dispute as to reimbursement occurs, an aggrieved party may request resolution of the dispute by the Labor Commission.

R612-300-26. Utilization Review Standards.

A. As used in this subsection:

1. "Payor" means a workers' compensation insurance carrier, a self-insured employer, third-party administrator, uninsured employer or the Uninsured Employers' Fund, which is responsible for payment of the workers' compensation claim.

2. "Health Care Provider" means a provider of medical services, including an individual provider, a health service plan, a health care organization, or a preferred provider organization.

3. "Request for Authorization" means any request by a physician for assurance that appropriate payment will be made for a course of proposed medical treatment, including surgery or hospitalization, or any diagnostic studies beyond plain X-rays.

4. "Utilization Review," as authorized in Section 34A-2-111, is a process used to manage medical costs, improve patient care, and enhance decision-making. Utilization review includes, but is not limited to, the review of requests for authorization to treat, and the review of bills, for the purpose of determining whether the medical services provided were or would be necessary, to treat the effects of the injury/illness. Utilization review does not include bill review for the purpose of determining whether the medical services rendered were accurately billed. Nor does it include any system, program, or activity in connection with making decisions concerning whether a person has sustained an injury or illness which is compensable under Section 34A-2 or 34A-3.

5. "Reasonable Attempt" is defined as at least two phone calls and a fax, or three phone calls, within five business days from date of the payor's receipt of the physician's request for review.

B. Any utilization review system shall establish an appeals process which utilizes a physician(s) for a final decision by the insurer, should an initial review decision be contested. The payor may establish levels of review that meet the following criteria:

1. Level I - Initial Request and Review. A payor may use medical or non-medical personnel to initially apply medically-based criteria to a request for authorization for payment of a specific treatment. The treating physician must send all the necessary documentation for the payor to make a decision regarding the treatment recommended. The payor must then notify the physician within five business days of the request for authorization of payment for the treatment, by a method which provides certification of transmission of the document, of either an acceptance or a denial of the request. A denial for authorization of payment for a recommended treatment utilizing the Commission's form, Form 223, must be sent to the provider with the criteria used in making the determination to deny payment for the treatment. A copy of the denial must also be mailed to the claimant. Level I-Request and Review does not include authorization requests for services billed from the Restorative section of the Resource-Based Relative Value Scale (RBRVS). Requests for authorization for restorative services are governed by rule R612-2-3(B).

2. Level II - Review. A physician, who has been denied authorization of payment for treatment, or has received no response within five business days from the request for authorization for payment at Level I review, may request a physician's review by sending the completed portion of the Commission form 223 to the payor. Such a request for review may be filed by any physician who has been denied authorization for payment for restorative services beyond the initial eight visits as authorized by Rule R612-2-3(B). The requesting physician must include the times and days that he/she is available to discuss the case with the reviewing physician, and must be reasonably available during normal business hours. The payor's physician representative must complete the review within five business days of the treating physician's request for review. Before the insurer's physician representative may issue a denial of an authorization for payment to treat, a reasonable effort must have been made to contact the requesting treating physician to discuss the differing aspects of the case. Failure by the payor to respond within five business days, by a method which provides certification of transmission, to a denial for authorization for payment for treatment, shall constitute an authorization for payment of the treatment. The payor's denial to pay for the recommended treatment must be issued on Commission's form 223, and the denial must be accompanied by the criteria that was used

in making the decision to deny authorization, along with the name and speciality of the reviewing physician. The denial to authorize payment for treatment must then be sent to the physician, the claimant, and the Commission. The payor shall notify the Commission if an additional five days is needed in order to contact the treating physician or to review the case. An additional extension of time may be requested from the Commission to accommodate highly unusual circumstances or particularly difficult cases.

C. Upon receipt of denial of authorization for payment for medical treatment at Level II, the Commission will facilitate, upon the request of the claimant, the final disposition of the case. If the parties agree, the medical dispute may be resolved by the Commission through binding mediation or medical review. If there is not agreement among the parties, the Commission will resolve the dispute through formal adjudication. The payor shall be responsible for sending the claimant the Commission appeals information when the denial for authorization for payment for medical treatment is sent to the claimant.

D. If the medical treatment requested is not an emergency, and treatment is rendered by the physician after receiving notice of the utilization standards encompassed in this rule, the following shall apply:

1. The Commission shall, if the disputed medical treatment is ultimately determined to be compensable as an expense necessary to treat the industrial injury or occupational disease, order that the physician be reimbursed at only 75% of the of the amount otherwise payable had appropriate authorization been timely obtained. The injured worker shall not be liable for any additional payment to the physician above the 75%.

2. Neither the worker's employer or its workers' compensation insurer shall be liable for any portion of the cost of disputed medical treatment, if that treatment is ultimately determined not to be compensable as an expense necessary to treat an industrial injury or occupational disease.

3. A worker may become liable for the cost of the disputed medical treatment, if that treatment is ultimately determined not to be compensable as an expense necessary to treat the industrial injury or occupational disease.

4. Except for any co-pays or deductibles under the worker's health insurance plan, the penalty provision in D(1) and D(3) shall not apply if the physician performs the medical treatment in question, having been preauthorized in writing to do the same by a health insurer or other non-worker's compensation insurance payor.

5. The penalty provisions in D(1) shall not apply to medical treatment rendered in emergency situations, which are defined as a threat to life or limb.

6. The Commission shall notify a physician, in writing, of reported violations of this rule. Repeated violations of this rule by a physician may result in a report from the Commission to the Department of Commerce, Division of Occupational/Professional Licensing.

R612-300-27. Commission Approval of Health Care Treatment Protocols.

A. Authority. Pursuant to authority granted by Section 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, the Utah Labor Commission establishes the following standards and procedures for Commission approval of medical treatment and quality care guidelines:

~~B. Standards:~~

~~1. Scientifically based: Section 34A-2-111(2)(c)(i)(B)(VII) (Aa) of the Act requires that guidelines be scientifically based. The Commission will consider a guideline to be "scientifically based" when it is supported by medical studies and/or research.~~

~~2. Peer reviewed: Section 34A-2-111(2)(c)(i)(B)(VII)(Bb) of the Act requires that guidelines be peer reviewed. The Commission will consider a guideline to be "peer reviewed" when the medical study's content, methodology, and results have been reviewed and approved prior to publication by an editorial board of qualified experts.~~

~~3. Other standards: Pursuant to its rulemaking authority under Section 34A-2-111(2)(c)(i)(B)(VII), the Utah Labor Commission establishes the following additional standards for medical treatment and quality care guidelines:~~

~~a. The guidelines must be periodically updated and, subject to Commission discretion, may not be approved for use unless updated in whole or in part at least biannually;~~

~~b. Guideline sources must be identified;~~

~~c. The guidelines must be reasonably priced;~~

~~d. The guidelines must be easily accessible in print and electronic versions.~~

~~C. Procedure: Pursuant to Section 34A-2-111(2)(c)(i)(B) (VII) of the Utah Workers' Compensation Act, a party seeking Commission action to approve or disapprove a guideline shall file a petition for such action with the Labor Commission.]~~

R612-300-1. Purpose, Scope and Definitions.

A. Purpose and scope. Pursuant to authority granted the Utah Labor Commission under §34A-2-407(9) and §34A-2-407.5(1) of the Utah Workers' Compensation Act, these rules establish:

1. Reasonable fees for medical care necessary to treat workplace injuries;

2. Standards for disclosure of medical records;

3. Reporting requirements; and

4. Treatment protocols and quality care guidelines.

B. Definitions. The following definitions apply within Rule R612-300:

1. "Health care provider" is defined by §34A-2-111(1)(a) as "a person who furnishes treatment or care to persons who have suffered bodily injury" and includes hospitals, clinics, emergency care centers, physicians, nurses and nurse practitioners, physician's assistants, paramedics and emergency medical technicians.

2. "Injured worker" is an individual claiming workers' compensation medical benefits for a work-related injury or disease.

3. "Payor" is the entity responsible for payment of an injured worker's medical expenses';

4. "Physician" is defined by §34A-2-111(1)(b) to include any licensed podiatrist, physical therapist, physician, osteopath, dentist or dental hygienist, physician's assistant, naturopath, acupuncturist, or advance practice registered nurse.

5. "Workplace injury" is an injury or disease compensable under either the Utah Workers' Compensation Act or the Utah Occupational Disease Act.

R612-300-2. Obtaining Medical Care for Injured Workers.

A. Right of payor to designate initial health care provider.

1. A Payor may adopt managed health care programs. Such programs may designate specific health care providers as "preferred providers" for providing initial medical care for injured workers.

2. A preferred provider program must allow an injured worker to select from two or more providers to obtain necessary medical care. At the time a preferred provider program is established, the payor must notify employees of the requirements of the program.

3. If the requirement of subsection A.2. are met, an injured worker subject to a preferred provider program must seek initial medical care from a preferred provider unless:

a. No preferred provider is available;

b. The injured worker believes in good faith that his or her medical condition is not a workplace injury; or

c. Travel to a preferred provider is unduly burdensome.

4. If an injured worker who is subject to a preferred provider program fails to obtain initial medical care from a preferred provider, the payor's liability for the cost of such initial medical care is limited to the amount the payor would have paid a preferred provider. The injured worker may be held personally liable for the remaining balance.

B. Liability for medical expense incurred at payor's direction. If a payor directs an employee to obtain an initial medical assessment of a possible work injury, the payor is liable for the cost of such assessment.

1. A medical provider performing an initial assessment must obtain the payor's preauthorization for any diagnostic studies beyond plain x-rays.

C. Injured worker's right to select provider after initial medical care. After an injured worker has received initial care from a preferred provider, the employee may obtain subsequent medical care from a qualified provider of his or her choice. The payor is liable for the expense of such medical care.

1. An employee's right to select medical providers is subject to subsection D. of this rule, "Limitations to Injured Worker's Right to Change Physicians."

D. Limitations on injured worker's right to change physicians.

1. An injured worker may change health care providers one time without obtaining permission from the payor. The following circumstances DO NOT constitute a change of health care provider:

a. A treating physician's referral of the injured worker to another health care provider for treatment or consultation;

b. Transfer of treatment from an emergency room to a private physician, unless the emergency room was designated as the payor's preferred provider;

c. Necessary emergency treatment;

d. A change of physician necessitated by the treating physician's failure or refusal to rate a permanent partial impairment.

2. The injured employee shall promptly report any change of provider to the payor.

3. After an injured worker has exercised his or her one-time right to change health care providers, the worker must request payor approval of any subsequent change of provider. If the payor denies or fails to respond to the request, the injured worker may request approval from the Director of the Division on Industrial Accidents. The Director will authorize a change of provider if necessary for the adequate medical treatment of the injured worker or for other reasonable cause.

4. An injured worker who changes health care providers without payor or Division approval may be held personally liable for the non-approved provider's fees.

E. Hospital or surgery pre-authorization. Except when immediate surgery or hospitalization is medically necessary on an emergency basis, surgery or hospitalization must be pre-authorized by the payor.

1. Within two working days of receipt of a request for authorization, the payor shall notify the physician and injured worker that the request is either approved or denied, or is undergoing medical review.

2. Any medical review of a pending request for authorization must be conducted promptly.

F. Notification required from injured employees leaving Utah. Section 34A-2-604 of the Workers' Compensation Act requires injured workers receiving medical care for a workplace injury to notify the Industrial Accidents Division before leaving the state or locality. Division forms 043 and Form 044 are to be used to provide such notice.

G. Injured worker's right to privacy. No agent of the payor may be present during an injured worker's medical care without the consent of the injured worker. However, if the payor's agent is excluded from a medical visit, the physician and the injured worker shall meet with the agent at the conclusion of the visit or at some other reasonable time so as to communicate regarding medical care and return-to-work issues.

H. Payor's right of medical examination. The payor may arrange for the medical examination of an injured worker at any reasonable time and place. A copy of the medical examination report shall be made available to the Commission upon request.

R612-300-3. Required Reports.

A. Form 123, Physician's Initial Report. Within one week after providing initial medical care to an injured worker, a health care provider shall complete "Form 123 - Physicians' Initial Report." The provider shall fully complete Form 123 according to its instructions. The provider shall then file Form 123 with the Division and payor.

1. Form 123 must be completed and filed for every initial visit for which a bill is generated, including first aid, when the worker reports that his or her medical condition is work related.

2. If initial medical care is provided by any health care provider other than a physician, Form 123 must be countersigned by the supervising physician.

B. Form 221, Restorative Services Authorization. Form 221, "Restorative Services Authorization Form" required by Rule 612-300-5. C. 7. shall be filed with both the payor and the Division.

C. Forms 043, Employee's Intent to Leave State, and Form 044, Attending Physician's Statement. These forms are to be submitted to the Division before an injured worker leaves Utah.

D. Form 110, Release to Return to Work. Form 110 shall be mailed by either the health care provider or payor to the injured worker and Division within five calendar days after the health care provider releases the injured worker to return to work.

R612-300-4. General Method For Computing Medical Fees.

A. Adoption of "CPT" and "RBRVS." The Labor Commission hereby adopts and by this reference incorporates:

1. "Optum 2013 Current Procedural Coding Expert, CPT codes with Medicare essentials enhanced for accuracy." ("CPT" hereafter); and

2. "Optum 2013 The Essential RBRVS, 2013 1st Quarter Emergency Update." designated as 1761/RBRCU/U1771R--RBRC13/RBRC/U1771R. ("RBRVS" hereafter).

B. Medical fees calculated according to CPT and RBRVS. Unless some other provision of these rules specifies a different method, the CPT and RBRVS are to be used in conjunction with the "conversion factors" established in subsection C. of this rule to calculate payments for medical care provided to injured workers.

C. Conversion Factors. Fees for medical care of injured workers shall be computed by determining the relative value unit ("RVU") assigned by the RBRVS to a CPT code and then multiplying that RVU by the following conversion factors for specific medical specialties:

1. Anesthesiology (1 unit per 15 minutes of anesthesia): \$50.00;

2. Medicine (Evaluation and Medicine Codes 99201 - 99204 and 99211): \$46.00;

3. Pathology and Laboratory: \$52.00;

4. Radiology: \$53.00;

5. Restorative Services: \$46.00;

6. Surgery (all 20000 codes, codes 49505 thru 49525, and all 60000 codes): \$58.00;

7. Other Surgery: \$37.00.

D. Fees for Medical care not addressed by CPT/RBRVS, or requiring unusual treatment.

1. The payor and medical provider may establish and agree to a reasonable fee for medical care of an injured worker if:

a. neither the CPT/RBRVS or any other provision of these rules address the medical care in question; or

b. application of CPT/RBRVS or other provisions of these rules would result in an inadequate fee due to extraordinary difficulty of treatment.

2. If the medical provider and payor cannot agree to a reasonable fee in such cases, the provider can request a hearing before the Commission's Adjudication Division to establish a reasonable fee.

R612-300-5. Fees for Specific Procedures.

A. Needle procedures: Trigger point injections are reported per muscle. Payment under CPT code 20553 for injections of up to three muscles is the maximum allowed for any one treatment session, regardless of the number of muscles treated.

B. Radiology.

1. The cost of radioisotopes, gadolinium and comparable materials may be charged at the provider's cost plus 15%.

2. When x-rays are reviewed as part of an independent evaluation of the patient, a consultation, or other office visit, the review is included as a part of the basic service to the patient and may not be billed separately.

C. Restorative Services.

1. The following criteria must be met before payment is allowed for restorative services:

a. The patient's condition must have the potential for restoration of function;

b. The treatment must be prescribed by the treating physician;

c. The treatment must be specifically targeted to the patient's condition; and

d. The provider must be in constant attendance during the providing of treatment.

2. No payment is allowed for CPT codes 97024, diathermy; 97026, infrared therapy; 97028, ultraviolet therapy/cold laser therapy; 97005, athletic training evaluations; 97006, athletic training reevaluation.

3. All restorative services provided must be itemized even if not billed.

4. Medical providers billing under CPT codes 97001 through 97703 are limited to payment for a maximum of three procedures/units per visit, or six procedures if different sites are treated. Services billed under CPT codes 97545, 97546 and 97150 require preauthorization and are limited to 4 units per injury. The payer shall pay the three highest valued procedures for each treatment site for the visit.

5. Patient education is to be billed using CPT code 97535 rather than codes 98960 through 98962, and is limited to 4 units per injury claim.

6. The entire spine is considered to be a single body part or unit. For that reason, CPT codes 98941 through 98943 and 98926 through 98929 may not be used for billing purposes.

7. When a change in treatment or a new RSA is required, physicians and physical therapists may bill for one evaluation and up to 2 modalities/procedures. Without an evaluation, they may bill for up to 3 modalities/procedures. With prior authorization from the payer, physicians and physical therapists may make additional billing when justified by special circumstances.

8. Any medical provider billing for restorative services shall file the appropriate version of Form 221, "Restorative Services Authorization (RSA) form" with the payor and the Division within ten days of the initial evaluation. Subjective/objective/assessment/plan ("SOAP") notes are to be sent to the payor in addition to the RSA form. SOAP notes are not to be sent to the Division unless requested.

a. Upon receipt of the provider's RSA form and SOAP notes, the payor shall respond within ten days by authorizing a specified number of treatments or denying the request. No more than eight treatments may be provided during this ten-day authorization period.

b. A payor may deny the requested treatments for the following reasons:

i. The injury or disease being treated is not work related;
or

ii. The payor has received written medical opinion or other medical information indicating the treatment is not necessary. A copy of such written opinion or information must be provided to the injured worker, the medical provider, and the Division.

c. In cases where approval is received for initial treatment, the provider shall submit updated RSA forms and SOAP notes to the payor for approval or denial at least every six treatments.

d. An injured worker or provider may request a hearing before the Division of Adjudication to resolve issues of compensability, necessity of treatment, and compliance with this subsection's time limits.

D. Functional Capacity Evaluations. The following functional capacity evaluations require payor preauthorization and are billed in 15 minute increments under CPT code 97750:

1. A limited functional capacity evaluation to determine an injured worker's dynamic maximal repetitive lifting, walking, standing and sitting tolerance. Billing for this type of evaluation is limited to a maximum of 45 minutes.

2. A full functional capacity evaluation to determine an injured worker's maximum and repetitive lifting, walking, standing, sitting, range of motion, predicted maximal oxygen uptake, as well as ability to stoop, bend, crawl or perform work in an overhead or bent position. In addition, this evaluation includes reliability and validity measures concerning the individual's performance. Billing for this type of evaluation is limited to a maximum of 2.5 hours.

3. A work capacity evaluation to determine an injured worker's capabilities based on the physical aspects of a specific job description. Billing for this type of evaluation is limited to a maximum of 2 hours.

4. A job analysis to determine the physical aspects of a particular job. Billing is not subject to a maximum time limit due to the variability of factors involved in the analysis.

E. Impairment Ratings and Insurance Medical Examinations.

1. Impairment Rating by Treating Physician. Treating physicians shall bill for preparation of impairment ratings under CPT code 99455, with 2.0 RVU assigned/30 minutes.

2. Impairment Rating by Non-Treating Physician. Non-treating physicians may bill for preparation of impairment ratings under CPT code 99456, with 2.65 RVU assigned/30 minutes.

3. Medical Evaluations Commissioned by Payors. The Labor Commission does not regulate fees for medical evaluations requested by payors.

F. Transcutaneous Electrical Nerve Simulators (TENS). No fee is allowed for TENS unless it is prescribed by a physician and supported by prior diagnostic testing showing the efficacy of TENS in control of the patient's chronic pain. TENS testing and training is limited to four (4) sessions and a 30-day trial period but may be extended with written documentation of medical necessity.

G. Electrophysiologic Testing. A physician who is legally authorized by his or her medical practice act to diagnose injury or disease is entitled to the full fee for electrophysiologic testing. Physical therapists and physicians who are qualified to perform such testing but who are not legally authorized to diagnose injury or disease are entitled to payment of 75% of the full fee.

H. Dental Injuries.

1. Initial Treatment.

a. If an employer maintains a medical staff or designates a company doctor, an employee requiring treatment for a workplace dental injury shall report to such medical staff or doctor and follow their directions for obtaining the necessary dental treatment.

b. If an employer does not maintain a medical staff or designate a company doctor, or if such medical staff or doctor is unavailable, the injured worker may obtain the necessary dental care from a dentist of his or her choice. The payor shall pay the dentist at 70% of UCR for services rendered.

2. Subsequent treatment.

a. If additional dental care is necessary, the dentist who provided initial treatment may submit to the payor a request for authorization to continue treatment. The transmission date of the request must be verifiable. The request itself must include a description of the injury, the additional treatment required, and the fee to be charged for the additional treatment.

i. The payor shall respond to the request for authorization within 10 working days of the request's transmission. This 10-day period can be extended with written approval of the Director of the Industrial Accidents Division.

ii. If the payor does not respond to the dentist's request for authorization within 10 working days, the dentist may proceed with treatment and the payor shall pay the cost of treatment as contained in the request for authorization.

iii. If the payor approves the proposed treatment, the payor shall send written authorization to the dentist and injured worker. This authorization shall include the amount the payor agrees to pay for the treatment. If the dentist accepts the payor's payment offer, the dentist may proceed to provide the approved services and shall be paid the agreed upon amount.

iv. If the dentist proceeds with treatment without authorization, the dentist's fee is limited to 70% of UCR.

b. If the dentist who provided initial treatment is unwilling to provide subsequent treatment under the terms outlined in subsection 2.a., above, the payor shall within 20 calendar days direct the injured worker to a dentist located within a reasonable travel distance who will accept the payor's payment offer.

i. If, after receiving notice that the payor has arranged for the services of a dentist, the injured worker chooses to obtain treatment from a different dentist, the payor shall only be liable for payment at 70% of UCR. The treating dentist may bill the injured worker for the difference between the dentist's charges and the amount paid by the insurer.

c. If the payor is unable to locate another dentist to provide the necessary services, the payor shall attempt to negotiate a satisfactory reimbursement with the dentist who provided initial treatment.

J. Procedures for which no fee is allowed. Due to a lack of evidence of medical efficacy, no payment is authorized for the following:

1. Muscle Testing, CPT codes 95832 through 95857;
2. Computer based Motion Analysis, CPT codes 96000 through 96004;
3. Athletic Training Evaluation, CPT codes 97005 and 97006;
4. Acupuncture, CPT codes 97810 through 97814;
5. Analysis of Data, now BR, CPT code 99090;
6. Patient Education, CPT codes 98960 through 98962;
7. Educational supplies, CPT code 99071; or
8. Thermograms, artificial discs, percutaneous discectomies, endoscopic discectomies, IDEPT, platelet rich plasma injections, thermo-rhizotomies and other heat or chemical treatments for discs.

R612-300-6. Limitations on Fees for Specific Medical Providers and Non-Physicians.

A. Physician Assistants, Nurse Practitioners, Medical Social Workers, Nurse Anesthetists, and Physical Therapy Assistants. Fees for services performed by physician assistants,

nurse practitioners, medical social workers, nurse anesthetists, and physical therapy assistants are set at 75% of the amount that would otherwise be allowed by these rules and shall be billed using an 83 modifier.

B. Assistant Surgeons. Fees for assistant surgeons are limited as follows:

1. Medical doctors, osteopaths and podiatrists, designated with an -80 modifier, are to be paid 20% of the primary surgeon's fee;

2. Minimum paramedicals, designated with an -81 modifier, are to be paid 15% of the primary surgeon's value or 75% of the amount allowed under subsection B. 1., above.

3. When a qualified resident surgeon is not available, 20% of the primary surgeon's fee;

4. Other paramedical assistants, such as surgical assistants, are not billed separately.

C. Home health care. The following fees, which include mileage and travel time, are payable for Home Health Codes 99500 through 99602:

1. RN: \$100/ 2 hours

2. LPN: \$75 / 2 hours

3. Home Health Aide: \$25 / hour + \$6 additional 30 min.

4. Speech Therapists: \$80 / visit

5. Physical Therapy: \$125/ hour

6. Occupational Therapy: \$125/ hour

7. Home Infusion Providers are to be paid according to contract between the payor and home infusion provider. In no contract is established, the payor shall pay the amount specified in Days Guidelines and pay UCR or Cost + 15% for the drugs and supplies.

D. Acupuncturists, naturopathic providers and massage therapy. Payor preauthorization is required for any services provided by acupuncturists and naturopaths. Payment for massage therapy is only allowed when administered by a medical provider and billed according to the requirements of R612-300. 5. C, "Restorative Services."

E. Ambulance. Ambulance charges are limited to the rates set by the State Emergency Medical Service Commission.

R612-300-7. Billing and Payment.

A. Billing Limitations.

1. Except as otherwise provided by a specific provision of the Workers' Compensation Act or these rules, an injured worker may not be billed for the cost of medical care necessary to treat his or her workplace injuries.

2. A health care provider may not submit a bill for medical care of an injured worker to both the employer and the insurance carrier.

B. Discounting and down-coding.

1. Discounting or reducing the fees established by these rules is permitted only pursuant to a specific contract between the medical provider and payor.

2. A payor may change the CPT code submitted by a health care provider under the following circumstances:

a. The submitted code is incorrect;

b. Another code more closely identifies the medical care;

c. The medical provider has not submitted the documentation necessary to support the code; or

d. The medical care is part of a larger procedure and included in the fee for that procedure.

3. If a payor changes a code number, the payor shall explain the reason for the change and provide the name and phone number of the payor's claims processor to the medical provider in order to allow further discussion.

C. Place of Treatment. A medical provider's billing for a medical procedure must identify the setting where a procedure was performed.

1. In an office or clinic: Fees for procedures performed in an office or clinic are to be computed using the Non-Facility Total RVU.

2. In a facility setting: Fees for physician services for procedures performed in a facility are to be computed using the "Facility Total RVU," as the facility will be billing for the direct and indirect costs related to the service.

D. Separate Bills. Separate bills must be presented by each medical provider within 30 days of treatment on a HCFA 1500 billing form. All bills must contain the federal ID number of the provider submitting the bill.

E. Hospital Fees.

1. The Labor Commission does not have authority to set fees for hospital care of injured workers. However, hospitals are subject to the Commission's reporting requirements, and fees charged by health care providers for services performed in a hospital are subject to the Commission's fee regulations.

2. Fees covering hospital care shall be separate from those for professional services and shall not extend beyond the actual necessary hospital care.

3. All billings must be submitted on a UB92 form, properly itemized and coded, and shall include all documentation, including discharge summary, necessary to support the billing. No separate fee may be charged for billing or documentation of hospital services.

F. Charges for Supplies, Materials, or Drugs.

1. Ordinary supplies, materials or drugs used in treatment shall not be charged separately but shall be included in the amount allowed for the underlying medical care.

2. Special or unusual supplies, materials, or drugs not included as a normal and usual part of the service or procedure may be billed at cost plus 15% restocking fees and any taxes paid.

G. Miscellaneous.

1. A physician may bill the new patient E&M code when seeing an established patient for a new work injury.

2. Payment for hospital care is limited to the bed rate for semi-private room unless a private room is medically necessary.

3. Non-facility RVS total unit values apply, except that procedures provided in a facility setting shall be reimbursed at the facility total unit value and the facility may bill a separate facility charge.

4. Items that are a portion of an overall procedure are NOT to be itemized or billed separately.

5. Payors may round charges to the nearest dollar. If this is done on some charges, it must be done with all charges.

H. Prompt Payment and Interest.

1. All bills for medical care of injured workers must be paid within 45 days of submission to the payor unless the bill or some portion of the bill is in dispute. Any portion of the bill not in dispute, remains payable within 45 days of billing.

2. As required by Section 34A-2-420 of the Utah Workers' Compensation Act, any award for medical care made by the Commission shall include interest at 8% per annum from the date of billing for such the medical care.

I. Billing Disputes. Payors and health care providers shall use the following procedures to resolve billing disputes.

1. The provider shall submit a bill for services with supporting documentation to the payor within one year of the date of service.

2. The payor shall evaluate the bill and pay the appropriate fee as established by these rules.

3. If the provider believes the payor has improperly computed the fee, the provider may submit a written request for reevaluation to the payor. The request shall describe the specific areas of disagreement and include all appropriate documentation. Any such request for re-evaluation must be submitted to the payor within one year of the date of the original payment.

4. Within 30 days of receipt of the request for reevaluation, the payor shall either pay the additional fee due the provider or respond with a specific written explanation of the basis for its denial of additional fees. The payor shall maintain proof of transmittal of its response.

5. A payor seeking reimbursement from a provider for overpayment of a bill shall, within one year of the overpayment, submit to the provider a written request for repayment that explains the basis for request. Within 90 days of receipt of the request, the provider shall either make appropriate repayment or respond with a specific written denial of the request.

6. If the provider and payor continue to disagree regarding the proper fee, either party may request informal review of the matter by the Division. Any party may also file a request for hearing on the dispute with the Adjudication Division.

R612-300-8. Travel Allowance for Injured Workers.

A. Payment for Travel to Obtain Medical Care. An injured worker who must travel outside his or her community to obtain necessary medical care is entitled to payment of meals, lodging and other travel expense. Payors shall reimburse injured workers for these expenses according to the standards set forth in State of Utah Accounting Policies and Procedures, Section FIACCT 10-02.00, "Travel Reimbursement".

1. All travel must be by the most direct route and to the nearest location where adequate treatment is reasonably available.

2. Travel may not be required between the hours of 10:00 p.m. and 6:00 a.m., unless approved by the Commission.

B. Time Limits for Requesting and Paying Travel Expenses.

1. Requests for travel reimbursement must be submitted to the payor for payment within one year after the subject travel expenses were incurred;

2. The payor must pay an injured employee's travel expenses at the earlier of:

a. Every three months;

b. Upon accrual of \$100 in such expense; or

c. At closure of the injured worker's claim.

R612-300-9. Permanent Impairment Ratings.

A. Utah's 2006 Impairment Guides. The "Utah 2006 Impairment Guides" are incorporated by reference and are to be

used to rate a permanent impairment not expressly listed in Section 34A-2-412 of the Utah Workers' Compensation Act.

B. American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition." For those permanent impairments not addressed in either Section 34A-2-412 or the "Utah 2006 Impairment Guides," impairment ratings are to be established according to the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Fifth Edition."

R612-300-10. Medical Records.

A. Relationship between HIPAA and Workers' Compensation Disclosure Requirements. Workers' compensation insurers, employers and the Utah Labor Commission need access to health information of individuals who are injured on the job or who have a work-related illness in order to process or adjudicate claims, or to coordinate care under Utah's workers' compensation system. Generally, this health information is obtained from health care providers who treat these individuals and who may be covered by federal "HIPAA" privacy rules.

The HIPAA Privacy Rule specifically recognizes the legitimate need of the workers' compensation system to have access to individuals' health information to the extent authorized by State law. See 45 CFR 164.512(1). The Privacy Rule also recognizes the importance of permitting disclosures required by other laws. See 45 CFR 164.512(a). Therefore, disclosures permitted by this rule for workers' compensation purposes or otherwise required by this rule do not conflict with and are not prohibited by the HIPAA Privacy Rule.

B. Disclosures Permitted Without Authorization. A medical provider, without authorization from the injured workers, shall:

1. For purposes of substantiating a bill submitted for payment or filing required Labor Commission forms, such as the "Physician's Initial Report of Injury/Illness" or the "Restorative Services Authorization," disclose medical records necessary to substantiate the billing, including drug and alcohol testing, to:

a. An employer's workers' compensation insurance carrier or third party administrator;

b. A self-insured employer who administers its own workers' claims;

c. The Uninsured Employers' Fund;

d. The Employers' Reinsurance Fund; or

e. The Labor Commission as required by Labor Commission rules.

2. Disclose medical records pertaining to treatment of an injured worker who makes a claim for workers' compensation benefits, to another physician for specialized treatment, to a new treating physician chosen by the claimant, or for a consultation regarding the claimed work related injury or illness.

C. Disclosures Requiring Authorization.

1. Except as limited in C(3), a medical provider, whose medical records are relevant to a worker's compensation claim, shall, upon receipt of a Labor Commission medical records release form, or an authorization form that conforms to HIPAA requirements, disclose his/her medical records to:

a. An employer's insurance carrier or third party administrator;

b. A self-insured employer who administers its own workers' compensation claims;

c. An agent of an entity listed in B(1)(a through e), which includes, but is not limited to a case manager or reviewing physician;

d. The Uninsured Employers Fund;

e. The Employers' Reinsurance Fund;

f. The Labor Commission;

g. The injured workers;

h. An injured workers' personal representative;

i. An attorney representing any of the entities listed above in an industrial injury or occupational disease claim.

2. Medical records are relevant to a workers' compensation claim if:

a. The records were created after the reported date of the accident or onset of the illness for which workers' compensation benefits have been claimed; or

b. the records were created in the past ten years (15 years if permanent total disability is claimed) and:

i. There is a specific reason to suspect that the medical condition existed prior to the reported date of the claimed work related injury or illness or;

ii. The claim is being adjudicated by the Labor Commission.

3. Medical records related to care provided by a psychiatrist, psychologist, obstetrician, or care related to the reproductive organs may not be disclosed by a medical provider unless a claim has been made for a mental condition, a condition related to the reproductive organs, or the claimant has signed a separate, specific release for these records.

D. Disclosure Regarding Return to Work. A medical provider, who has treated an injured worker for a work related injury or illness, shall disclose information to an injured workers' employer as to when and what restrictions an injured worker may return to work.

E. Additional Disclosures Requiring Specific Approval. Requests for medical records beyond what sections B, C, and D permit require a signed approval by the director, the medical director, a designated person(s) within the Industrial Accidents Division or an administrative law judge if the claim is being adjudicated.

F. Appeals. A party affected by the decision made by a person in section E may appeal that decision to the Adjudication Division of the Labor Commission.

G. Injured Worker's Duty to Disclose Medical Treatment and Providers. Upon receipt and within the scope of this rule, an injured worker shall provide those entities or persons listed in C(1) the names, address, and dates of medical treatment (if known) of the medical providers who have provided medical care within the past 10 years (15 years for permanent total disability claim) except for those medical providers names in C(3). Labor commission form number 307 "Medical Treatment Provider List" must be used for this purpose. Parties listed in C(1) of this rule must provide each medical provider identified on form 307 with a signed authorization for access to medical records. A copy of the signed authorization may be sent to the medical providers listed on form 307.

H. Injured Worker's Right to Contest Requests for Pre-Injury Medical Records. An injured worker may contest, for good reason, a request for medical records created prior to the reported date of the accident or illness for which the injured worker has made a claim for benefits by filing a complaint with the Labor

Commission. Good reason is defined as the request has gone beyond the scope of this rule or sensitive medical information is contained in a particular medical record.

I. Limitations on Use and Re-disclosure of Medical Information.

1. Any party obtaining medical records under authority of this rule may not disclose those medical records, without a valid authorization, except as required by law.

2. An employer may only use medical records obtained under the authority of this rule to:

a. Pay or adjudicate workers' compensation claims if the employer is self-insured;

b. To assess and facilitate an injured workers' return to work;

c. As otherwise authorized by the injured worker.

3. An employer obtaining medical records under authority of this rule must maintain the medical records separately from the employee's personnel file.

4. Any medical records obtained under the authority of this rule to make a determination regarding the acceptance of liability or for treatment of a condition related to a workers' compensation claim shall only be used for workers' compensation purposes and shall not be released, without a signed release by the injured worker or his/her personal representative, to any other party. An employer shall make decisions related only to the workers' compensation claim based on any medical information received under this rule.

K. Permissible Fees for Providing Medical Records. When any medical provider provides copies of medical records, other than the records required when submitting a bill for payment or as required by the Labor Commission rules, the following charges are presumed reasonable:

1. A search fee of \$15 payable in advance of the search;

2. Copies at \$.50 per page, including copies of microfilm, payable after the records have been prepared and

3. Actual costs of postage payable after the records have been prepared and sent. Actual cost of postage are deemed to be the cost of regular mail unless the requesting party has requested the delivery of the records by special mail or method.

4. The Labor Commission will release its records per the above charges to parties/entities with a signed and notarized release from the injured worker unless the information is classified and controlled under the Government Records Access and Management Act (GRAMA).

5. No fee shall be charged when the RBRVS or the Commission's Medical Fee Guidelines require specific documentation for a procedure or when medical providers are required to report by statute or rule.

6. An injured worker or his/her personal representative may obtain one copy of each of the following records related to the industrial injury or occupational disease claim, at no cost, when the injured worker or his/her personal representative have signed a form by the Industrial Accidents Division to substantiate his/her industrial injury/illness claim:

a. History and physical;

b. Operative reports of surgery;

c. Hospital discharge summary;

d. Emergency room records;

e. Radiological reports;

f. Specialized test results; and

g. Physician SOAP notes, progress notes, or specialized reports.

h. Alternatively, a summary of the patients records may be made available to the injured worker or his/her personal representative at the discretion of the physician.

R612-300-11. Utilization Review Standards.

A. Purpose of Utilization Review and Definitions.

1. "Utilization Review" is used to manage medical costs, improve patient care and enhance decision-making. Utilization review includes, but is not limited to, the review of requests for authorization and the review of medical bills to determine whether the medical services were or are necessary to treat a workplace injury. Utilization review does not include:

a. bill review for the purpose of determining whether the medical services rendered were accurately billed, or

b. any system, program, or activity used to determine whether an individual has sustained a workplace injury.

2. Any utilization review system shall incorporate a two-level review process that meets the criteria set forth in subsections B and C of this rule.

3. Definitions. As used in this rule:

a. "Request for Authorization" means any request by a physician for assurance that appropriate payment will be made for a course of proposed medical treatment.

b. "Reasonable Attempt" requires at least two phone calls and a fax, or three phone calls, within five business days from date of the payor's receipt of the physician's request for review.

B. Level I - Initial Request and Review.

1. A health care provider may use Form 223 to request authorization and payment for proposed medical treatment. The provider shall attach all documentation necessary for the payor to make a decision regarding the proposed treatment.

a. Requests for approval of restorative services are governed by the provisions of Rule R612-300.5. C. 7. which requires submission of the appropriate RSA form and documentation.

2. Upon receipt of the provider's request for authorization, the payor may use medical or non-medical personnel to apply medically-based criteria to determine whether to approve the request. The payor must:

a. Within 5 business days after receiving the request and documentation, transmit Form 223 back to the physician, in a verifiable manner, advising of the payor's approval or denial of the proposed treatment.

i. If approval is denied, the payor must include with its denial a statement of the criteria it used to make its determination. A copy of the denial must also be mailed to the injured worker.

C. Level II - Review.

1. A health care provider who has been denied authorization or has received no timely response may request a physician's review by completing and sending the applicable portion of Commission Form 223 to the payor.

a. The provider must include the times and days that he/she is available to discuss the case with the reviewing physician, and must be reasonably available during normal business hours.

b. This request for review may be used by a health care provider who has been denied authorization for restorative services pursuant to Rule R612-300-5. C.7.

2. The payor's physician representative must complete the review within five business days of the treating physician's request for review. Additional time may be requested from the Commission to accommodate highly unusual circumstances or particularly difficult cases.

a. The insurer's physician representative must make a reasonable effort to contact the requesting provider to discuss the request for treatment. The payor shall notify the Commission if an additional five days is needed in order to contact the treating physician or to review the case.

b. If the payor again denies approval of the recommended treatment, the payor must complete the appropriate portion of Commission Form 223, and shall include:

i. the criteria used by the payor in making the decision to deny authorization; and

ii. the name and specialty of the payor's reviewing physician;

iii. appeals information.

c. The denial to authorize payment for treatment must then be sent to the physician, the injured worker and the Commission.

3. The payor's failure to respond to the review request within five business days, by a method which provides certification of transmission, shall constitute authorization for payment of the treatment.

C. Mediation and Adjudication. Upon receipt of denial of authorization for payment for medical treatment at Level II, the Commission will facilitate, upon the request of the injured worker, the final disposition of the case.

1. If the parties agree, the medical dispute will be referred to Commission staff for mediation.

2. If the parties do not agree to mediation, the matter will be referred to the Division of Adjudication for hearing and decision.

D. Reduction of Fee for Failure to Follow Utilization Review Standards.

1. In cases in which a health care provider has received notice of this rule but proceeds with non-emergency medical treatment without obtaining payor authorization, the following shall apply:

a. If the medical treatment is ultimately determined to be necessary to treat a workplace injury, the fee otherwise due the health care provider shall be reduced by 25%.

b. If the medical treatment is ultimately determined to be unnecessary to treat a workplace injury, the payor is not liable for payment for such treatment. The injured worker may be liable for the cost of treatment.

2. The penalty provision in D. 1. shall not apply if the medical treatment in question has been preauthorized by some other non-worker's compensation insurance company or other payor.

R612-300-12. Commission Approval of Health Care Treatment Protocols.

A. Authority. Pursuant to authority granted by Section 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, the Utah Labor Commission establishes the following standards and

procedures for Commission approval of medical treatment and quality care guidelines.

B. Standards

1. Scientifically based: Section 34A-2-111(2)(c)(i)(B)(VII)(Aa) of the Act requires that guidelines be scientifically based. The Commission will consider a guideline to be "scientifically based" when it is supported by medical studies and/or research.

2. Peer reviewed: Section 34A-2-111(2)(c)(i)(B)(VII)(Bb) of the Act requires that guidelines be peer reviewed. The Commission will consider a guideline to be "peer reviewed" when the medical study's content, methodology, and results have been reviewed and approved prior to publication by an editorial board of qualified experts".

3. Other standards: Pursuant to its rulemaking authority under Section 34A-2-111(2)(c)(i)(B)(VII), the Utah Labor Commission establishes the following additional standards for medical treatment and quality care guidelines.

a. The guidelines must be periodically updated and, subject to Commission discretion, may not be approved for use unless updated in whole or in part at least biannually;

b. Guideline sources must be identified;

c. The guidelines must be reasonably priced;

d. The guidelines must be easily accessible in print and electronic versions.

C. Procedure: Pursuant to Section 34A-2-111(2)(c)(i)(B)(VII) of the Utah Workers' Compensation Act, a party seeking Commission action to approve or disapprove a guideline shall file a petition for such action with the Labor Commission.

R612-300-13. HIV, Hepatitis B and C Testing and Reporting for Emergency Medical Service Providers.

A. Purpose and Authority. This rule, established pursuant to U.C.A. Section 78B-8-404, establishes procedures for testing and reporting following a significant exposure of an emergency medical services provider to infectious diseases.

B. Definitions. In addition to the terms defined in Section 78B-8-401, the following definitions apply for purposes of this rule.

1. Contact means designated person(s) within the emergency medical services agency or the employer of the emergency medical services provider.

2. Emergency medical services (EMS) agency means an agency, entity, or organization that employs or utilizes emergency medical services providers as defined in (4) as employees or volunteers.

3. Source Patient means any individual cared for by a pre-hospital emergency medical services provider, including but not limited to victims of accidents or injury, deceased persons, and prisoners or persons in the custody of the Department of Corrections.

4. Receiving facility means a hospital, health care or other facility where the patient is delivered by the emergency medical services provider for care.

C. Emergency Medical Services Provider Responsibility.

1. The EMS provider shall document and report all significant exposures to the receiving facility and contact as defined in C.2.

2. The reporting process is as follows:

a. The exposed EMS provider shall complete the Exposure Report Form (ERF) at the time the patient is delivered to the receiving facility and provide a copy to the person at the receiving facility authorized by the facility to receive the form. In the event the exposed EMS provider does not accompany the source patient to the receiving facility, he/she may report the exposure incident, with information requested on the ERF, by telephone to a person authorized by the facility to receive the form. In this event, the exposed EMS provider shall nevertheless submit a written copy of the ERF within three days to an authorized person of the receiving facility.

b. The exposed EMS provider shall, within three days of the incident, submit a copy of the ERF to the contact as defined in C.2.

D. Receiving Facility Responsibility.

1. The receiving facility shall establish a system to receive ERFs as well as telephoned reports from exposed EMS providers on a 24-hour per day basis. The facility shall also have available or on call, trained pre-test counselors for the purpose of obtaining consent and counseling of source patients when HIV testing has been requested by EMS providers. The receiving facility shall contact the source patient prior to release from the facility to provide the individual with counseling or, if unable to provide counseling, provide the source patient with phone numbers for a trained counselor to provide the counseling within 24 hours.

2. Upon notification of exposure, the receiving facility shall request permission from the source patient to draw a blood sample for disease testing, as defined in C.3. In conjunction with this request, the source patient must be advised of his/her right to refuse testing and be advised that if he/she refuses to be tested that fact will be forwarded to the EMS agency or employer of EMS provider. The source patient shall also be advised that if he/she refuses to be tested, the EMS agency or provider may seek a court order to compel the source patient to submit to a blood draw for the disease testing.

Testing is authorized only when the source patient, his/her next of kin or legal guardian consents to testing, with the exception that consent is not required from an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, or if the source patient is dead. If consent is denied, the receiving facility shall complete the ERF and send it to the EMS agency or employer of the EMS provider. If consent is received, the receiving facility shall draw a sample of the source patient's blood and send it, along with the ERF, to a qualified laboratory for testing.

3. The laboratory that the receiving facility has sent source patient's blood draw to shall send the disease test results, by Case ID number, to the EMS agency or employer of the EMS provider.

F. EMS Agency/Employer Responsibility:

1. The EMS agency/employer, upon receipt of the disease tests, from the receiving facility laboratory, shall immediately report the result, by case number, not name, to the exposed EMS provider.

2. The EMS agency/employer, upon the receipt of refusal of testing by the source, shall report that refusal to the EMS provider.

3. The agency/employer or its insurance carrier shall pay for the EMS provider and the source patient testing for the covered diseases per the Labor Commission fee schedule.

4. The EMS agency/employer shall maintain the records of any disease exposures contained in this rule per the OSHA Blood Borne Pathogen standards.

KEY: workers' compensation, fees, medical practitioners

Date of Enactment or Last Substantive Amendment: [February 25, 2013]

Authorizing, and Implemented or Interpreted Law: 34A-1-104; 34A-2-201

Public Safety, Driver License R708-43

YES or NO Notification

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 38022

FILED: 09/25/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this change is to rename the rule and process defined under Subsection 53-3-109(7)(f) from "Yes or No Notification" to "Verification of Personal Identifying Information by Depository Institutions". This change includes new definitions, corrections to the rule format, and clarification of the procedures and requirements.

SUMMARY OF THE RULE OR CHANGE: This change renames the rule and the process defined under Subsection 53-3-109(7)(f) from "Yes or No Notification" to "Verification of Personal Identifying Information by Depository Institutions". The "Yes or No Verification (YON)" definition was deleted from the old rule, and "Division", "requestor," "ValIDate," and "Utah Interactive, Inc." are defined in the new rule. The new rule outlines and clarifies the application process for access to the ValIDate system which replaces and repeals the "Requirements" portion of the old rule. The new rule outlines and clarifies the procedure for verification of information which replaces and repeals the "Procedures" and "Electronic Transactions" portions of the old rule. The new rule outlines the suspension or revocation to access of the ValIDate system because of unauthorized use, and outlines the process to seek agency review of the suspension or revocation of access.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-3-109(1)(c)(iii) and Subsection 53-3-109(7)(f)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This repeal and reenactment does not affect the state budget because this change outlines and clarifies the process under Subsection 53-3-109(7)(f) that has been in effect for several years.

◆ LOCAL GOVERNMENTS: This change does not affect local government because local government does not have access to the "ValIDate" system.

◆ SMALL BUSINESSES: This change does not affect small businesses because small business do not have access to the "ValIDate" system unless the business is a depository institution as defined in Section 7-1-103, and then this repeal and reenactment simply outlines and clarifies the process under Subsection 53-3-109(7)(f) that has been in effect for several years.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This change does not affect persons other than small businesses, businesses, or local government entities because only depository institutions defined in Section 7-1-103 have access to the "ValIDate" system and this repeal and reenactment outlines and clarifies the process under Subsection 53-3-109(7)(f) that has been in effect for several years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because the fees associated with this service have not changed. This repeal and reenactment outlines and clarifies the process under Subsection 53-3-109(7)(f) that has been in effect for several years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and have determined there is no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 PUBLIC SAFETY
 DRIVER LICENSE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W 3RD FL
 SALT LAKE CITY, UT 84119-5595
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at jlaws@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2013

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.

~~[R708-43. YES or NO Notification:~~

~~R708-43-1. Purpose.~~

~~_____ The purpose of this rule is to define the procedures, requirements and format for verifying personal identifying information in accordance with Subsection 53-3-109(1)(c)(iii).~~

~~R708-43-2. Authority.~~

~~_____ This rule is authorized by Subsection 53-3-109(7)(f).~~

~~R708-43-3. Definitions.~~

~~_____ (1) "Yes or No Verification (YON)" means an electronic notification that information submitted by a requester matches the information on the driver license division database. For this purpose Yes verifies a match of (a) through (c), and No indicates one or more items do not match the database information, including:~~

- ~~_____ (a) name;~~
- ~~_____ (b) license certificate or identification card number; and~~
- ~~_____ (c) date of birth.~~

~~R708-43-4. Procedures.~~

~~_____ (1) Upon receipt of a request for verification pursuant to Subsection 53-3-109(1)(c)(iii), the division will search the driver license division database and furnish a YON on any person who has a license certificate or identification card in the state.~~

~~_____ (2) The YON contains certain personal identifying information and is protected from public disclosure for privacy reasons in accordance with the federal Driver Privacy Protection Act of 1994 (DPPA), Subsection 53-3-109, and Title 63G, Chapter 2.~~

~~R708-43-5. Requirements.~~

~~_____ (1) A YON shall only be released to qualified requesters in accordance with the DPPA and Subsection 53-3-109(1)(c)(iii).~~

~~_____ (2) In order to receive a YON, the requester must:~~

- ~~_____ (a) provide acceptable proof that they are a depository institution as defined in Section 7-1-103;~~
- ~~_____ (b) enter into a contract with the division or its designated provider to obtain a YON;~~
- ~~_____ (c) provide the name, Utah license certification number or identification card number and date of birth of the person who is the subject of the request;~~
- ~~_____ (d) pay required fees as established by the division;~~
- ~~_____ (e) agree to comply with state and federal laws regulating the use and further disclosure of information provided; and~~
- ~~_____ (f) comply with auditing processes and procedures required by the division or its designated provider.~~

~~R708-43-6. Electronic Transactions.~~

~~_____ Requests for a YON will be transacted electronically as approved by the division.]~~

~~**R708-43. Verification of Personal Identifying Information by Depository Institutions.**~~

~~R708-43-1. Purpose.~~

~~_____ The purpose of this rule is to define the procedures, requirements and format for verifying personal identifying information in accordance with Subsection 53-3-109(1)(c)(iii).~~

R708-43-2. Authority.

This rule is authorized by Subsection 53-3-109(7)(f).

R708-43-3. Definitions.

(1) "Division" means the Utah Driver License Division.

(2) "Requestor" means a depository institution as defined in Section 7-1-103 that seeks access to verify personal identifying information contained in the Utah Driver License Division Database.

(3) "ValIDate" means the electronic web interface used to verify personal identifying information contained in the Utah Driver License Division Database.

(4) "Utah Interactive, Inc." means the entity under contract with the division to provide the ValIDate system.

R708-43-4. Application for Access to the ValIDate System.

(1) To apply for access to the ValIDate system, the requestor must:

(a) meet the qualifications stated in Subsection 53-3-109(1)(c)(iii);

(b) submit a "User Agreement for the ValIDate System" to the Division; and

(c) submit documentation to the division that establishes the requestor is a depository institution as defined in Section 7-1-103.

(2) Upon receipt of the required form and documentation, the division:

(a) shall review the materials to determine if the requestor is eligible to access the ValIDate system; and

(b) may request additional information to determine if the requestor is eligible to access the ValIDate system.

(3) If the division determines the requestor has met the requirements to access the ValIDate system, the division shall notify Utah Interactive, Inc. that the requestor is authorized to access ValIDate.

(4) If the division determines the applicant does not meet the requirements to access the ValIDate system:

(a) the division shall issue a denial letter to the requestor stating the reasons for the denial; and

(b) the requestor may seek agency review as provided by Section 63G-4-301 by filing a written request for review within 30 calendar days after the issuance of the letter.

R708-43-5. Procedures for Verification of Information.

(1) When submitting a query in ValIDate, the requestor shall enter the following information into the data fields:

(a) the subject's name as it appears on the Utah Driver License or Identification card;

(b) the subject's Utah Driver License or Identification card number; and

(c) the subject's date of birth.

(2) Upon submittal of an electronic request for verification, ValIDate will search the Utah Driver License Division Database and furnish a "YES" or "NO" response.

(3) A "YES" response verifies the name, Utah Driver License or Identification card number, and date of birth, matches the information in the Utah Driver License Division Database

(4) A "NO" response indicates one or more data fields submitted does not match the information in the Utah Driver License Division Database.

R708-43-6. Unauthorized Use.

(1) The division may suspend or revoke a requestor's access to ValIDate for failure to comply with the user agreement, this rule, or with Section 53-3-109.

(2) The requestor may seek agency review of the suspension or revocation as provided by Section 63G-4-301 by filing a written request for review within 30 calendar days after the issuance of the suspension or revocation letter.

KEY: driver license verification

Date of Enactment or Last Substantive Amendment: [~~June 8, 2007~~]**2013**

Notice of Continuation: January 20, 2011

Authorizing, and Implemented or Interpreted Law: 53-3-109(7)(f); 53-3-109(1)(c)(iii)

Regents (Board of), University of Utah,
Administration

R805-6

University of Utah Shooting Range
Access and Use Requirements

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38018

FILED: 09/23/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures for use of the University Shooting Range by the public as required by Section 47-3-303.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the requirements and procedures for public access to the University of Utah Shooting Range.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 47-3-303

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The University cannot currently anticipate the precise cost to the state budget because the actual costs will relate to the overall demand for use. The costs will include staff time for administrative efforts necessary to ensure that range users are qualified to access the range and costs for providing access and cleanup. Because access fees are established by statute, fees are not expected to cover the costs associated with use of the range by the public and access by the public is therefore expected to result in a net cost, not savings, with respect to the state budget.

◆ LOCAL GOVERNMENTS: This rule applies to individuals who engage in activities and conduct them on the University's property. The rule does not apply to local government. Therefore, the rule should have no fiscal impact on local government.

◆ SMALL BUSINESSES: This rule applies to individuals who engage in activities and conduct them on the University's property. The rule does not apply to small businesses. Therefore, the rule should have no fiscal impact on small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule applies to individuals who engage in activities and conduct them on the University's property. The rule does not apply to other persons. Therefore, the rule should have no fiscal impact on individuals who do not engage in the activities described in the rule. Persons who seek to use the University Range may be required to pay a fee pursuant to Subsection R805-6-2(e) of the proposed rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons who seek to use the University Range may be required to pay a fee pursuant to Subsection R805-6-2(e) of the proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule applies to individuals who engage in activities and conduct them on the University's property. The rule does not apply to business entities. Therefore, the rule should have no fiscal impact on businesses.

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

REGENTS (BOARD OF)
 UNIVERSITY OF UTAH, ADMINISTRATION
 ROOM 309 PARK BLDG
 201 S PRESIDENTS CIR
 SALT LAKE CITY, UT 84112-9009
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christopher Stout by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at christopher.stout@legal.utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2013

THIS RULE MAY BECOME EFFECTIVE ON: 02/12/2014

AUTHORIZED BY: Christopher Stout, Associate General Counsel

R805. Regents (Board of), University of Utah, Administration.
R805-6. University of Utah Shooting Range Access and Use Requirements.

R805-6-1. Definitions.

(a) Certified Official. Certified Official means an individual who has obtained certification from the National Rifle Association or a branch of the United States Armed Forces as a Range Safety Officer, a Firearms Instructor, or a Shooting Coach.

(b) Range Operator. Range Operator means a University of Utah employee with primary administrative oversight for scheduling University Range access, verifying the certification status of Certified Officials, and verifying that any Group seeking access to the University Range has complied with this rule.

(c) University Range. University Range means that gun range located in the basement of the Naval Science building located on the campus of University of Utah at 110 South 1452 East, Salt Lake City, Utah 84112.

(d) Other terms not defined in this rule shall have the definitions set forth at Utah Code section 47-3-102.

R805-6-2. Requirements for Access.

(a) Group Qualifications and Approval. A Group seeking access to the University Range must first demonstrate to the Range Operator that the Group is in compliance with the requirements set forth in this section. The Range Operator shall approve a Group's request for access once the Group has submitted satisfactory evidence of the following:

(i) Group Insurance

(ii) Liability Waivers

(iii) Certified Official Status

(iv) That no Group member is prohibited by State or Federal law from possessing a firearm.

(b) Reservations. Once a Group's request for access is approved by the Range Operator, the Group may reserve the University Range for use during public hours by filing a Facility Reservation Request Form. Reservations are required and must be made with the Range Operator at least 48 hours prior to the time of use. The Group may contact the Range Operator for current range hours. Because the Range Operator must make prior arrangements in order to allow access to the Naval Science building and the University Range, requests for reservation will not be accepted with less than 48-hours' advanced notice. Reservation requests will be processed on a first-come-first-served basis.

(c) A Group's use may not interfere with use of the University Range by the University of Utah, including but not limited to use by the NROTC and use by the Utah Precision Marksmanship Society.

(d) The maximum size of any Group accessing the University Range is eight (8) individuals, including the Certified Official. The maximum number of Group Members firing weapons at any time shall be six (6) individuals. In the event fewer than six (6) shooting lanes are in operation at any time, the maximum number of Group Members firing weapons shall correspond to the number of operational shooting lanes.

(e) Cost. Each Group Member accessing the range, including the Certified Official, shall pay a fee of \$5.00 per session.

Fees are deposited in the University of Utah's General Fund to be used for the operation and maintenance of the University Range and are intended to cover costs related to incidental materials, supplies, maintenance, repairs and personnel providing access to the Naval Science building and the University Range.

(f) No person under the age of fifteen is permitted in the University Range without direct supervision by that person's parent or legal guardian.

(g) No person may use the University Range under the influence of illicit or prescription drugs or alcohol.

(h) The Range Operator may deny a request for access based on the failure of any Group to comply with this rule or if the Range Operator concludes that the Group's use of the University Range poses a threat to any person or property.

(i) The Range Operator may revoke a Group's approval to access the University Range based on any Group Member's failure to follow the Rules of Conduct set forth in this rule, any rules and guidelines posted in the University Range during the Group's use of the University Range, or any of the Range Operator's reasonable requests regarding safety or University Range access.

R805-6-3. Approved Firearms.

(a) Due to ventilation limitations imposed by OSHA regulations, public users of the University Range may only use Air Guns in the University Range.

(b) Air gun means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or pellet pistol whose projectile is pneumatically propelled by compressed air or compressed gas such as carbon dioxide.

R805-6-4. Insurance Requirements.

(a) Liability insurance policy requirements: Prior to accessing the University Range, a Group must provide the Range Operator with the Group's certificate of insurance for commercial general liability insurance, in the amount of at least \$1,000,000 per occurrence that lists the University of Utah as an additional insured. Upon proof of adequate alternative liability coverage, this insurance requirement may be waived by the Range Operator in consultation with the University of Utah's Risk and Insurance Manager.

(b) Acknowledgment of Risk, Waiver, Release and Indemnity Agreement: Prior to accessing the University Range, each Group Member or, in the case of minors, the minor Group Member's parent or legal guardian, must sign an Acknowledgement of Risk, Waiver, Release, and Indemnity Agreement in the form provided by the University of Utah's Risk and Insurance Manager. The Group's Certified Official shall be responsible for collecting signed forms and returning them to the Range Operator.

R805-6-5. Rules of Conduct.

(a) Users of the University Range must provide and be accompanied at all times by a Certified Official.

(b) The Range Operator is responsible for opening and securely closing the University Range.

(c) The Certified Official and Group members assume all risks related to, and are responsible for all harms arising out of, their use of the University Range.

(d) The Certified Official shall inspect the University Range prior to use in order to verify that the range ventilation system is turned on and is operational, and to identify any hazards, damage or deficiencies and report them to the Range Operator immediately.

(e) Each Group member shall be familiar with and abide by safety standards adopted by the National Rifle Associate while using the University Range.

(f) The Certified Official shall report any injuries or property damage to the Range Operator immediately.

(g) User ammunition and firearms are subject to inspection and approval by the University of Utah and the Range Operator.

(h) All individuals using the University range must follow all range rules posted in the range as of the date of use.

(i) The Certified Official shall be responsible for ensuring that all members of the group comply with all applicable rules and regulations, including posted range rules, these University of Utah Shooting Range Access and Use Requirements, and all other applicable rules.

R805-6-5. Posted Range Rules.

(a) The firing range ventilation system shall be in operation at all times while the range is in use, and also during after-use housekeeping procedures.

(b) Participants may only fire at paper targets, which shall be provided by the participant. Use of frangible targets is prohibited.

(c) This range is equipped with pellet traps. Pellet traps must be properly placed behind all targets prior to firing down-range. In no instance may pellets be fired down-range at the rubber bullet trap.

(d) Group Members may cross the firing line only if expressly directed by the Certified Official. Group Members should be permitted to cross the firing line only when operationally necessary (e.g., to retrieve targets or to set up pellet traps). No person may cross the firing line for any reason while firing is underway.

(e) Firearms must be pointed down range toward bullet traps at all times.

(f) Firearms may only be loaded and unloaded in shooting booths.

(g) Keep finger off trigger until ready to fire. Fire only from firing line location between stalls.

(h) Eye and ear protection must be worn by everyone in the University Range at all times.

(i) One shooter per lane maximum.

(j) No food or drink is allowed in the University Range.

(k) Users or the user's Group may be charged for any costs incurred by the University of Utah due to negligence and/or failure to follow these rules of use.

KEY: shooting range

Date of Enactment or Last Substantive Amendment: 2013

Authorizing, and Implemented or Interpreted Law: 47-3-303

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Commerce, Corporations and Commercial Code **R154-100** Utah Administrative Procedures Act Rules

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,
DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
CORPORATIONS AND COMMERCIAL CODE
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38024
FILED: 09/26/2013

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kathy Berg by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

AUTHORIZED BY: Kathy Berg, Director

EFFECTIVE: 09/26/2013

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: Subsection 63G-4-202(1) authorizes agencies to designate categories of adjudicative proceedings as informal. It further authorizes agencies to make this designation by 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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Although the Division rarely engages in administrative hearings, it is imperative that the rule be in place for just such a circumstance. Therefore, this rule should be continued.

Corrections, Administration **R251-103** Undercover Roles of Offenders

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38032
FILED: 09/30/2013

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 is authorized by Section 63G-3-201, Subsection 64-13-6(1)(h), and Sections 64-13-10

and 64-13-14 of the Utah Code. The purpose of this rule is to provide the Department's policy and requirements governing the use of offenders in undercover roles.

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 or electronic-based messaging have been received in regard to this administrative rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Corrections wishes to continue the program and procedure of using inmates/offenders in undercover roles to enhance the safety and security of the institutions and operations in the field (public jurisdictions) to suppress crimes committed and aid in the prosecution of offenders committing new crimes. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 CORRECTIONS
 ADMINISTRATION
 14717 S MINUTEMAN DR
 DRAPER, UT 84020-9549
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Greg Peay by phone at 801-201-6052, by FAX at 801-545-5572, or by Internet E-mail at gpeay@utah.gov

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 09/30/2013

Corrections, Administration
R251-105
 Applicant Qualifications for
 Employment with Department of
 Corrections

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38030
 FILED: 09/30/2013

**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 is authorized by Sections 63G-3-201, 64-13-10, and 64-13-25. The purpose

of this rule is to provide policies and procedures for the screening, testing, interviewing, and selecting of applicants for Department of Corrections employment.

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 or electronic-based messages were received regarding this administrative rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This administrative rule should be continued to educate staff and public regarding the standards upheld in its recruiting and selection process in hiring new or retired staff for employment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 CORRECTIONS
 ADMINISTRATION
 14717 S MINUTEMAN DR
 DRAPER, UT 84020-9549
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Greg Peay by phone at 801-201-6052, by FAX at 801-545-5572, or by Internet E-mail at gpeay@utah.gov

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 09/30/2013

Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-42
 Telehealth Home Health Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 38014
 FILED: 09/17/2013

**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 26-18-13 requires the Department to adopt rules that establish and fulfill the requirements of telehealth services that are considered to be face-to-face encounters for reimbursement under the Medicaid program. In addition, Section 26-18-3 requires the

Department to implement by rule the policy that allows the Department to provide telehealth services for Medicaid recipients.

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 did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it provides telehealth home health services for Medicaid recipients, spells out the eligibility requirements for these services, and establishes reimbursement methodology for Medicaid providers.

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

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
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:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov
◆ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 09/17/2013

Insurance, Administration
R590-160
Administrative Proceedings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 38034
FILED: 09/30/2013

**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 authority for this rule comes from the following subsections of the code: Subsection 31A-

2-201(3)(a) gives the commissioner the authority to write rules to implement the provisions of the insurance code; Subsection 63G-4-102(6) gives the department the authority to enact rules affecting or governing adjudicative proceedings, the purpose of this rule; Subsection 63G-4-203(1) gives the department the right to designate one or more categories of adjudicative proceedings as informal and to prescribe procedures for these informal hearings; and Section R590-160-4 of this rule designates the categories for informal hearings and Sections R590-160-7 and R590-160-8 set the rules for such proceedings and their review.

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 received one written comment from a domestic insurer regarding a change to Subsection R590-160-6(7) making it possible for discovery to be had at the agreement of both parties or pursuant to an order of the presiding officer. The insurer felt that discovery should only be made at the agreement of both parties in the proceeding.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is important to the department and those we regulate. It sets fair and equitable standards governing administrative procedures. This helps all involved in the process to know what is expected of them and what to expect of the process. Any discovery ordered by the presiding officer must be reasonable and not an abuse of discretion, whether the parties agree or not. 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 by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 09/30/2013

Insurance, Administration
R590-161
Disability Income Policy Disclosure

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38025
 FILED: 09/27/2013

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: Subsection 31A-2-201(3) gives the commissioner the authority to write rules to implement Title 31A of the Insurance Code. The rule requires insurers of disability policies to clearly explain in their policies, group certificates, or outline of coverage forms, if the policy limits will be reduced as a result of other coverage.

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 regarding this rule have been received in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides protection for consumers by disclosing to them what other types of income are considered for reducing a benefit under a disability income policy. Without the rule, consumers may not realize that their policy benefits will be reduced if they are receiving benefits from other policies, social security, and/or workers compensation. 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 by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 09/27/2013

Insurance, Administration
R590-162
 Actuarial Opinion and Memorandum
 Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38026
 FILED: 09/27/2013

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 sets standards and the wording to be used in an actuarial opinion and memorandum as required in Section 31A-17-503. The opinion and memorandum are to be filed by all life and fraternal insurance companies along with their annual statements.

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 regarding this rule have been received over the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be retained because it is an important requirement for financial regulators to gain a comfort level for insurance company reserves and for asset adequacy and liability matching. It is also required by the National Association of Insurance Commissioners. 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 by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 09/27/2013

Insurance, Administration
R590-245
 Self-Service Storage Insurance

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38038
FILED: 10/01/2013

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: Subsection 31A-2-201(3) allows the commissioner to write rules to implement the provisions of Title 31A. Also, H.B. 252, passed in 2009 General Legislative Session, after this rule was first promulgated, added Subsection 31A-23a-106(2)(c)(vii) specifying self-service storage insurance as a limited lines license.

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 not received any written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes the guidelines and standards for licensing in order to sell self-service storage insurance coverage in Utah. This coverage will be a benefit to those without personal property or tenant liability coverage through some other insurance policy, like a homeowner's insurance policy. 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 by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Todd Kiser, Commissioner

EFFECTIVE: 10/01/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Alcoholic Beverage Control

Administration

No. 37617 (AMD): R81-5-1. Licensing

Published: 06/01/2013

Effective: 09/24/2013

No. 37617 (CPR): R81-5-1. Licensing

Published: 08/15/2013

Effective: 09/24/2013

Environmental Quality

Water Quality

No. 37851 (AMD): R317-1. Definitions and General

Requirements

Published: 08/01/2013

Effective: 09/24/2013

No. 37852 (AMD): R317-3. Design Requirements for Wastewater Collection, Treatment and Disposal Systems

Published: 08/01/2013

Effective: 09/24/2013

No. 37853 (AMD): R317-5. Large Underground Wastewater Disposal Systems

Published: 08/01/2013

Effective: 09/24/2013

No. 37854 (AMD): R317-6. Ground Water Quality Protection

Published: 08/01/2013

Effective: 09/24/2013

No. 37855 (AMD): R317-7. Underground Injection Control (UIC) Program

Published: 08/01/2013

Effective: 09/24/2013

No. 37856 (AMD): R317-12. General Requirements: Tax Exemption for Water Pollution Control Equipment

Published: 08/01/2013

Effective: 09/24/2013

No. 37857 (AMD): R317-401. Graywater Systems

Published: 08/01/2013

Effective: 09/24/2013

Financial Institutions

Nondepository Lenders

No. 37864 (NEW): R343-9. Deferred Deposit Lenders

Registration with the Nationwide Database

Published: 08/15/2013

Effective: 09/23/2013

Health

Children's Health Insurance Program

No. 37879 (AMD): R382-10. Eligibility

Published: 08/15/2013

Effective: 10/01/2013

Health Care Financing, Coverage and Reimbursement Policy

No. 37880 (AMD): R414-301. Medicaid General Provisions

Published: 08/15/2013

Effective: 10/01/2013

No. 37881 (AMD): R414-308-4. Verification of Eligibility and Information Exchange

Published: 08/15/2013

Effective: 10/01/2013

Insurance

Administration

No. 37882 (AMD): R590-142. Continuing Education Rule

Published: 08/15/2013

Effective: 09/23/2013

No. 37838 (AMD): R590-222-3. Incorporation by Reference

Published: 08/01/2013

Effective: 09/23/2013

NOTICES OF RULE EFFECTIVE DATES

No. 37883 (AMD): R590-244. Individual and Agency
Licensing Requirements
Published: 08/15/2013
Effective: 09/23/2013

Judicial Conduct Commission

Administration

No. 37843 (AMD): R595-3. Procedure
Published: 08/01/2013
Effective: 09/18/2013

Labor Commission

Administration

No. 37866 (AMD): R600-2. Operations
Published: 08/15/2013
Effective: 09/23/2013

Natural Resources

Oil, Gas and Mining Board

No. 37873 (AMD): R641-100-600. Electronic Meetings
Published: 08/15/2013
Effective: 09/26/2013

Transportation

Motor Carrier

No. 37875 (AMD): R909-75. Safety Regulations for Motor
Carriers Transporting Hazardous Materials and/or Hazardous
Wastes
Published: 08/15/2013
Effective: 09/23/2013

Workforce Services

Employment Development

No. 37878 (AMD): R986-600. Workforce Investment Act
Published: 08/15/2013
Effective: 10/07/2013

Unemployment Insurance

No. 37877 (AMD): R994-403-108b. Deferral of Work
Registration and Work Search

Published: 08/15/2013

Effective: 09/25/2013

No. 37876 (AMD): R994-508-307. Withdrawal of Appeal to
the Board

Published: 08/15/2013

Effective: 09/25/2013

End of the Notices of Rule Effective Dates Section

**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 2, 2013 through October 01, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to 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 (5110 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>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	37839	5YR	07/11/2013	2013-15/123
<u>Archives</u>					
R17-5	Definitions for Rules in Title R17	37653	5YR	05/17/2013	2013-12/49
R17-6	Records Storage and Disposal at the State Records Center	37654	5YR	05/17/2013	2013-12/49
R17-7	Archival Records Care and Access at the State Archives	37659	5YR	05/28/2013	2013-12/50
R17-7	Archival Records Care and Access at the State Archives	37658	AMD	08/15/2013	2013-12/8
R17-8	Application of Microfilm Standards	37655	5YR	05/17/2013	2013-12/50
<u>Facilities Construction and Management</u>					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities and Construction and Management	37357	5YR	02/20/2013	2013-6/49
R23-22	General Procedures for Acquisition and Selling of Real Property	37358	5YR	02/20/2013	2013-6/49
R23-30	State Facility Energy Efficiency Fund	37845	5YR	07/15/2013	2013-15/123
R23-30	State Facility Energy Efficiency Fund	37848	AMD	09/10/2013	2013-15/8
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	37521	5YR	04/15/2013	2013-9/29
R25-5	Payment of Per Diem to Boards	37558	AMD	06/21/2013	2013-10/6
R25-6	Relocation Reimbursement	37522	5YR	04/15/2013	2013-9/29
R25-7	Travel-Related Reimbursements for State Employees	37523	5YR	04/15/2013	2013-9/30
R25-7	Travel-Related Reimbursements for State Employees	37556	AMD	06/21/2013	2013-10/7
R25-8	Overtime Meal Allowance	37524	5YR	04/15/2013	2013-9/30
R25-8	Overtime Meal Allowance	37557	AMD	06/21/2013	2013-10/12
<u>Fleet Operations</u>					
R27-3	Vehicle Use Standards	36949	AMD	03/07/2013	2012-22/11
R27-3-5	Personal Use Standards	37392	AMD	06/07/2013	2013-7/4
<u>Purchasing and General Services</u>					
R33-3-3	Small Purchases	37633	EMR	05/15/2013	2013-11/81
R33-11	Surplus Property	37937	EMR	08/23/2013	2013-18/53
<u>Records Committee</u>					
R35-1-3	Issuing the Committee Decision and Order	37773	AMD	08/30/2013	2013-14/8

AGRICULTURE AND FOOD

Animal Industry

R58-1	Admission and Inspection of Livestock, Poultry and Other Animals	37811	AMD	08/21/2013	2013-14/9
R58-6	Poultry	37248	R&R	03/25/2013	2013-4/6
R58-18	Elk Farming	37246	AMD	03/25/2013	2013-4/12
R58-18	Elk Farming	37850	AMD	09/10/2013	2013-15/15
R58-19	Compliance Procedures	37247	AMD	03/25/2013	2013-4/13
R58-21	Trichomoniasis	36962	AMD	01/04/2013	2012-22/16

Conservation and Resource Management

R64-1	Agriculture Resource Development Loans (ARDL)	37701	NSC	09/30/2013	Not Printed
R64-2	Utah Conservation Commission Proposed Electronic Meetings	37698	5YR	06/04/2013	2013-13/229
R64-2	Utah Conservation Commission Electronic Proposed Meetings	37680	AMD	08/21/2013	2013-13/2

Horse Racing Commission (Utah)

R52-7	Horse Racing	37420	EMR	03/20/2013	2013-8/47
R52-7	Horse Racing	37860	EMR	07/18/2013	2013-16/61

Plant Industry

R68-1	Utah Bee Inspection Act Governing Inspection of Bees	37631	NSC	06/07/2013	Not Printed
R68-2	Utah Commercial Feed Act Governing Feed.	37632	NSC	06/07/2013	Not Printed
R68-5	Grain Inspection	37249	5YR	02/05/2013	2013-5/189
R68-9	Utah Noxious Weed Act	37700	5YR	06/06/2013	2013-13/229
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	37445	5YR	03/27/2013	2013-8/53
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomiscus piniperda	37669	5YR	05/30/2013	2013-12/51

Regulatory Services

R70-310	Grade A Pasteurized Milk	37027	AMD	01/29/2013	2012-23/6
R70-320-18	Transport Tanks, Operators	36915	AMD	01/29/2013	2012-21/8
R70-330	Raw Milk for Retail	36914	AMD	01/29/2013	2012-21/9
R70-330	Raw Milk for Retail	37620	EMR	05/14/2013	2013-11/84

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-31	Duties of the Commission Subcommittees	37611	EMR	05/13/2013	2013-11/88
R81-1-31	Duties of Commission Subcommittees	37363	AMD	06/25/2013	2013-6/4
R81-1-31	Duties of Commission Subcommittees	37363	CPR	06/25/2013	2013-10/206
R81-2-12	Store Site Selection	37365	AMD	04/30/2013	2013-6/5
R81-4A-2	Application	37367	AMD	04/30/2013	2013-6/5
R81-4A-2	Application	37615	AMD	07/30/2013	2013-11/6
R81-4B-2	Application	37368	AMD	04/30/2013	2013-6/6
R81-4C	Limited Restaurant Licenses	37834	5YR	07/10/2013	2013-15/124
R81-4C-2	Application	37369	AMD	04/30/2013	2013-6/7
R81-4C-2	Application	37616	AMD	07/30/2013	2013-11/7
R81-4D	On-Premise Banquet License	37835	5YR	07/11/2013	2013-15/125
R81-4D-2	Application	37370	AMD	04/30/2013	2013-6/8
R81-4E-2	Application	37371	AMD	04/30/2013	2013-6/9
R81-4F-2	Application	37372	AMD	04/30/2013	2013-6/10
R81-5-1	Licensing	37617	AMD	09/24/2013	2013-11/8
R81-5-1	Licensing	37617	CPR	09/24/2013	2013-16/54
R81-5-2	Application	37373	AMD	04/30/2013	2013-6/11
R81-5-5	Advertising	37618	AMD	07/30/2013	2013-11/9
R81-5-18	Age Verification - Dining and Social Clubs	37619	NSC	06/07/2013	Not Printed
R81-9-1	Application	37377	AMD	04/30/2013	2013-6/12
R81-10	Off-Premise Beer Retailers	37673	5YR	05/31/2013	2013-12/51
R81-10A-3	Application	37374	AMD	04/30/2013	2013-6/13
R81-10B	Temporary Beer Event Permits	37836	5YR	07/11/2013	2013-15/125
R81-10C-2	Application	37375	AMD	04/30/2013	2013-6/14

RULES INDEX

R81-10D-2	Application	37376	AMD	04/30/2013	2013-6/15
R81-11-1	Application	37378	AMD	04/30/2013	2013-6/16

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	37064	AMD	01/07/2013	2012-23/9
R131-2-6	General Requirements for Use of the Capitol Hill Complex	37799	AMD	08/21/2013	2013-14/17

CAREER SERVICE REVIEW OFFICE

Administration

R137-1	Grievance Procedure Rules	37607	AMD	07/22/2013	2013-11/10
R137-2	Government Records Access and Management Act	37535	5YR	04/23/2013	2013-10/213

COMMERCE

Consumer Protection

R152-32a	Pawnshop and Secondhand Merchandise Transaction Information Act Rules	37897	5YR	08/05/2013	2013-17/45
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Corporations and Commercial Code

R154-100	Utah Administrative Procedures Act Rules	38024	5YR	09/26/2013	Not Printed
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Occupational and Professional Licensing

R156-1	General Rule of the Division of Occupational and Professional Licensing	37395	NSC	04/01/2013	Not Printed
R156-1	General Rule of the Division of Occupational and Professional Licensing	37754	AMD	08/22/2013	2013-14/21
R156-1-102	Definitions	37199	AMD	03/11/2013	2013-3/2
R156-3a-102	Definitions	37073	AMD	01/24/2013	2012-24/6
R156-5a	Podiatric Physician Licensing Act Rule	37997	5YR	09/16/2013	2013-19/147
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule	37697	AMD	08/08/2013	2013-13/3
R156-17b	Pharmacy Practice Act Rule	37707	AMD	08/08/2013	2013-13/7
R156-22	Professional Engineers and Professional Land Surveyors Licensing Act Rule	37074	AMD	01/24/2013	2012-24/7
R156-24b-503	Physical Therapist Supervisory Authority and Responsibility	37526	AMD	06/10/2013	2013-9/2
R156-31b	Nurse Practice Act Rule	37417	5YR	03/18/2013	2013-8/53
R156-37	Utah Controlled Substances Act Rule	37040	AMD	01/08/2013	2012-23/18
R156-37-502	Unprofessional Conduct	37175	NSC	01/30/2013	Not Printed
R156-37c	Utah Controlled Substance Precursor Act Rule	37959	5YR	09/03/2013	2013-18/61
R156-37f	Controlled Substance Database Act Rule	37039	NEW	01/08/2013	2012-23/21
R156-44a	Nurse Midwife Practice Act Rules	37071	AMD	01/22/2013	2012-24/11
R156-49	Dietitian Certification Act Rule	37273	5YR	02/07/2013	2013-5/189
R156-53	Landscape Architects Licensing Act Rule	37274	5YR	02/07/2013	2013-5/190
R156-55a	Utah Construction Trades Licensing Act Rule	37364	AMD	04/22/2013	2013-6/17
R156-56-403	Factory Built Housing Dispute Resolution Program	37753	AMD	08/22/2013	2013-14/27
R156-63a	Security Personnel Licensing Act Contract Security Rule	37974	5YR	09/09/2013	2013-19/147
R156-63b	Security Personnel Licensing Act Armored Car Rule	37975	5YR	09/09/2013	2013-19/148
R156-67-306	Exemptions from Licensure	37270	AMD	04/08/2013	2013-5/10
R156-68	Utah Osteopathic Medical Practice Act Rule	37272	5YR	02/07/2013	2013-5/191
R156-68-306	Exemptions from Licensure	37271	AMD	04/08/2013	2013-5/11
R156-69-302b	Qualifications for Licensure - Examination Requirements - Dentist	37706	AMD	08/08/2013	2013-13/24
R156-70a-304	Continuing Education	37705	AMD	08/08/2013	2013-13/25
R156-74	Certified Court Reporters Licensing Act Rule	37958	5YR	09/03/2013	2013-18/61
R156-75	Genetic Counselors Licensing Act Rule	37533	AMD	06/24/2013	2013-10/15
R156-82	Electronic Prescribing Act Rule	37202	NEW	03/11/2013	2013-3/5
R156-82	Electronic Prescribing Act Rule	37396	NSC	04/01/2013	Not Printed

Real Estate

R162-2c	Utah Residential Mortgage Practices and Licensing Rules	37678	AMD	08/07/2013	2013-12/9
R162-2e	Appraisal Management Company Administrative Rules	37677	AMD	08/28/2013	2013-12/19
R162-2f	Real Estate Licensing and Practices Rules	37393	AMD	05/08/2013	2013-7/8
R162-2f	Real Estate Licensing and Practices Rules	37530	AMD	06/21/2013	2013-10/17
R162-2f-403	Trust Accounts	37394	AMD	05/08/2013	2013-7/16
R162-2f-403a	Trust Accounts	37664	NSC	06/24/2013	Not Printed
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	36973	AMD	01/02/2013	2012-22/19
R162-2g	Real Estate Appraiser Licensing and Certification Administrative Rules	37750	AMD	08/21/2013	2013-14/28
R162-57a	Timeshare and Camp Resort Rules	37076	AMD	04/02/2013	2012-24/14

Securities

R164-31	Administrative Fines	37660	5YR	05/28/2013	2013-12/52
R164-31-1	Guidelines for the Assessment of Administrative Fines	37042	AMD	01/08/2013	2012-23/26

CORRECTIONS

Administration

R251-103	Undercover Roles of Offenders	38032	5YR	09/30/2013	Not Printed
R251-105	Applicant Qualifications for Employment with Department of Corrections	38030	5YR	09/30/2013	Not Printed
R251-111	Government Records Access and Management	37828	EXD	07/09/2013	2013-15/137
R251-114	Offender Long-Term Health Care - Notice	37389	5YR	03/07/2013	2013-7/61

CRIME VICTIM REPARATIONS

Administration

R270-1	Award and Reparation Standards	37061	AMD	01/07/2013	2012-23/27
R270-1	Award and Reparation Standards	37166	NSC	01/30/2013	Not Printed
R270-1	Award and Reparation Standards	37380	AMD	04/22/2013	2013-6/25
R270-2	Crime Victim Reparations Adjudicative Proceedings	37063	AMD	01/07/2013	2012-23/33
R270-2	Crime Victim Reparations Adjudicative Proceedings	37167	NSC	01/30/2013	Not Printed

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R861-1A-37	Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404	37106	AMD	02/21/2013	2013-1/17
R861-1A-46	Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110	37107	AMD	02/21/2013	2013-1/18

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R865-9I-46	Medical Savings Account Administration Pursuant to Utah Code Ann. Sections 31A-32a-106, 59-10-114, and 59-10-1021	37178	NSC	01/31/2013	Not Printed

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R907-64	Longitudinal and Wireless Access to Interstate System Rights-of-Way for Installation of Telecommunication Facilities	37951	5YR	09/03/2013	2013-18/64
R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	37952	5YR	09/03/2013	2013-18/64
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R986-700-710	Income Limits for ES CC	37025	AMD	01/02/2013	2012-22/146
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R994-403-108b	Deferral of Work Registration and Work Search	37877	AMD	09/25/2013	2013-16/50
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R994-405	Ineligibility for Benefits	37648	5YR	05/16/2013	2013-12/60
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R994-406-301	Claimant Fault	37238	AMD	04/02/2013	2013-4/48
R994-406-403	Fraud Disqualification and Penalty	37516	AMD	06/12/2013	2013-9/26
R994-508	Appeal Procedures	37649	5YR	05/16/2013	2013-12/61
R994-508-102	Time Limits for Filing an Appeal from an Initial Department Determination	37670	AMD	08/01/2013	2013-12/39
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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	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>401 Certification</u>					
Environmental Quality, Water Quality	37362	R317-15	NEW	08/19/2013	2013-6/44
	37362	R317-15	CPR	08/19/2013	2013-14/101
<u>access</u>					
Environmental Quality, Drinking Water	37732	R309-545	NSC	07/09/2013	Not Printed
<u>access to information</u>					
Administrative Services, Archives	37653	R17-5	5YR	05/17/2013	2013-12/49
	37654	R17-6	5YR	05/17/2013	2013-12/49
	37659	R17-7	5YR	05/28/2013	2013-12/50
	37658	R17-7	AMD	08/15/2013	2013-12/8
	37655	R17-8	5YR	05/17/2013	2013-12/50
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Human Services, Recovery Services	37668	R527-5-3	AMD	07/22/2013	2013-12/30
<u>acquit</u>					
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	37464	R671-519	AMD	05/22/2013	2013-8/35
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Environmental Quality, Air Quality	37275	R307-342	NEW	08/01/2013	2013-5/17
	37275	R307-342	CPR	08/01/2013	2013-13/208
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Environmental Quality, Administration	36554	R305-6	REP	01/31/2013	2012-16/28
	36554	R305-6	CPR	01/31/2013	2013-1/32
	36553	R305-7	NEW	01/31/2013	2012-16/45
	36553	R305-7	CPR	01/31/2013	2013-1/32
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Environmental Quality, Environmental Response and Remediation	37513	R311-500	NSC	04/29/2013	Not Printed
Environmental Quality, Radiation Control	37192	R313-17	AMD	03/19/2013	2013-3/40
Environmental Quality, Solid and Hazardous Waste	37314	R315-12	AMD	04/25/2013	2013-5/101
Environmental Quality, Water Quality	37239	R317-9	5YR	01/31/2013	2013-4/51
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Commerce, Securities	37660	R164-31	5YR	05/28/2013	2013-12/52
	37042	R164-31-1	AMD	01/08/2013	2012-23/26
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Human Services, Recovery Services	37113	R527-258	AMD	02/22/2013	2013-2/20
<u>administrative procedures</u>					
Administrative Services, Administration	37839	R13-1	5YR	07/11/2013	2013-15/123

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	37167	R270-2	NSC	01/30/2013	Not Printed
Environmental Quality, Administration	36554	R305-6	REP	01/31/2013	2012-16/28
	36554	R305-6	CPR	01/31/2013	2013-1/32
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	36553	R305-7	CPR	01/31/2013	2013-1/32
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	37574	R477-15	AMD	07/01/2013	2013-10/180
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	37140	R612-12	REP	02/25/2013	2013-2/55
	37141	R612-13	REP	02/25/2013	2013-2/57
	37124	R612-100	NEW	02/25/2013	2013-2/58
Lieutenant Governor, Administration	37910	R622-1	5YR	08/09/2013	2013-17/57
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	37623	R652-70-2300	AMD	07/08/2013	2013-11/46
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Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19
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Environmental Quality, Environmental Response and Remediation	37482	R311-201	NSC	04/29/2013	Not Printed
	37513	R311-500	NSC	04/29/2013	Not Printed
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Labor Commission, Industrial Accidents	37129	R612-1	REP	02/25/2013	2013-2/28
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	37622	R612-200-1	AMD	07/08/2013	2013-11/34
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	37415	R277-702	AMD	05/16/2013	2013-7/26
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	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed
<u>agencies</u>					
Administrative Services, Facilities Construction and Management	37845	R23-30	5YR	07/15/2013	2013-15/123
	37848	R23-30	AMD	09/10/2013	2013-15/8
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<u>aggregate</u>					
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	36740	R307-312	CPR	02/01/2013	2013-1/47
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	37411	R426-2	NEW	05/30/2013	2013-7/32
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	36723	R307-101-2	CPR	02/01/2013	2013-1/38
	37702	R307-101-2	NSC	07/09/2013	Not Printed
	37582	R307-101-3	AMD	08/08/2013	2013-11/24
	37261	R307-102	5YR	02/06/2013	2013-5/191
	37902	R307-107	5YR	08/08/2013	2013-17/49
	37260	R307-115	5YR	02/06/2013	2013-5/192
	37901	R307-123	5YR	08/08/2013	2013-17/50
	37259	R307-170	5YR	02/06/2013	2013-5/192
	36481	R307-208	NEW	04/10/2013	2012-15/12
	36481	R307-208	CPR	04/10/2013	2012-23/56
	36481	R307-208	CPR	04/10/2013	2013-5/184
	37703	R307-214	AMD	09/12/2013	2013-13/60
	37258	R307-220	5YR	02/06/2013	2013-5/193
	37257	R307-221	5YR	02/06/2013	2013-5/194
	37256	R307-222	5YR	02/06/2013	2013-5/194
	37255	R307-223	5YR	02/06/2013	2013-5/195
	37254	R307-224	5YR	02/06/2013	2013-5/195
	37253	R307-250	5YR	02/06/2013	2013-5/196
	36741	R307-307	AMD	02/01/2013	2012-19/42
	36741	R307-307	CPR	02/01/2013	2013-1/45
	37234	R307-307	NSC	02/15/2013	Not Printed
	36740	R307-312	NEW	02/01/2013	2012-19/45
	36740	R307-312	CPR	02/01/2013	2013-1/47
	36725	R307-340	REP	02/01/2013	2012-19/49
	36725	R307-340	CPR	02/01/2013	2013-1/48
	37275	R307-342	NEW	08/01/2013	2013-5/17
	37275	R307-342	CPR	08/01/2013	2013-13/208
	36738	R307-343	AMD	05/01/2013	2012-19/56
	36738	R307-343	CPR	05/01/2013	2013-1/49
	36738	R307-343	CPR	05/01/2013	2013-7/44
	36727	R307-345	NEW	02/01/2013	2012-19/67
	36727	R307-345	CPR	02/01/2013	2013-1/54
	36728	R307-346	NEW	02/01/2013	2012-19/69
	36728	R307-346	CPR	02/01/2013	2013-1/57
	36729	R307-347	NEW	02/01/2013	2012-19/71
	36729	R307-347	CPR	02/01/2013	2013-1/59
	36730	R307-348	NEW	02/01/2013	2012-19/73
	36730	R307-348	CPR	02/01/2013	2013-1/61
	36731	R307-349	NEW	02/01/2013	2012-19/74
	36731	R307-349	CPR	02/01/2013	2013-1/63
	36732	R307-350	NEW	02/01/2013	2012-19/76
	36732	R307-350	CPR	02/01/2013	2013-1/65
	36733	R307-351	NEW	02/01/2013	2012-19/80
	36733	R307-351	CPR	02/01/2013	2013-1/69
	37235	R307-351-4	NSC	02/15/2013	Not Printed
	36734	R307-352	NEW	02/01/2013	2012-19/84
	36734	R307-352	CPR	02/01/2013	2013-1/73
	36735	R307-353	NEW	05/01/2013	2012-19/86
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	36737	R307-355	NEW	02/01/2013	2012-19/91
	36737	R307-355	CPR	02/01/2013	2013-1/82
	37237	R307-355-5	NSC	02/15/2013	Not Printed
	37276	R307-357	NEW	08/01/2013	2013-5/22
	37276	R307-357	CPR	08/01/2013	2013-13/213
	37037	R307-401-15	AMD	02/07/2013	2012-23/40
	37236	R307-401-15	NSC	02/15/2013	Not Printed
	37268	R307-401-19	AMD	07/01/2013	2013-5/36
	37268	R307-401-19	CPR	07/01/2013	2013-11/72
	37269	R307-401-20	AMD	07/01/2013	2013-5/36
	37269	R307-401-20	CPR	07/01/2013	2013-11/72
	37265	R307-420	AMD	07/01/2013	2013-5/43
	37265	R307-420	CPR	07/01/2013	2013-11/78
	37252	R307-801	5YR	02/06/2013	2013-5/197
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	37263	R307-403-1	CPR	07/01/2013	2013-11/73
	37264	R307-403-2	AMD	07/01/2013	2013-5/39
	37264	R307-403-2	CPR	07/01/2013	2013-11/74
	37266	R307-403-10	AMD	07/01/2013	2013-5/42
	37266	R307-403-10	CPR	07/01/2013	2013-11/77
	37267	R307-403-11	AMD	07/01/2013	2013-5/43
	37267	R307-403-11	CPR	07/01/2013	2013-11/77
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	37363	R81-1-31	CPR	06/25/2013	2013-10/206
	37365	R81-2-12	AMD	04/30/2013	2013-6/5
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	37616	R81-4C-2	AMD	07/30/2013	2013-11/7
	37835	R81-4D	5YR	07/11/2013	2013-15/125
	37370	R81-4D-2	AMD	04/30/2013	2013-6/8
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	37460	R671-514	AMD	05/22/2013	2013-8/29

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	37754	R156-1	AMD	08/22/2013	2013-14/21
	37199	R156-1-102	AMD	03/11/2013	2013-3/2
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	37511	R277-751	AMD	06/07/2013	2013-9/10
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	37597	R313-12-3	NSC	06/07/2013	Not Printed
	37194	R313-19	AMD	03/19/2013	2013-3/45
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Education, Administration	37887	R277-482	5YR	08/02/2013	2013-17/47
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Education, Administration	37495	R277-483	5YR	04/08/2013	2013-9/31
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Environmental Quality, Air Quality	36727	R307-345	NEW	02/01/2013	2012-19/67
	36727	R307-345	CPR	02/01/2013	2013-1/54
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	37799	R131-2-6	AMD	08/21/2013	2013-14/17
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	37563	R477-4	AMD	07/01/2013	2013-10/157
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	37534	R657-20	NSC	05/17/2013	Not Printed
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Environmental Quality, Radiation Control	37188	R313-70	NSC	01/31/2013	Not Printed
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	37126	R612-300	NEW	02/25/2013	2013-2/66
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	37625	R651-611	AMD	07/08/2013	2013-11/40
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Labor Commission, Industrial Accidents	37129	R612-1	REP	02/25/2013	2013-2/28
	37125	R612-200	NEW	02/25/2013	2013-2/62
	37622	R612-200-1	AMD	07/08/2013	2013-11/34
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	37517	R994-403	AMD	06/12/2013	2013-9/23
	37877	R994-403-108b	AMD	09/25/2013	2013-16/50
	37671	R994-403-115c	AMD	08/01/2013	2013-12/38
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	37557	R25-8	AMD	06/21/2013	2013-10/12
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midwifery

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	37413	R277-600	AMD	05/16/2013	2013-7/20
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