

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. 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

Health Health Care Financing, Coverage and Reimbursement Policy

Outpatient Hospital Supplemental Payments

The Division of Medicaid and Health Financing (DMHF) is submitting a change to the Medicaid State Plan through Attachment 4.19-B, SPA 15-0021-UT Outpatient Hospital Supplemental Payments. The purpose of this change is to update the utilization trend for Fiscal Year 2016.

DMHF does not expect any increase or decrease in annual costs to result from this amendment.

The proposed effective date of this amendment is July 1, 2015, and it is pending Centers for Medicare and Medicaid Services 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.

Health Health Care Financing, Coverage and Reimbursement Policy

Medicaid Budget Hearing for Fiscal Year 2017

The Utah Department of Health invites you to attend a special Medical Care Advisory Committee (MCAC) meeting to obtain public input on the Medicaid budget for Fiscal Year 2017 (July 1, 2016, through June 30, 2017). The meeting will be Thursday, June 18, 2015, from 4 p.m. until 6 p.m. in the Cannon Health Building, 288 North 1460 West, Room 125, Salt Lake City, UT.

If you know of special medical needs not being met by Medicaid, or want to speak on a budgetary matter of importance to you, please come prepared to make a short (no more than three-minute) presentation to the Committee. Copy services will be provided, if you have a handout. Signed petitions are encouraged. Your input will assist the MCAC in recommending a budget that will be more representative of Medicaid providers and clients.

If you cannot attend the public hearing, but would like to write to the Committee about special medical needs, please mail comments to: MCAC, PO Box 143112, Salt Lake City, UT 84114-3112.

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for July 2015 Medicaid Rate Changes

Effective July 1, 2015, Utah Medicaid will adjust its rates consistent with legislative intent and appropriations. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes will include adjustments to the flat rate, fair rental value and case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/bcrp.htm>

End of the Special Notices Section

EXECUTIVE DOCUMENTS

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

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

Calling the Sixty-First Legislature Into the Third Extraordinary Session, Utah Proclamation No. 2015-3E

PROCLAMATION

WHEREAS, since the close of the 2015 General Session of the 61st Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

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 by this Proclamation call the Senate only of the 61st Legislature of the State of Utah into the Third Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 20th day of May 2015, at 2:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2015 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 18th day of May 2015.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2015/03/E

Wildland Fire Management, Utah Exec. Order No. 2015-3

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, current below-normal precipitation in central and southern Utah contributed to the early drying of wildland vegetation; and

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action will be required to suppress fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

WHEREAS, immediate action is required to suppress the fire conditions and mitigate potential post-burn destruction. This destruction can lead to mudslides and flash floods causing dangerous conditions for life safety, property, natural resources and the environment;

WHEREAS, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981,

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

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment for thirty days, effective as of May 28, 2015 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah this 29th day of May 2015.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Lieutenant Governor
Spencer J. Cox

2015/003/EO

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between May 16, 2015, 12:00 a.m., and June 01, 2015, 11:59 p.m. are included in this, the June 15, 2015, issue of the *Utah State Bulletin*.

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

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the 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 July 15, 2015. 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 October 13, 2015, 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.

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

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

The Proposed Rules Begin on the Following Page

**Agriculture and Food, Regulatory
Services
R70-101
Bedding, Upholstered Furniture and
Quilted Clothing**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 39407

FILED: 05/18/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to totally reorganize the rule to make it easier to read and understand, to eliminate a conflict in standards, and to make changes reflecting current industry practices.

SUMMARY OF THE RULE OR CHANGE: The new rule changes the cleanliness standard for down and feathers. The previous rule had a much lower standard of cleanliness. The new rule explicitly lists out the information necessary for the law tags and labels. It specifies the font, color, and language to be used. The old rule only listed the color and size for the law label and tags. The new rule reorganizes the sections so as to create greater convenience in reading the rule. The new rule clarifies what items are exempt from the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-10-3 and Section 4-3-2

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds ASTM D4522-14, published by ASTM International, 2014
- ◆ Removes Plumage Regulations, published by IABFLO, 2001
- ◆ Adds USA 2000 Labeling Standards, published by IDFL Laboratory and Institute, 2009
- ◆ Adds 16 CFR 300, published by FTC, 2012
- ◆ Adds Manual of Labeling Law, published by International Sleep Products Association, 2015
- ◆ Adds 16 CFR 301, published by FTC, 2012
- ◆ Adds 16 CFR 303, published by FTC, 2004
- ◆ Adds Classification of Filling Material, published by IABFLO, 2015

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The change will have no effect on how the program operates, nor does it add to the duties, fees, or work of the employees of the state. It will neither hurt nor help the state budget.

◆ **LOCAL GOVERNMENTS:** Local government have no responsibilities in Rule R70-101. There will be no budgetary impact to them.

◆ **SMALL BUSINESSES:** Based on information from the small business regulated, they are already in compliance with the newly proposed standards and will not have additional cost associated with the change.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The agency has determined that there will be no cost or savings to the industry. There will be no cost to pass on to customers because industry is already following the new cleanliness standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost of compliance will not change since the industry is already compliant with the newly proposed standards.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes modernize Rule R70-101 and bring Utah's standards to align with current industry standards. In practicality, there will be no impact on the regulated industry. Further the reorganization will make it easier to understand the standards.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 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
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov
- ◆ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: LuAnn Adams, Commissioner

**R70. Agriculture and Food, Regulatory Services.
 R70-101. Bedding, Upholstered Furniture and Quilted Clothing.**

[R70-101-1. Authority:

A. Promulgated Under Authority of Section 4-10-3.

~~B. Scope: The purpose of these rules is to designate the license fees, labeling, terms, definitions, nomenclature and conditions as commonly used and recognized in the manufacture, sale and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.~~

R70-101-2. General Requirements.

~~A. These rules shall apply to all persons, partnerships, corporations, limited liability companies, and associations engaged in the business of manufacturing, retailing, wholesaling, processing, repairing, and selling items of bedding, upholstered furniture, quilted clothing, and filling materials. These rules do not apply to persons who make or renovate upholstered furniture, clothing or bedding for their own use.~~

~~B. Foreign, out-of-state articles or materials sold in Utah. This rule shall apply to bedding, upholstered furniture, quilted clothing, and filling materials sold in Utah regardless of their point of origin.~~

R70-101-3. Definitions.

~~A. "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling material for sale; but does not include isolated sales of such articles by persons who are not primarily engaged in the making, processing, or preparation of these articles. For the purpose of the enforcement of this rule, the term "manufacturer" shall mean a person who either by himself or through employees makes for the purpose of sale any bedding, upholstered furniture, quilted clothing, filling material, or any unit thereof.~~

~~B. "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.~~

~~C. "Old" means filling material or portion thereof which shows characteristics of aging through deterioration or changing from its original qualities.~~

~~D. "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and agents, servants and employees of them.~~

~~E. "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured, and the delivery vehicles used in their transportation.~~

~~F. "Supply dealer" means a person who manufactures, processes or sells at wholesale any felt, batting, pads or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.~~

~~G. "Sell" or any of its variants includes any combination of the following: sale, offer, or expose for sale, barter, trade, deliver, rent, consign, lease, possess with the intent to sell or dispose of in any other commercial manner, but does not include any judicial, executor, administrator or guardian sale. The possession of any article of bedding, upholstered furniture, quilted clothing, or filling material defined in these rules, by any maker, dealer, or his agents or servants in the course of business, shall be presumptive evidence of intent to sell.~~

~~H. "Uniform Registry Number", "URN", or "state-issued registry number" means the number issued by a state to be used on the law tag of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company accepting responsibility for such products.~~

R70-101-4. License.

~~Except as otherwise provided in these rules, any person who advertises, solicits or contracts to manufacture, repair or wholesale any bedding, upholstered furniture, quilted clothing, or filling materials who either does the work himself or has others do it for him, shall secure the particular license for the particular type of work that he solicits or advertises that he does, regardless of whether he has a shop or factory. This license shall be obtained before such products are offered for sale in Utah.~~

~~A. Annual license fee. The fee imposed for each license granted under these rules shall be approved by the Legislature.~~

~~When the appropriate fee is not paid on or before January 1, the license shall become delinquent, and there shall be added to the fee a late penalty, as approved by the Legislature in the Departments schedule of fees.~~

~~B. Suspension or revocation of license and procedure. In addition to other remedies provided in this rule, the Department shall have the authority to suspend or revoke any registration or license required by this rule for any violation of their provisions. A suspension or revocation shall be handled as outlined in Section 4-1-5.~~

R70-101-5. Sanitation Requirements.

~~A. Use of unsanitary filling material. The premises, delivery equipment, machinery, appliances, and devices of all persons licensed under these rules shall at all times be kept free from refuse, dirt, contamination or insects and no person shall use in the making, repair or renovating of bedding, upholstered furniture, or quilted clothing any filling material:~~

- ~~1. that contains any bugs, vermin or filth;~~
- ~~2. that is unsanitary;~~
- ~~3. that contains burlap or other material that has been used for baling.~~

R70-101-6. Manufacturing, Distribution, Advertising, Labeling and Sale of Quilted Clothing.

~~A. This section establishes standards and procedures relating to quilted clothing. The department adopts by reference the Rules and Regulations under the Textile Fiber Products Identification Act, July 9, 1986 edition; under the Fur Products Labeling Act, July 4, 1980 edition; and under the Wool Products Labeling Act of 1939, July 9, 1986 edition; excepting that wherever conflicts arise, the state rule shall govern.~~

~~B. Articles of plumage-filled clothing shall meet the following requirements:~~

- ~~1. Articles labeled "Down" shall contain a minimum of 75% down and plumules. The minimum down cluster percentage must be listed.~~
- ~~2. Articles containing less than 75% down, shall label the percentages of down and feathers contained therein and shall contain at a minimum the percentage of "Down" printed on the tag.~~

R70-101-7. Manufacturer Identification and Tag Requirements.

~~A. The identification of a manufacturer, wholesaler, or supply dealer of quilted clothing or filling material which is to appear on the label and on the tag shall be the same as required in rule 19-20 of the Federal Textile Fiber Products Identification Act and Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.~~

_____ The form of identification used on labels and on the tags shall be the same supplied to the Department on the application for registration.

_____ B. For articles of bedding and upholstered furniture, the law tag shall use the format adopted by the International Association of Bedding and Furniture Law Officials (IABFLO), as listed in the "Tagging Law Manual" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Tagging Law Manual" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

_____ 1. Tags on articles manufactured wholly of new material shall be white in color.

_____ 2. Tags on articles manufactured in whole or in part of secondhand materials and tags for "Owners Own Material" shall be yellow.

_____ 3. Color of ink on tags shall be black.

_____ 4. Tags shall be made of material that cannot be torn or easily abraded, and shall be the required color on both surfaces.

_____ 5. All required information shall be clearly and legibly printed in English and printed on one side of the tag only.

_____ 6. Tags shall be firmly attached to the article(s) in a position easily visible for examination. Regulated products which are offered for sale in boxes or in some other packaging which makes the law tags attached to the products themselves inaccessible, shall reproduce a fully legible facsimile of the law tag on the outer container or covering.

_____ 7. No mark, label, printed matter, illustration, sticker or any other device shall be placed upon the tags in such a way as to cover the required information.

_____ 8. A single uniform registry number (URN), issued by the state in which the firm is first registered, shall be used on the law tag. The firm's license with the state that issued the URN must be kept current for the number to be valid for use on products sold or offered for sale in Utah.

_____ C. Every firm doing business under more than one state-issued uniform registry number (URN) shall obtain a license for each number used on products that are offered for sale in Utah. (A change of suffix on a URN shall constitute a new number and require an additional license.)

_____ D. Retailers selling used mattresses shall display such mattresses with a tag stating "USED" that is clearly visible to a customer.

_____ 1. Tags shall be yellow in color.

_____ 2. Tags shall be a minimum of three inches by six inches.

_____ 3. Font shall be a minimum of one inch in height.

_____ 4. Color of ink on tags shall be black.

R70-101-8. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

_____ A. The filling material shall be described on the label and on the tag by the true generic name, grade, description term, or definitions of the filling material as accepted and approved by the Department. When more than one kind of filling material is used in a mixture, the percent by weight of each shall be listed in order of their predominance. Federal fiber tolerance standards are applicable, except as pertains to plumage products.

_____ B. Blends may be described, if applicable, as under Section 14 in this rule. In the case of non-down and/or non-feather filled

articles of quilted clothing, any fiber or groups of individual fibers present in an amount of less than 5% by weight, of the total fiber content may be designated only as "other fiber" or "other fibers".

_____ C. When different filling materials are used in various parts of the garment, the areas of the garment shall be named, followed by the name of the filling material used in that area. Examples:

_____ Body - 50% Down, 50% Feathers

_____ Sleeves - Polyester Fiber

_____ Pockets - Nylon Fiber

_____ D. Use of trade names and non-generic terms to describe filling material(s) is prohibited.

R70-101-9. Use of Rubber Stamp or Stencil.

_____ A rubber stamp or stencil may be used in lieu of a tag on articles having a smooth backing on which the imprint can be legibly and indelibly stamped, and on suitable surfaces of bales or containers of felt, batting, pads, or other filling material used or to be used in bedding, upholstered furniture, and quilted clothing products.

R70-101-10. Making or Selling Material or Parts.

_____ A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material is plainly tagged as described in this rule.

R70-101-11. Labeling of Foreign Articles.

_____ Responsibility for labeling of unlabeled foreign-made bedding, upholstered furniture, quilted clothing, and filling material in compliance with this rule shall rest with the person selling the merchandise in Utah.

R70-101-12. Violation of This Rule.

_____ A. It shall be a separate violation of this rule for each improperly labeled or tagged or unlabeled or untagged article of bedding, upholstered furniture, quilted clothing, or filling material made, sold, exposed or offered for sale, delivered, consigned, rented or possessed with intent to sell contrary to the provisions of this rule.

_____ B. Defense. No person shall be guilty of a violation of this rule if he has received, from the person by whom the articles were manufactured or from whom they were received, a guarantee in good faith that the articles are not contrary to the provisions of these rules. The guarantee shall be in the form prescribed by the Federal Textile Fiber Products Identification Act, the Federal Wool Products Labeling Act and the Federal Trade Commission Rules and Regulations.

R70-101-13. Enforcement Procedures.

_____ A. Removal of Inspector's Tag. Any person who removes, or causes to be removed, any tag or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material, by an inspector in the performance of his official duties, is guilty of violation of this rule.

_____ B. Failure to Produce Articles Condemned. The failure of any person to produce upon demand of an inspector any article that has been condemned and ordered held on inspection notice signed by the person, or an inspection notice that the person has refused to sign, is a violation of this rule.

C. Interfere, Hinder Inspector. No person shall interfere with, obstruct, or otherwise hinder any inspector of the Department in the performance of his duties.

D. Retailers are Responsible to:

1. ensure that any article of bedding, upholstered furniture, or filling material they sell is labeled with a uniform law tag;

2. ensure that quilted clothing tags list filling material(s) and the name or Registered Number (RN) of the manufacturer or distributor;

3. fully comply with the Department's laws and rules governing false and misleading advertisement;

4. and make sure that all manufacturers from whom they purchase products that come under the purview of the act, hold a valid license with the Department.

5. In addition, upon request of any representative of the Department, a retailer shall provide the Department with the identity of the manufacturer or wholesaler of any article of bedding, upholstered furniture, quilted clothing, or filling material sold by that retailer.

6. If the manufacturer or wholesaler so identified is not registered pursuant to this rule and fails or refuses to register upon notification by the Department, any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by the manufacturer or wholesaler and sold or offered for sale in this state may be withheld from sale until the manufacturer or wholesaler registers; provided, that in the event the manufacturer or wholesaler fails to register, the retailer may register in lieu of the manufacturer or wholesaler.

R70-101-14. Rules and Regulations for Filling Material.

A. All terms and definitions of all filling materials shall be those terms which have been submitted to and approved by IABFLO, except those terms and definitions listed in this rule.

B. The document entitled "Plumage Regulations", the 2001 edition, approved by IABFLO, is adopted and incorporated by reference within this rule.

C. Cleanliness of Filling Materials.

All filling materials shall be reasonably clean and free from extraneous material, dirt, dust, filth, epidermis, excreta, disagreeable odors, or other contamination.

"Cleanliness" shall mean the oxygen number of any filling material consisting of whole feathers, down, or a combination thereof; and the oxygen number of any filling material consisting of an admixture of feathers and down which contains five percent (5%) of crushed feathers shall not exceed 25 grams of oxygen per 100,000 grams of sample. (Oxygen number is considered to be the amount, by weight, of oxidizable matter such as blood, excreta, and/or fecal matter present.)

D. "Imperfect, irregular foam" shall mean any foam products which show major imperfections or that fall below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

E. "Imperfect, irregular fibers" shall mean fibers that have imperfections or that fall below the fiber manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

F. The terms "Prime", "Super", "Northern" and other terms of similar import shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

Industry shall be responsible for proving to the Department that the fill is superior to the industry standard rating of 550 cubic inches of fill power.

R70-101-15. Products Not Intended for Uses Subject to This Rule.

A. The Commissioner hereby excludes from this rule all textile fiber products related to quilted clothing except:

1. Articles of down, feather, or fiber filled clothing.

2. Down, feather, or fiber filled hats and hoods.

3. Down, feather, or fiber filled slippers and booties with fabric outer covering.

4. Down, feather, or fiber filled gloves.

5. Bulk filling material used in the above.]

R70-101-1. Authority and Purpose.

Pursuant to Section 4-10-3, this rule establishes the standards, practices and procedures for the manufacture, repair, sale, and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

R70-101-2. Definitions.

1) "Clean" means free from stains, dirt, trash, filth, pulp, sludge, oil, grease, fat, skin, epidermis, excreta, vermin, insects, insect eggs, insect carcasses, contamination, hazardous materials, residual or objectionable substances or odors.

2) "Department" means the Utah Department of Agriculture and Food.

3) "Law Label or Label" means a tag attached to a product that provides information about the product to the consumer.

4) "Manufacture" means the making, processing, or preparing of new or secondhand bedding, upholstered furniture, quilted clothing, or filling material.

5) "Manufacturer" means a person who makes or has employees make any bedding, upholstered furniture, quilted clothing, filling material, or any part thereof.

6) "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.

7) "Person" means an individual, partnership, association, firm, auctioneer, trust, limited liability company, or corporation, and agents, and employees of them.

8) "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured and the delivery vehicles used in their transportation.

9) "Supply dealer" means a person who manufactures, processes, or sells at wholesale any felt, batting, pads, or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

10) "Second Hand Law Tag or Tag" means a tag attached to a product or filling material that has previously been used.

11) "Uniform Registry Number or URN" means the number issued by a state to be used on the law label of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company.

R70-101-3. Application of Rule.

1) This rule shall apply to all persons engaged in the business of manufacturing, retailing, wholesaling, processing,

repairing, and selling items of bedding, upholstered furniture, quilted clothing and filling materials, regardless of their point of origin.

R70-101-4. Licensing Requirements for Manufacturers, Repairers, and Wholesalers.

1) Any person, who advertises, solicits, or contracts to manufacture or repair bedding, upholstered furniture, quilted clothing, or filling materials shall secure a license from the department.

a) This license must be obtained before such products are offered for sale in Utah.

2) Any person seeking a license shall provide the following to the department:

a) a complete registration application form,

b) a sample of the identification label that will be used, and

c) a sample tag

i) wholesale bedding, upholstered furniture dealers, upholstery supply dealer, and quilted clothing manufacturers are exempted from providing a sample tag to the department.

3) A licensing fee will be assessed annually. This fee shall be paid before January 1 or a late fee will be assessed. All fees are listed in the department's fee schedule approved by the legislature.

R70-101-5. Revocation of License.

1) The department shall have the authority to suspend or revoke a license for any violation of these provisions.

2) A suspension or revocation shall be in accordance with section 4-1-5.

R70-101-6. Sanitation Requirements.

1) The premises, delivery equipment, machinery, appliances, and devices shall at all times be kept free from refuse, dirt, contamination, or insects.

2) No person shall use in the making, repairing, or renovating of bedding, upholstered furniture, or quilted clothing any filling material that:

a) contains any bugs, vermin or filth,

b) is not clean, or

c) contains burlap or other material that has been used for baling.

3) Bedding, quilted clothing, and filling materials shall be stored four inches off the floor.

4) New and used products shall be stored separately.

R70-101-7. Manufacturing, Wholesale, and Supply Dealer Labeling Requirements for Quilted Clothing.

1) The department adopts by reference the Rules and Regulations under the Textile Fiber Products Identification Act, Fur Products Labeling Act, and Wool Products Labeling Act found in 16 CFR parts 300, 301, and 303.

2) Articles of plumage-filled clothing shall meet the following label requirements:

a) Any label stating the contents of Down, Goose Down, or Duck Down shall also state the minimum percentage of Down, Goose Down, or Duck Down that is contained in the article. The down label is a qualified general label and shall include in

parentheses the minimum percentage of down in the product which must be 75% or greater.

b) Down and Waterfowl Feathers: may be used to designate any plumage product containing between 50% (minimum) and 74% down and plumules. The percentage of both must be stated on the sewn-in label and hang tags.

c) Waterfowl Feathers and Down: may be used to designate any plumage product containing between 5% (minimum) and 49% down and plumules. The percentage of both must be stated on the sewn-in label and hang tags.

d) Waterfowl Feathers: may be used to designate any plumage product containing less than 5% down and plumules.

e) Quill Feathers are not permitted unless disclosed.

f) Other Plumage Products which do not meet the requirements for any of the above listed categories must be labeled accurately with each component listed separately in order of predominance.

3) The form of identification used on labels and tags shall be the same as those supplied to the department with the registration application.

R70-101-8. Filling Material.

1) All terms and definitions of filling materials shall be those terms which have been submitted and approved by International Association of Bedding Law Officials (IABFLO), except as otherwise required by this rule.

2) All plumage materials shall follow the standards as set forth in the "USA-2000 Labeling Standards- Down & Feather Products" and ASTM D-4522.

3) All other filling materials shall be clean.

4) "Imperfect, irregular foam" means any foam products which show major imperfections or that fall below the foam manufacturer's usual standards or specifications and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the foam.

5) "Imperfect, irregular fibers" shall mean fibers that have imperfections or that fall below the fiber manufacturer's usual standards or specification and must be stated on the tag as "imperfect" or "irregular" along with the generic name of the fiber.

6) The terms "Prime", "Super", "Northern" and similar terms shall not be used unless the fill can be proved to be of superior quality and meet the terms of the qualifying statement.

R70-101-9. Generic Names, Grades, Descriptive Terms, and Definitions of Filling Material.

1) Filling material shall be described on the label and on the tag using the:

a) true generic name,

b) grade,

c) description terms, or

d) definitions of the filling material which have been approved by the department.

2) When more than one kind of filling material is used in a mixture, the percentage by weight shall be listed in order of predominance.

a) Federal fiber tolerance standards are applicable, except as pertains to plumage products.

b) Blends may be described in accordance with section 8 of this rule.

3) When different filling materials are used in various parts of the garment the areas of the garment shall be named, followed by the name of the filling material used in that area.

R70-101-10. Manufacturer Identification and Law Label Requirements For Bedding and Upholstered Furniture.

1) The form of identification used on labels and tags shall be the same as those supplied to the department with the registration application.

2) For articles of bedding and upholstered furniture, the law label shall use the format adopted by the IABFLO, as listed in the "Manual of Labeling Laws" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Manual of Labeling Laws" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

3) The law label for newly manufactured products shall meet the following requirements:

- a) white on all sides of the label,
- b) made of material that cannot be torn,
- c) printed in black ink
- d) printed in English,
- e) printed clearly and legibly, and
- f) firmly attached to the article

4) All required information shall be printed on one side of the label with the opposite side remaining blank.

5) Each law label shall state the following:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters no less than 1/8 inches in height,

b) the phrase "ALL NEW MATERIAL" shall appear in the next section in bold, capital letters no less the 1/8 inches in height, followed by the phrase "CONSISTING OF" followed by the filling contents in bold capital letters no less than 1/8 inch in height,

c) the phrase, "Certification is made that the materials in this article are described in accordance with law" shall appear in the next section of the tag,

d) the URN issued by the state in which the firm is first registered shall appear next, and

e) the name and complete address of the manufacturer, importer, or vendor of the article shall appear next,

6) The law label shall be easily accessible to the consumer for examination.

a) Products which are offered for sale in boxes or in some other packaging which make the law labels inaccessible shall reproduce a legible facsimile of the law label on the outer container or covering.

7) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the label.

8) The firm's license with the state that issued the URN must be kept current for the number to be valid in the state of Utah.

9) Every firm doing business under more than one state-issued URN shall obtain a license for each number used on products that are offered for sale in Utah.

R70-101-11. Second Hand Law Tags and Tagging Requirements.

1) Tags for second hand materials shall be:

- a) a minimum of 2 inches by 3 inches,
- b) yellow on both sides of the tag,
- c) made of material that cannot be torn,
- d) printed in English,
- e) printed in black ink,
- f) printed clearly and legibly, and
- g) firmly attached to the article.

2) All required information shall be printed on one side of the tag with the opposite side remaining blank.

3) Second hand tag shall contain the following information:

a) the phrase "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height,

b) the phrase, "THIS ARTICLE CONTAINS SECOND HAND MATERIAL CONSISTING OF CONTENTS UNKNOWN" shall appear in the next section of the tag. The words "second hand material" and "contents unknown" shall be in capital letters, size not less than 1/8 inches in height,

c) the phrase, "Certification is made that the materials in this article are described in accordance with law" shall appear in the next section of the tag, and

d) the store name and complete corporate address shall appear next,

4) The tag shall be easily accessible to the consumer for examination.

5) No mark, label, printed matter, illustration, sticker, or any other device shall be placed upon the tag.

R70-101-12. Second Hand Tag and Tagging Requirements for Repaired, Reupholstered, and Renovated Products.

1) Tags for repaired, reupholstered, and renovated products shall be:

- a) a minimum of 2 inches by 3 inches,
- b) yellow on both sides of the tag,
- c) made of material that cannot be torn,
- d) have the required information printed on one side of the tag,
- e) printed in English,
- f) printed in black ink,
- g) printed clearly and legibly, and
- h) firmly attached to the article.

2) All required information shall be printed on one side of the tag with the opposite side remaining blank.

3) Second hand tag shall contain the following information:

a) the phrase, "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER" shall appear in bold at the top of the label in capital letters, no less than 1/8 inch in height,

b) the phrase, "THIS ARTICLE IS NOT FOR SALE OWNER'S MATERIAL" shall appear next in bold 1/8 inch in height,

c) the phrase, "CERTIFICATION IS MADE THAT THIS ARTICLE CONTAINS THE SAME MATERIAL IT DID WHEN RECEIVED FROM THE OWNER AND THAT ADDED

MATERIALS ARE DESCRIBED IN THE ACCORDANCE WITH LAW, AND CONSIST OF THE FOLLOWING:" followed by a description of the filling materials.

- d) a description of the work that was done on the product,
- e) the URN number,
- f) the name and address of the renovator or repairer, and
- g) the date of pick-up, owner's name, and address.

R70-101-13. Used Mattresses.

1) Retailers selling customer returns, refurbished, or used mattresses shall follow the second hand law tag requirements as set out in R70-101-11.

2) In addition, retailers must also display on such mattresses a tag stating "USED" in bold capital letters.

3) The Used tag shall be:

- a) a minimum 3 inches by 6 inches,
- b) yellow on both sides of the tag,
- c) the font shall be a minimum of one inch in height,
- d) printed in black ink, and
- e) printed in English.

4) All required information shall be printed on one side of the tag with the opposite side remaining blank.

5) The USED tag shall be clearly visible to the consumer at all times.

R70-101-14. Variance.

1) The department may issue variances on labeling and tagging requirements.

2) Requests for a variance must be made to the department in writing and must contain the following information:

- a) For what product you are requesting the variance,
- b) where you are going to be using the variance,
- c) an explanation of the need for a variance,
- d) a description of how the variance will be used in practice, and
- e) an example of the label or tag that will be used in place of the required label or tag.

3) Approval of variances will be given from the department in writing.

- 4) All variances shall be subject to a period of review.

R70-101-15. Making or Selling Material or Parts.

1) A person shall not purchase, make, process, prepare, or sell, directly or indirectly, at wholesale or retail, or otherwise, any filling material or other component parts to be used in bedding, upholstered furniture, or quilted clothing, unless such material appropriately tagged.

R70-101-16. Retailer Responsibilities.

1) Retailers shall:

a) ensure that any article of bedding, upholstered furniture, quilted clothing, or filling material they sell is labeled and tagged correctly,

b) comply with the department's laws and rules governing false and misleading advertisement, and

c) ensure that all manufacturers from whom they purchase products hold a valid license with the department.

2) Retailers shall provide the identity of the manufacturer or wholesaler of any article of bedding, upholstered furniture, quilted clothing, or filling material sold upon request of the department.

3) A retailer may register in lieu of the manufacturer or wholesaler if the manufacturer or wholesaler is not registered.

R70-101-17. Violation of this Rule.

1) Each improperly labeled or tagged article of bedding, upholstered furniture, quilted clothing, or filling material made or sold shall be a separate violation of this rule.

2) No person shall be in violation if he has received, from the person by whom the articles were manufactured or from whom they were received, a guarantee in good faith that the articles are not contrary to the provisions of these rules in the form prescribed by the Federal Textile Fiber Products Identification Act, Federal Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.

3) No person shall remove, or cause to be removed, any tag, or device placed upon any article of bedding, upholstered furniture, quilted clothing, or filling material by an inspector.

4) No person may remove an article that has been condemned and ordered held on inspection notice.

5) No person shall interfere with, obstruct, or hinder any inspector of the department in the performance of their duties.

6) Any article of bedding, upholstered furniture, quilted clothing, or filling material manufactured or wholesaled by the manufacturer or wholesaler who is not registered may be withheld from sale until the manufacturer or wholesaler registers.

R70-101-18. Products Not Intended for Uses Subject to This Rule.

1) The Commissioner may exclude from this rule textile fiber products which:

a) Have insignificant or inconsequential textile fiber content, or

b) The disclosure of the textile fiber content is not necessary for the protection of the consumer.

KEY: quality control

Date of Enactment or Last Substantive Amendment: [~~October 22, 2014~~2015]

Notice of Continuation: March 16, 2015

Authorizing, and Implemented or Interpreted Law: 4-10-3

**Alcoholic Beverage Control,
Administration
R81-3-1
Definition**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 39417

FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to define manufacturing facility and allow flexibility in the location of a type 5 package agency so long as the location is within the same parcel of land as the manufacturing licensed premises.

SUMMARY OF THE RULE OR CHANGE: This rule change defines a manufacturing facility (referenced in Subsection 32B-2-605(13)(b)) to include the parcel of land and/or buildings surrounding the manufacturing licensed premises. Current rule requires that the package agency be on the premises of the manufacturing licensed premises. This rule change will allow flexibility for the licensee and the department in determining the most suitable location for a type 5 package agency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Subsection 32B-2-601(4) and Subsection 32B-2-605(13)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--This rule change allows flexibility in the location of a type 5 package agency, there are no anticipated costs or savings as the department's responsibilities remain the same.

♦ **LOCAL GOVERNMENTS:** None--This rule change allows flexibility in approving the location of a type 5 package agency. This rule change affects the department and the licensee. There are no anticipated costs or savings to local government.

♦ **SMALL BUSINESSES:** This rule change allows flexibility in the location of a type 5 package agency. Any additional costs or savings to small businesses would result from a business' decision related to the location of the package agency.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule change allows flexibility in the location of a type 5 package agency. There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule change allows flexibility in the location of a type 5 package agency. Any costs to licensees would be based on a business decision to relocate their package agency to a new location.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change allows flexibility in the location of a type 5 package agency. Any additional cost or savings to businesses would result from a business' decision related to the location of the package agency.

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:

- ♦ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ♦ 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 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.**R81-3. Package Agencies.****R81-3-1. Definitions.**

Package agencies are retail liquor outlets operated by private persons under contract with the department for the purpose of selling packaged liquor from facilities other than state liquor stores for off premise consumption. Package agencies are classified into five types:

Type 1 - A package agency under contract with the department which is operated in conjunction with a resort environment (e.g., hotel, ski lodge, summer recreation area).

Type 2 - A package agency under contract with the department which is in conjunction with another business where the primary source of income to the operator is not from the sale of liquor.

Type 3 - A package agency under contract with the department which is not in conjunction with another business, but is in existence for the main purpose of selling liquor.

Type 4 - A package agency under contract with the department which is located within a facility approved by the commission for the purpose of selling and delivering liquor to tenants or occupants of specific rooms which have been leased, rented, or licensed within the same facility. A type 4 package agency shall not be open to the general public. A type 4 package agency may also sell liquor other than in a sealed container (i.e. by the drink) as part of room service.

Type 5 - A package agency under contract with the department which is ~~located within a winery, distillery, or brewery~~ at a manufacturing facility that has been granted a manufacturing license by the commission.

The commission may grant type 4 package agency privileges to a type 1 package agency.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~[April 28,] 2015~~

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-2-601(4); 32B-2-605(13)(b)

**Alcoholic Beverage Control,
Administration
R81-3-14
Type 5 Package Agencies**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 39418
FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to define manufacturing facility and allow flexibility in the location of a type 5 package agency so long as the location is within the same parcel of land as the manufacturing licensed premises.

SUMMARY OF THE RULE OR CHANGE: This rule change defines a manufacturing facility (referenced in Subsection 32B-2-605(13)(b)) to include the parcel of land and/or buildings surrounding the manufacturing licensed premises. Current rule requires that the package agency be on the premises of the manufacturing licensed premises. This rule change will allow flexibility for the licensee and the department in determining the most suitable location for a type 5 package agency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-202 and Subsection 32B-2-601(4) and Subsection 32B-2-605(13)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** None--This rule change allows flexibility in the location of a type 5 package agency, there are no anticipated costs or savings as the department's responsibilities remain the same.
- ◆ **LOCAL GOVERNMENTS:** None--This rule change allows flexibility in approving the location of a type 5 package agency. This rule change affects the department and the licensee. There are no anticipated costs or savings to local government.
- ◆ **SMALL BUSINESSES:** This rule change allows flexibility in the location of a type 5 package agency. Any additional costs or savings to small businesses would result from a business' decision related to the location of the package agency.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--This rule change allows flexibility in the location of a type 5 package agency. There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule change allows flexibility in the location of a type 5 package agency. Any costs to licensees would be based on a

business decision to relocate their package agency to a new location.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--This rule change allows flexibility in the location of a type 5 package agency. Any additional costs or savings to businesses would result from a business' decision related to the location of the package agency.

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:

- ◆ Andrew Hofeling by phone at 801-977-6835, by FAX at 801-977-6888, or by Internet E-mail at ahofeling@utah.gov
- ◆ 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 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.

R81-3. Package Agencies.

R81-3-14. Type 5 Package Agencies.

(1) Purpose. A type 5 package agency is for the limited purpose of allowing a winery, distillery, or brewery to sell at its manufacturing location the packaged liquor product it actually produces to the general public for off-premise consumption. This rule establishes guidelines and procedures for type 5 package agencies.

(2) Application of Rule.

(a) The package agency must be located [~~on the winery, distillery, or brewery premises~~] at a manufacturing facility [at a location approved] that has been granted a manufacturing license by the commission. For purpose of this rule, a manufacturing facility includes the parcel of land and/or building(s) leased or owned by the manufacturing licensee immediately surrounding the manufacturing premise.

(b) The package agency may only sell products produced at the winery, distillery, or brewery, and may not carry the products of other alcoholic beverage manufacturers.

(c) The product produced by the winery, distillery, or brewery and sold in the type 5 package agency need not be shipped from the winery, distillery, or brewery to the department warehouse and then back to the package agency. The bottles for sale may be moved directly from the manufacturer's storage area to the package agency provided that proper record-keeping is maintained on forms

provided by the department. Records required by the department shall be kept current and available to the department for auditing purposes. Records must be maintained for at least three years. The package agency shall submit to the department a completed monthly sales report form which specifies the variety and number of bottles sold from the package agency. This report must be submitted to the department within the first five working days of the month. A club or restaurant purchases form must be filled out for every licensee purchase.

(d) Direct deliveries to licensees are prohibited. Products must be purchased and picked up by the licensees or their designated agents at the Type 5 package agency.

(e) The type 5 package agency shall follow the same laws, rules, policies, and procedures applicable to other package agencies as to the retail price of products.

(f) The days and hours of sale of the type 5 package agency shall be in accordance with 32B-2-605(13) and R81-3-13.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: [~~April 28,~~ 2015

Notice of Continuation: May 10, 2011

Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-2-601(4); 32B-2-605(13)(b)

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-303-6
12-Month Transitional Medicaid**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 39413
FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to remove the sunset date for the 12-Month Transitional Medicaid program in accordance with the Medicare Access and Children's Health Insurance Program (CHIP) Reauthorization Act of 2015, Pub. L. No. 114-10.

SUMMARY OF THE RULE OR CHANGE: This amendment removes the sunset date for the 12-Month Transitional Medicaid program, thereby extending the program indefinitely. It also makes other clarifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 114-10 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because funding for this program has already been appropriated by the legislature.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid programs nor provide Medicaid services.

◆ **SMALL BUSINESSES:** There is no additional impact to small businesses because they will continue to see revenue through this program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional impact to Medicaid providers because they will continue to see revenue through this program. Medicaid recipients who qualify for the program will also continue to see savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider who will see only revenue through this program. Likewise, there are no out-of-pocket expenses to a single Medicaid recipient who will see only savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact to business because it does not change compliance costs to 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-303. Coverage Groups.****R414-303-6. 12-Month Transitional Medicaid.**

~~[(1)]~~ The Department ~~[adopts and incorporates by reference Title XIX of the Social Security Act Section 1925 in effect January 1, 2013, to]~~ shall provide 12 months of extended medical assistance as set forth in 42 U.S.C. 1396r-6, when the parent or caretaker relative is eligible and enrolled in Medicaid as defined in 42 CFR 435.110, and loses eligibility as described in Subsection 1931(c)(2) of the Social Security Act.

~~[(a)]~~ A pregnant woman who is eligible and enrolled in Medicaid as defined in 42 CFR 435.116, and who meets the income limit defined in 42 CFR 435.110 for three of the prior six months, is eligible to receive 12-month Transitional Medicaid.

~~[(b)]~~ Children who live with the parent are eligible to receive Transitional Medicaid.

~~[(2)]~~ Pub. L. No. 113-93 requires the Transitional Medicaid program to end after March 31, 2015.

KEY: MAGI-based, coverage groups, former foster care youth, presumptive eligibility

Date of Enactment or Last Substantive Amendment: ~~[May 8,] 2015~~

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-306-2
QMB, SLMB, and QI Benefits**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 39414
FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to remove the sunset date for the Qualifying Individual (QI) program in accordance with the Medicare Access and Children's Health Insurance Program (CHIP) Reauthorization Act of 2015, Pub. L. No. 114-10.

SUMMARY OF THE RULE OR CHANGE: This amendment removes the sunset date for the QI program, thereby extending the program indefinitely. It also makes other clarifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 114-10 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because funding for this program has already been appropriated by the legislature.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund Medicaid programs nor provide Medicaid services.

◆ **SMALL BUSINESSES:** There is no additional impact to small businesses because they will continue to see revenue through this program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional impact to Medicaid providers because they will continue to see revenue through this program. Medicaid recipients who qualify for the program will also continue to see savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider who will see only revenue through this program. Likewise, there are no out-of-pocket expenses to a single Medicaid recipient who will see only savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact to business because it does not change compliance costs to 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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-306. Program Benefits and Date of Eligibility.

R414-306-2. QMB, SLMB, and QI Benefits.

[~~(4)~~]The Department [~~must~~shall] provide the services outlined under 42 U.S.C. 1396d(p) and 42 U.S.C. 1396u-3 for Qualified Medicare Beneficiaries.

(2) The Department shall provide[s] the benefits outlined under 42 U.S.C. 1396d(p)(3)(ii) for Specified Low-Income Medicare Beneficiaries and Qualifying Individuals. Benefits for Qualifying Individuals are subject to the provisions of 42 U.S.C. 1396u-3.

(3) The Department does not cover premiums for enrollment with any health insurance plans except for Medicare.

[~~Pub. L. No. 113-93 requires the Qualifying Individuals program to end after March 31, 2015.~~

KEY: effective date, program benefits, medical transportation
Date of Enactment or Last Substantive Amendment: [~~July 1, 2014~~2015]

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18

Health, Center for Health Data, Health Care Statistics
R428-1

Health Data Plan and Incorporated Documents

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39416

FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the version of one document incorporated by reference within Rule R428-1; specifically, Utah Ambulatory Surgical Submittal Manual, Data Element Descriptions and Definitions, Version III, November 2009 should be replaced by Utah Ambulatory Surgery Data Submission Manual, Version IV, March 2015, effective for all ambulatory surgery discharges as 10/01/2015. Clarify data review deadlines where needed to make uniform with requirements in statute.

SUMMARY OF THE RULE OR CHANGE: The changes update material incorporated by reference to reflect technical requirements expected for compliance beginning with ambulatory surgical discharges on 10/01/2015. Also, makes minor technical edits.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates Utah Ambulatory Surgery Data Submission Manual, Version IV, March 2015, published by Utah Department of Health, 03/31/2015

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule amendment updates the version of technical document for submissions to the Ambulatory Surgical Database. The Utah Department of Health (UDOH) determines enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's budget, since the change will not increase workload and can be carried out with existing budget.
- ◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ◆ **SMALL BUSINESSES:** None--Small businesses are not impacted by this rule change, with all potentially impacted having more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Technical changes will not create any cost or savings to businesses, individuals, local governments or persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The most significant changes are format revisions of required submission elements, where needed, to comply with the federal-required transition from ICD-9 to ICD-10. Other changes have been identified as relatively minor and necessary to ensure usefulness of the data for required reporting. These changes are imperative as part of the ICD-10 conversion process and UDOH will continue to work with data suppliers to minimize the programming requirements. Overall cost to impacted health care facilities in the state--specifically to those currently required to comply with the Ambulatory Surgery Data Submittal Guide listed in R01--will total approximately \$300,000 (25 freestanding facilities/systems x \$12,000).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments update the rule to incorporated changes to the Utah Ambulatory Surgical Submittal Manual, Data Element Descriptions and Definitions to Version IV, March 2015. The changes are format revision for required submission elements in the transition from ICD-9 to ICD-10. The changes will have a minor one time financial impact to the 25 freestanding facilities that will be required to make programming changes to their reporting systems.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R428. Health, Center for Health Data, Health Care Statistics.

R428-1. Health Data Plan and Incorporated Documents.

R428-1-1. Legal Authority.

This rule is promulgated in accordance with Title 26, Chapter 33a.

R428-1-2. Purpose.

This rule adopts and incorporates documents related to the collection, analysis, and dissemination of data covered in this title.

R428-1-3. Health Data Plan Adoption.

As required by Section 26-33a-104, the Health Data Committee adopts by rule the health data plan dated October 3, 1991.

R428-1-4. Incorporation by Reference.

The following documents are adopted and incorporated by reference:

(1) Utah Hospital Inpatient Discharge Data Submittal Manual, Data Element Descriptions and Definitions, Version VI, February 2014

(2) Utah Ambulatory [~~Surgical Submittal~~]Surgery Data Submission Manual, [Data Element Descriptions and Definitions, Version III, November 2009]Version IV, March 2015

(3) HEDIS 2014, Volume 3: Specifications for Survey Measures, published by NCQA

(4) HEDIS 2014, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA

(5) Utah All-Payer Claims Database Data Submission Guide Version 2.0

(6) Utah All-Payer Claims Database Data Submission Guide Version 2.1

KEY: health, health policy, health planning

Date of Enactment or Last Substantive Amendment: [December 8, 2014]2015

Notice of Continuation: November 21, 2011

Authorizing, and Implemented or Interpreted Law: 26-33a-104

**Health, Center for Health Data, Health
Care Statistics
R428-11**

**Health Data Authority Ambulatory
Surgical Data Reporting Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39415

FILED: 06/01/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update technical requirements associated with change from ICD-9 to ICD-10, and make appropriate changes to reflect current business practice.

SUMMARY OF THE RULE OR CHANGE: Revise the facility review section to coincide with requirements in existing statute and rule; incorporate technical and conforming edits for adherence to ICD-10; and make other changes to reflect current business practice.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment makes technical changes that improve consistency, clarity, and accuracy of Rule R428-11. The Utah Department of Health (UDOH) determines that these changes will not create any cost or savings impact to the state budget or UDOH's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** None--Small businesses will not be impacted by this rule change--as a result, the rule will have no effect on small business budgets for costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Minor technical changes in Rule R428-11 will not create any cost or savings to businesses, individuals, local governments, or persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected by these changes to Rule R428-11. Although there are several modifications within this amendment, they will not financially impact affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment updates technical reporting requirements due to transition from ICD-9 to ICD-10. The amendment has no cost to business because the changes are technical in nature only.

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

HEALTH CENTER FOR HEALTH DATA, HEALTH CARE STATISTICS 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:

◆ Norman Thurston by phone at 801-538-7052, by FAX at 801-237-0787, or by Internet E-mail at nthurston@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

R428. Health, Center for Health Data, Health Care Statistics. R428-11. Health Data Authority Ambulatory Surgical Data Reporting Rule.

R428-11-1. Legal Authority.

This rule is promulgated under authority granted by Title 26, Chapter 33a, and in accordance with the Health Data Plan.

R428-11-2. Purpose.

This rule establishes the reporting standards for ambulatory surgery data by licensed hospitals and ambulatory surgical facilities. The data will be used to develop and maintain a statewide ambulatory surgical data base.

R428-11-3. Source of Ambulatory Surgical Data.

The reporting sources for ambulatory surgery data are Utah licensed general acute care hospitals and ambulatory surgical facilities.

(1) A general acute care hospital shall report discharge data records for each surgical outpatient discharged from its facility.

(2) An ambulatory surgical facility shall report surgical and diagnostic procedure data records for each patient discharged from its facility.

(3) For a patient with multiple discharges, each hospital or ambulatory surgical facility submitting electronic media shall submit a single data record for each discharge. For a patient with multiple billing claims each hospital or ambulatory surgical facility shall consolidate the multiple billings into a single data record for submission after the patient's discharge.

(4) A hospital or ambulatory surgical facility may designate an intermediary or may submit ambulatory surgery data directly to the Office.

(5) Each hospital and ambulatory surgical facility is responsible for compliance with the rule. Use of a designated intermediary does not relieve the hospital or ambulatory surgical facility of its reporting responsibility.

(6) Each hospital and ambulatory surgical facility shall designate a department or other appropriate entity and a person who is responsible for submitting the discharge data records. This person shall also be responsible for communicating with the Office.

(7) The Department of Health may conduct on-site audits to verify the accuracy of all submittals.

R428-11-4. Data Submittal Schedule.

(1) Each hospital and ambulatory surgical facility shall submit ambulatory surgery data to the Office [outpatient surgical data according to the schedule shown in Table 1].

(2) Each quarterly submission is due no later than the 15th day of the second month following the last day of a calendar quarter. The Director of the Office may approve an alternate schedule as long as it meets the needs of the committee.

[TABLE

(1) DATA-SUBMITTAL-SCHEDULE

Table with 2 columns: IF PATIENT'S DATE OF DISCHARGE IS BETWEEN, DISCHARGE DATA RECORD IS DUE BY. Rows include quarterly periods like January 1 through March 31, April 1 through June 30, etc.

R428-11-5. Data [Element] Reporting.

(1) Each [data supplier] hospital and ambulatory surgical facility shall submit [to the Office information relating to any patient surgical or diagnostic procedure falling within the types described in Table 2, as defined by the corresponding CPT codes and ICD-9-CM codes. In case of changes in the CPT and/or ICD-9-CM codes in future versions, the most current list shall override the lists in Table 2.] ambulatory surgery data described in the Submittal Manual for Ambulatory Surgery Data.

(2) Table 3 lists the required data elements. Each data supplier shall collect and submit all data elements shown in Table 3 based on the specifications in the Submittal Manual for Ambulatory Surgery Data.

(3) Each data supplier shall collect patient social security number as a required data element and report the patient social security number with the complete discharge record according to the submittal schedule.

] (2) Each hospital and ambulatory surgical facility shall submit data for all fields contained in the Submittal Manual for Ambulatory Surgery Data if the data are available to the hospital and ambulatory surgical facility.

[(4)3] The Office shall adopt an encryption method for the patient social security number by creating a record linkage number as the control number.

[(5)4] Each [data supplier]hospital and ambulatory surgical facility shall [submit the reported data elements]submit ambulatory surgery data on encrypted electronic media acceptable to the Office or send them electronically through the Utah Health Information Network or another compatible electronic data interchange network or other secure upload or secure email method.

[TABLE

~~(2) SURGICAL SERVICES TO BE SUBMITTED~~

DESCRIPTION	CPT CODES	ICD-9-CM CODES
Mastectomy	19120-19396	850-8599
Musculoskeletal	20000-29999	760-8499
Respiratory	30000-32999	300-3499
Cardiovascular	33010-37799	350-3999
Lymphatic	38100-38999	400-4199
Diaphragm	39501-39599	
Digestive System	40490-49999	420-5499
Urinary	50010-53899	550-5999
Male Genital	54000-55899	600-6499
Laparoscopy	56300-56399	
Female Genital	56405-58999	650-7199
Endocrine/Nervous	60000-64999	010-0799
Eye	65091-68899	080-1699
Ear	69000-69979	180-2099
Heart Catheterization	93501-93660	3721-3723
Nose, Mouth, Pharynx		210-2999

NOTE (1): IF PERFORMED IN OPERATING OR PROCEDURE ROOM

TABLE

~~(3) REQUIRED DATA ELEMENTS~~

CATEGORY:	NAME:
Provider	
1	Medical care provider identifier
Patient	
2	Patient control number
3	Patient's medical chart number
4	Patient's Social Security Number
5	Patient's postal zip code for address
6	Patient's date of birth
7	Patient's gender
Service	
8	Admission date
9	Source of admission
10	Patient's status
11	Discharge date
Diagnosis and Treatment	
12	Diagnosis codes
13	Procedure codes
14	Date of principal procedure
15	Modifiers for procedure codes
16	ICD9 Procedure Codes
17	Related Diagnosis Codes
Charge	
18	Statement covers period
19	Total facility charge
20	Primary, secondary, and third sources of payment

Physician

21	Performing physician ID
22	Additional physicians' IDs
23	Type of bill (for hospital, if applicable)

]KEY: health, hospital policy, health planning
Date of Enactment or Last Substantive Amendment: ~~August 5, 2014~~2015
Notice of Continuation: November 14, 2012
Authorizing, and Implemented or Interpreted Law: 26-33a-104; 26-33a-108

Human Services, Child and Family Services

R512-300

Out-of-Home Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39409

FILED: 05/21/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule modification is to bring the rule in line with current statute and practice.

SUMMARY OF THE RULE OR CHANGE: This rule change is intended to correct references to statute and make the rule technically correct with current practice.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.
- ◆ **LOCAL GOVERNMENTS:** Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.
- ◆ **SMALL BUSINESSES:** Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Child and Family Services determined that there will be no compliance costs for affected persons because there are no specific costs involved with the changes being made to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: Brent Platt, Director

R512. Human Services, Child and Family Services.

R512-300. Out-of-Home Services.

R512-300-1. Purpose and Authority.

(1) The purposes of Out-of-Home Services are:

(a) To provide a temporary, safe living arrangement for a child placed in the custody of the Division of Child and Family Services (Child and Family Services) or the Department of Human Services by court order or through voluntary placement by the child's parent or legal guardian.

(b) To provide services to protect the child and facilitate the safe return of the child home or to another permanent living arrangement.

(c) To provide safe and proper care and address the child's needs while in state custody.

(2) Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services to provide Out-of-Home Services and 42 USC Section 672 authorizes federal foster care. 42 USC Sections 671 and 672 (2007), and 45 CFR Parts 1355 and 1356 (2008) are incorporated by reference.

(3) This rule is authorized by Section 62A-4a-102.

R512-300-2. Definitions.

The following terms are defined for the purposes of this rule:

(1) "Custody by court order" means temporary custody or custody authorized by Sections 78A-6-117 or 78A-6-322. It does not include protective custody.

(2) "Child and Family Services" means the Division of Child and Family Services.

(3) "Department" means the Department of Human Services.

(4) "Least restrictive" means most family-like.

(5) "Placement" means living arrangement.

R512-300-3. Scope of Services.

(1) Qualification for Services. Out-of-Home Services are provided to:

(a) A child placed in the custody of Child and Family Services by court order and the child's parent or guardian, if the court orders reunification;

(b) A child placed in the custody of the Department by court order for whom Child and Family Services is given primary responsibility for case management or for payment for the child's placement, and the child's parent or guardian if reunification is ordered by the court;

(c) A child voluntarily placed into the custody of Child and Family Services and the child's parent or guardian.

(2) Service Description. Out-of-Home Services consist of:

(a) Protection, placement, supervision, and care of the child;

(b) Services to a parent or guardian of a child receiving Out-of-Home Services when a reunification goal is ordered by the court or to facilitate return of a child home upon completion of a voluntary placement.

(c) Services to facilitate another permanent living arrangement for a child receiving Out-of-Home Services if a court determines that reunification with a parent or guardian is not required or in the child's best interests.

(3) Availability. Out-of-Home Services are available in all geographic regions of the state.

(4) Duration of Services. Out-of-Home Services continue until a child's custody is terminated by a court or when a voluntary placement agreement expires or is terminated.

(5) As specified in Section 62A-4a-415, Child and Family Services may not consent to the interview of a child in state custody by a law enforcement officer, unless consent for the interview is obtained from the child's Guardian ad Litem. This provision does not apply if a Guardian ad Litem is not appointed for the child.

R512-300-4. Child and Family Services Responsibility to a Child Receiving Out-of-Home Services.

(1) Child and Family Team.

(a) With the family's assistance, a [e]Child and [f]Family [t]Team shall be established for each child receiving Out-of-Home Services.

(b) At a minimum, the [e]Child and [f]Family [t]Team shall assist with assessment, [e]Child and [f]Family [p]Plan development, and selection of permanency goals; oversee progress towards completion of the plan; provide input into adaptations to the plan; and recommend placement type or level.

(2) Assessment.

(a) A written assessment is completed for each child placed in the custody of Child and Family Services through court order or voluntary placement and for the child's family.

(b) The written assessment evaluates the child and family's strengths and underlying needs.

(c) The type of assessment is determined by the unique needs of the child and family, such as cultural considerations, special medical or mental health needs, and permanency goals.

(d) Assessment is ongoing.

(3) Child and Family Plan.

(a) Based upon an assessment, each child and family receiving Out-of-Home Services shall have a written [e]Child and [f]Family [p]Plan in accordance with Section 62A-4a-205.

(b) The child's parent or guardian and other members of the [e]Child and [f]Family [t]Team shall assist in creating the plan based on the assessment of the child and family's strengths and needs.

(c) In addition to requirements specified in Section 62A-4a-205, the [e]Child and [f]Family [p]Plan shall include the following to facilitate permanency:

(i) The current strengths of the child and family as well as the underlying needs to be addressed.

(ii) A description of the type of placement appropriate for the child's safety, special needs, and best interests, in the least restrictive setting available and, when the goal is reunification, in reasonable proximity to the parent. If the child with a goal of reunification has not been placed in reasonable proximity to the parent, the plan shall describe reasons why the placement is in the best interests of the child.

(iii) Goals and objectives for assuring the child receives safe and proper care, including the provision of medical, dental, mental health, educational, or other specialized services and resources.

(iv) If the child is age 14 years or older, a written description of the programs and services to help the child prepare for the transition from foster care to independent living in accordance with Rule R512-305.

(v) A visitation plan for the child, parents, and siblings, unless prohibited by court order.

(vi) Steps for monitoring the placement and plan for worker visitation and supports to the Out-of-Home caregiver for a child placed in Utah or out of state.

(vii) If the goal is adoption or placement in another permanent home, steps to finalize the placement, including child-specific recruitment efforts.

(d) The [e]Child and [f]Family [p]Plan is modified when indicated by changing needs, circumstances, progress towards achievement of service goals, or the wishes of the child, family, or [e]Child and [f]Family [t]Team members.

(e) A copy of the completed [e]Child and [f]Family [p]Plan shall be provided to the parent or guardian, Out-of-Home caregiver, juvenile court, [a]Assistant [a]Attorney [g]General, [g]Guardian ad [t]Item, legal counsel for the parent, and the child, if the child is able to understand the plan.

(4) Permanency Goals.

(a) A child in Out-of-Home care shall have a primary permanency goal and a concurrent permanency goal identified by the [e]Child and [f]Family [t]Team.

(b) Permanency goals include:

(i) Reunification.

(ii) Adoption.

(iii) Guardianship (Relative).

(iv) Guardianship (Non-Relative).

(v) Individualized Permanency.

(c) For a child whose custody is court ordered, both primary and concurrent permanency goals shall be submitted to the court for approval.

(d) The primary permanency goal shall be reunification unless the court has ordered that no reunification efforts be offered.

(e) A determination that Transition to Adult Living services are appropriate for a child does not preclude adoption as a primary permanency goal. Enrollment in Transition to Adult Living services can occur concurrently with continued efforts to locate and achieve placement of an older child with an adoptive family.

(5) Placement.

(a) A child receiving Out-of-Home Services shall receive safe and proper care in an appropriate placement according to placement selection criteria specified in Rule R512-302.

(b) The type of placement, either initial or change in placement, is determined within the context of the [e]Child and [f]Family [t]Team utilizing a need level screening tool designated by Child and Family Services.

(c) Placement decisions are based upon the child's needs, strengths, and best interests.

(d) The following factors are considered in determining placement:

(i) Age, special needs, and circumstances of the child;

(ii) Least restrictive placement consistent with the child's needs;

(iii) Placement of siblings together;

(iv) Proximity to the child's home and school;

(v) Sensitivity to cultural heritage and needs of a minority child;

(vi) Potential for adoption.

(e) A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the Out-of-Home caregiver or the child involved.

(f) Placement of an Indian child shall be in compliance with the Indian Child Welfare Act, 25 USC Section 1915 (2007), which is incorporated by reference.

(g) When a young woman in state custody is the mother of a child and desires and is able to parent the child with the support of the Out-of-Home caregiver, the child shall remain in the Out-of-Home placement with the mother. Child and Family Services shall only petition for custody of the young woman's child if there are concerns of abuse, neglect, or dependency in accordance with Section 78A-6-322.

(h) The [e]Child and [f]Family [t]Team may recommend a Transition to Adult Living placement for a child age 14 years or older in accordance with Rule R512-305 when in the child's best interests.

(6) Federal Benefits.

(a) Child and Family Services may apply for eligibility for Title IV-E foster care and Medicaid benefits for a child receiving Out-of-Home Services. Information provided by the parent or guardian, as specified in Rule R512-301, shall be utilized in determining eligibility.

(b) Child and Family Services may apply to be protective payee for a child in state custody who has a source of unearned income, such as Supplemental Security Income or Social Security Income. A representative payee account shall be maintained by Child and Family Services for management of the child's income. The unearned income shall be utilized only towards costs of the child's care and personal needs in accordance with requirements of the regulating agency.

(7) Visitation with Familial Connections.

(a) The child has a right to purposeful and frequent visitation with a parent or guardian and siblings, unless the court orders otherwise.

(b) Visitation is not a privilege to be earned or denied based on behavior of the child or the parent or guardian.

(c) Visitation may be supplemented with telephone calls and written correspondence.

(d) The child also has a right to communicate with extended family members, the child's attorney, physician, clergy, and others who are important to the child.

(e) Intensive efforts shall be made to engage a parent or guardian in continuing contacts with a child, when not prohibited by court order.

(f) If clinically contraindicated for the child's safety or best interests, Child and Family Services may petition the court to deny or limit visitation with specific individuals.

(g) Visitation and other forms of communication with familial connections shall only be denied when ordered by the court.

(h) A parent whose parental rights have been terminated does not have a right to visitation.

(8) Out-of-Home Worker Visitation with the Child.

(a) The Out-of-Home worker shall visit with the child to ensure that the child is safe and is appropriately cared for while in an Out-of-Home placement. If the child is placed out of the area or out of state, arrangements may be made for another worker to perform some of the visits. The [e]Child and [f]Family [t]Team shall develop a specific plan for the worker's contacts with the child based upon the needs of the child.

(9) Case Reviews.

(a) Pursuant to Sections 78A-6-313 and [~~73-3a-312~~]78A-6-315, periodic reviews of court ordered Out-of-Home Services shall be held no less frequently than once every six months.

(b) Child and Family Services shall seek to ensure that each child receiving Out-of-Home Services has timely and effective case reviews and that the case review process:

(i) Expedites permanency for a child receiving Out-of-Home Services,

(ii) Assures that the permanency goals, [e]Child and [f]Family [p]Plan, and services are appropriate,

(iii) Promotes accountability of the parties involved in the child and family planning process, and

(iv) Monitors the care for a child receiving Out-of-Home Services.

(10) Maximum Number of Children in Out-of-Home Care.

(a) At no time during the fiscal year will the proportion of children in Out-of-Home care for over 24 months exceed one-third of the total number of children currently in Out-of-Home care.

(b) On an annual basis, the statewide quality improvement committee (also known as the Child Welfare Improvement Council) will review data on the proportion of children in foster care over 24 months and the steps taken by Child and Family Services to ensure that proportion is not exceeded. As appropriate, recommendations for improvement will be made from the committee to Child and Family Services administration.

KEY: social services, child welfare, domestic violence, child abuse
Date of Enactment or Last Substantive Amendment: [~~August 11,~~ 2010]2015

Notice of Continuation: May 16, 2013

Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 42 U.S.C. 671

Insurance, Title and Escrow Commission R592-6 Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39412
FILED: 05/29/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was requested by the Title and Escrow Commission, which has rulemaking authority, and the title and escrow industry. It includes changes that clarify certain provisions and others that make it easier for title producers to operate more effectively.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies how often a title producer may teach continuing education at the office of a client. Due to technological advances, the change updates what information a title producer may provide a client in a property profile, and the methods they may use to do so. It also updates a number of methods that would constitute unfair competition or marketing, and adds a number of permitted competitive and marketing practices. The amendment includes some nonsubstantive changes, and a definition for the term "title producer." All changes in the rule were made at the behest of the Title and Escrow Commission and the industry.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There will be no cost or savings to the state budget, because the rule changes only affect continuing education and competitive methods in the title and escrow industry. No additional staffing, costs, or fees are anticipated.

◆ **LOCAL GOVERNMENTS:** Local government will not be affected because the rules govern the relationships between title producers and their clients; title producers and their competitors; and title producers and the state.

◆ **SMALL BUSINESSES:** Small businesses in the title and escrow industry may see savings due to one amended subsection. The relevant subsection, R592-6-5(7)(c), lowers the allowable cost of a business meal or activity to \$50 per person, per day (down from \$100). Small businesses could see savings in this area, depending on how frequently they host business meals or activities. The department is unable to determine the actual amount of the savings because data does not exist regarding how often small businesses host business meals or activities.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons in the title and escrow industry may see savings due to Subsection R592-6-5(7)(c). This subsection lowers the allowable cost of a business meal or activity to \$50 per person, per day (down from \$100). Persons could see savings in this area, depending on how frequently they host business meals or activities. The department is unable to determine the actual amount of the savings because data does not exist regarding how often persons host business meals or activities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs as a result of this amendment. No changes have any required costs or fees whatsoever.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this amendment were requested by the Title and Escrow Commission and came as a result of several months of discussion with the industry. They will clarify several aspects of the rule and will help title producers do business more effectively.

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

INSURANCE
TITLE AND ESCROW COMMISSION
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:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/22/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 07/13/2015 09:00 AM, Senate Bldg, 420 N State St, Copper Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/29/2015

AUTHORIZED BY: Todd Kiser, Commissioner

R592. Insurance, Title and Escrow Commission.**R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.****R592-6-1. Authority.**

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

R592-6-2. Purpose and Scope.

(1) The purpose of this rule is to identify certain practices, which the Commission finds creates unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer.

(2) This rule applies to all [~~title insurers, agency title insurance producers, individual title insurance producers~~]title producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R592-6-3. Definitions.

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and 31A-2-402, and the following:

(1) "Bona fide real estate transaction" means:

(a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or

(b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.

(2) "Business Activities" shall include sporting events, sporting activities, musical and art events. In no case shall such business activities rise to the level of ceremonies, for example, award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.

(3) "Business meals" shall include breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals raise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.

(4)(a) "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession or occupation of:

- (i) buying or selling interests in real property; and
- (ii) making loans secured by interests in real property.

(b) "Client" includes real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies and the employees, agents, representatives, solicitors and groups or associations of any of the foregoing.

(5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.

(6) "Official trade association publication" means:

(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(b) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.

(7) "Title insurance business" means the business of title insurance and the conducting of escrow.

(8) "Title producer" means a title insurer, agency title insurance producer, or individual title insurance producer.

(8) "Trade Association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

R592-6-4. Unfair Methods of Competition, Acts and Practices.

In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties identified in Section R592-6-2 to any client, either directly or indirectly, except as ~~specifically~~ allowed in Section R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition.

(1) The furnishing of a title insurance commitment when the title producer is aware that no policy is intended to be issued without one of the following:

(a) sufficient evidence in the file of the ~~title insurer, agency title insurance producer or individual title insurance producer~~ title producer that a bona fide real estate transaction or listing agreement exists; or

(b) ~~payment in full at the time the title insurance commitment is provided;~~ request from a proposed insured to issue a title insurance commitment together with a payment of a minimum cancellation fee of \$200.

(2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

(3) Furnishing escrow services pursuant to Section 31A-23a-406:

(a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or

(b) the ~~filing~~ furnishing of ~~charges for~~ escrow services ~~with the Utah Insurance Commissioner (commissioner)~~, for a charge, which are less than the actual cost of providing the services.

(4) Waiving all or any part of established fees or charges for services which are not the subject of rates or escrow charges filed with the commissioner.

(5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.

(7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space which is occupied by any client.

(8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a ~~title insurer's, title agency title insurance producer's, or individual title insurance producer's~~ title producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association, for anything other than the providing of escrow or title services, or meetings related to such, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) The co-habitation or sharing of office space with a client of a ~~title insurer, agency title insurance producer, or individual title insurance producer~~ title producer.

(11) Furnishing all or any part of the time or productive effort of any employee of the ~~title insurer, agency title insurance producer or individual title insurance producer~~ title producer, for example, secretary, clerk, messenger or escrow officer, to any client.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

(14) Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, or for the prepayment of fees and charges of a client or party to the transaction, for example subordination, loan or HOA payoff request fees, whose services are required by any party or client to structure or complete a particular transaction. This subsection does not include the prepayment of overnight delivery/mail fees that will be recovered through closing of a transaction.

(15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5~~(6)~~.

Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5[(2)] or otherwise providing things of value for promotional activities of a client. [~~Title insurers, agency title insurance producers or individual title insurance producers~~]Title producers may attend activities of a client if there is no additional cost to the [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer, other than their own entry fees, registration fees, meals, and provided that these fees are no greater than those charged to clients or others attending the function.

(17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as providing a thing of value.

(18) Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;
- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) Newsletters cannot be property specific or cannot highlight specific customers.

(20) [~~A title insurer, agency title insurance producer or individual title insurance producer cannot provide a client access to any software accounts that are utilized to access real property information that the insurer, agency title insurance producer or individual title insurance producer pays for, develops, or pays to maintain. Closing software is exempt as long as it is used for a specific closing.]~~A title producer cannot provide a client access to any real property information that the title producer pays to produce, develop, or maintain, except as otherwise permitted by R592-6-5.

(21)(a) A [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer cannot provide title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by said [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer, including its owners or employees.

(b) Subsection (21)(a) does not apply to such transactions involving seller financing.

(22) Paying for any advertising on behalf of a client.

(23) Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer may advertise independently that it has

provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer.

(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(25) A donation may not be made to a charitable organization created, controlled or managed by a client.

(26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).

(27) [~~Title insurers, agency title insurance producers or individual title insurance producers~~]Title producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

R592-6-5. Permitted Advertising, Business Entertainment, and Methods of Competition.

Except as specifically prohibited in Section R592-6-4 above, the following are permitted:

(1) In addition to complying with the provisions of 31A-23a-402 and R590-130, Rules Governing Advertisements of Insurance, advertisement by [~~title insurers, agency title insurance producers or individual title insurance producers~~]title producers must comply with the following:

(a) the advertisement must be purely self-promotional; and

(b) advertisement in official trade association publications are permissible as long as any [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.

(2) A title producer may use free or paid social media services to promote its own business as long as such social media services are open and available to the general public. Additionally, the following shall be permitted and are not in violation of R592-6-4(22) and (24):

(a) a title producer may write or post on social media services about an event that directly involves the title producer and a client, and it may reference or link to the client's social media page or the client company's social media page; and

(b) a title producer may share, like, respond to, or comment on a client's social media page, post, or event as long as such action is free of charge. Paying a fee to share, like, respond, or comment on any social media service that involves a client or to increase visibility, ranking, or distribution of any social media involving a client is not an allowed exception to R592-6-4(22) and (24).

[(2)3] A [~~title insurer, agency title insurance producer or individual title insurance producer~~]title producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.

~~(3)4~~ A ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer may not expend more than \$15 per guest per open house. The expenditures per guest may not be in the form of a gift, gift certificate, or coupons. The open house may take place on or off the ~~[title insurer's, agency title insurance producer's or individual title insurance producer's]~~title producer's premises but may not take place on a client's premises.

~~(4)5~~ A donation to a charitable organization must:

- (a) not be paid in cash;
- (b) if paid by a negotiable instrument, be made payable only to the charitable organization;
- (c) be distributed directly to the charitable organization; and
- (d) not provide any benefit to a client.

~~(5)6~~ A ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer may distribute self-promotional items having a value of ~~[\$5]\$10~~ or less, including taxes, setup fees, shipping, and the like, to clients, consumers and members of the general public. These self-promotional items shall be novelty ~~[gifts]~~items which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

~~(6)7~~ A ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:

- (a) the person representing the ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer must be present during the business meal or business activity;
- (b) there is a substantial title insurance business discussion directly before, during or after the business meal or business activity;
- (c) the total cost of the business meal, the business activity, or both is not more than ~~[\$100]\$50~~ per person, per day;
- (d) no more than three individuals from an office of a client may be provided a business meal or business activity by a ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer in a single day; and
- (e) the entire business meal or business activity may take place on or off the ~~[title insurer's, agency title insurance producer's or individual title insurance producer's]~~title producer's premises, but may not take place on a client's premises.

~~(7)8~~ A ~~[title insurer, agency or producer]~~title producer may conduct continuing education programs that are approved by the appropriate regulatory agency, under the following conditions:

- (a) the continuing education program shall address only title insurance, escrow or other topics ~~[directly]~~related thereto;
- (b) the continuing education program must be of at least one hour in duration;
- (c) for each hour of continuing education, \$15 or less per person may be expended, including the cost of meals and refreshments; and

~~(8)9~~ (d) no more than one such continuing education program may be conducted at ~~[the office]~~each individual, physical office location of a client per calendar quarter.

~~(9)10~~ A ~~[title insurer, agency title insurance producer or individual title insurance producer]~~title producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of the client's immediate family with flowers or gifts not to exceed \$75.

~~Any other advertising, business entertainment, or method of competition must be requested in writing and approved in advance and in writing by the Commission.~~

~~(10)11~~ A title producer may provide a property profile to a client through any means, including copies thereof. The property profile may include not more than the following:

- (a) the last vesting deed of public record;
- (b) a plat map reproduction and/or locator map;
- (c) tax and property characteristics information from the Treasurer's and Assessor's offices; and
- (d) Covenants, Conditions and Restrictions.

~~(11)12~~ A title producer may provide clients access to water, beverages, and edible treats at the title producer's premises.

~~(12)13~~ A title producer may provide a client the documents used to produce a title commitment. The title producer may provide access to the documents used to produce the title commitment through any means.

~~(13)14~~ A title producer may provide a client access to closing software as long as the access is related to a specific transaction identified in the title commitment.

R592-6-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R592-6-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: title insurance

Date of Enactment or Last Substantive Amendment: ~~August 9, 2011~~**2015**

Notice of Continuation: June 13, 2014

Authorizing, and Implemented or Interpreted Law: 31A-2-404

Public Safety, Criminal Investigations and Technical Services, Criminal Identification **R722-330** Licensing of Private Investigators

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39410

FILED: 05/27/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Information in the rule contradicts the language in Section 53-9-115 and needs to be removed.

SUMMARY OF THE RULE OR CHANGE: Information in the rule contradicts the language in Section 53-9-115. This amendment will remove the contradictory language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53, Chapter 9

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: No aggregate anticipated cost or savings to the state budget. The amendment removes contradictory language, thus there is no anticipated cost or savings to the state budget.

◆ LOCAL GOVERNMENTS: No aggregate anticipated cost or savings to local government. The amendment removes contradictory language, thus there is no anticipated cost or savings to local government.

◆ SMALL BUSINESSES: No aggregate anticipated cost or savings to small businesses. The amendment removes contradictory language, thus there is no anticipated cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendment removes contradictory language, thus there is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs as the amendment removes language that is contradictory to state statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This should not have any particular effect on business as only contradictory language will be removed and bring the rule into line with the statute.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES,
CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.**R722-330. Licensing of Private Investigators.****R722-330-1. Purpose.**

The purpose of this rule is to establish procedures for the licensing of private investigator agencies, registrants, and apprentices.

R722-330-2. Authority.

This rule is authorized by Subsections 53-9-103(2)(c) and 53-9-103(6).

R722-330-3. Definitions.

- (1) Terms used in this rule are defined in Section 53-9-102.
- (2) In addition:
- (a) "act involving moral turpitude" means conduct which:
- (i) is done knowingly contrary to justice, honesty, or good morals;
- (ii) has an element of falsification or fraud; or
- (iii) contains an element of harm or injury directed to another person or another's property;
- (b) "FBI" means the Federal Bureau of Investigation;
- (c) "felony" means a crime under the laws of this state, any other state, the United States, or any district, possession, or territory of the United States for which the penalty is a term of imprisonment in excess of one year;
- (d) "legal resident of this state" means a person who has established a domicile in Utah, as that term is defined in Section 41-1a-202;
- (e) "license" means a license for a private investigator agency, registrant, or apprentice;
- (f) "revocation" means the permanent deprivation of a private investigator license, however revocation of a private investigator license does not preclude an individual from applying for a new private investigator license if the reason for revocation no longer exists; and
- (g) "suspension" means the temporary deprivation, for a specified period of time, of a private investigator license.

R722-330-4. Application for Licensure.

- (1)(a) An applicant seeking to obtain a license shall submit a completed application packet to the bureau.
- (b) The application packet shall include:
- (i) a written application form provided by the bureau with the applicant's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the applicant's name written on the back of the photograph, unless the applicant submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a photocopy of a driver license or identification card issued by the state of Utah;

(iv) one completed FBI applicant fingerprint card (Form FD-258) with the applicant's legible fingerprints; and

(v) the non-refundable license and registration fee in the amount indicated in Section 53-9-111 plus the FBI fingerprint processing fee, in the form of cash, check, money order, or credit card.

(2) If an applicant is applying for an agency license, the applicant shall also provide:

(a) the name under which the applicant intends to do business;

(b) a completed Verification of Investigative Experience Form which documents that the applicant has performed 10,000 hours of investigative experience as provided in Subsection 53-9-108(3);

(c) a certificate of liability insurance for the applicant in an amount of not less than \$500,000 as described in Subsection 53-9-109(3); and

(d) a certificate of workers' compensation insurance, if applicable.

(3) If the applicant is applying for a registrant license, the applicant shall also provide:

(a) the name of the licensed agency for which the applicant will be an employee or independent contractor;

(b) authorization from a licensed agency indicating that the agency will employ or contract with the applicant;

(c) a completed Verification of Investigative Experience Form which documents that the applicant has performed 2,000 hours of investigative experience as provided in Subsection 53-9-108(3); and

(d) a surety bond for the applicant in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

(4) If the applicant is applying for an apprentice license, the applicant shall also provide:

(a) the name of the licensed agency for which the applicant will be an employee or independent contractor;

(b) authorization from a licensed agency indicating that the agency will employ or contract with the applicant; and

(c) a surety bond for the applicant in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

R722-330-5. Verification of Investigative Experience.

(1)(a) When completing the Verification of Investigative Experience Form for an agency or registrant license, the applicant shall describe, in detail, the number of hours and the type of investigative work which the applicant performed.

(b) The investigative experience shall have been performed within ten years from the date of the application while the applicant was working as a licensed private investigator or an investigator for a governmental entity.

(c)(i) The Verification of Investigative Experience Form shall be certified by the private investigator or governmental employer for whom the applicant performed the investigative work.

(ii) If the applicant is unable to provide certification from a private investigator or governmental employer, the applicant may

provide certification from the individual for whom the applicant performed the investigative work.

(2) An applicant seeking to receive credit towards the investigative experience requirement for licensure under Subsection 53-9-108(5), shall provide written documentation of the degree or certification for which the applicant is seeking credit.

R722-330-6. Issuance of License.

(1)(a) Upon receipt of a completed application packet, the bureau shall conduct a thorough background investigation to determine if the applicant meets the requirements for licensure.

(b) Once the background check is complete, the bureau shall submit the completed application packet to the board for review, unless the application is for an apprentice license.

(c)(i) The bureau shall review all applications for apprentice licenses to determine whether the applicants meet the requirements for licensure.

(ii) If the bureau finds that an applicant for an apprentice license meets the requirements for licensure, the bureau shall issue the apprentice license within five days.

(iii) If the bureau finds that an applicant for an apprentice license does not meet the requirements for licensure, the bureau shall submit the application to the board.

(2)(a) The board shall review all application packets submitted by the bureau to determine whether an applicant meets the requirements for licensure.

(b) If the board determines that an applicant meets the requirements for licensure, the board shall direct the bureau to issue the license.

(3) If the background check indicates that an applicant does not meet the qualifications set forth in Subsection 53-9-108(1)(b), the board shall consider any mitigating circumstances submitted by the applicant.

(4)(a) If the board determines that an applicant does not meet the qualifications for licensure the board shall deny the application.

(b) The board shall issue a written denial which states the reasons why the license was denied and indicates that the applicant may request a hearing before the board by filing a written request within 30 calendar days from the date the board's written denial was issued.

(5)(a) If the applicant requests a hearing, the board shall conduct an informal hearing during which the applicant may present evidence and testimony in response to evidence and testimony presented by the bureau.

(b) The board shall issue a written decision, within ten business days of the hearing, which states the reason for the decision and indicates that the decision may be reviewed by the commissioner if the applicant files a written request for review with the commissioner within 30 calendar days.

(6)(a) If the applicant requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the applicant, and the findings of the board.

(b) The commissioner shall issue a written decision, within 30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the applicant may appeal

to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-7. Renewal of a License.

(1)(a) The bureau shall mail a renewal notice to a licensee at the last provided address, approximately 90 days prior to the expiration of the licensee's license.

(2)(a) A licensee seeking to renew a license shall submit a completed renewal packet to the bureau.

(b) The renewal packet shall include:

(i) a written renewal form provided by the bureau with the licensee's residential or physical address and mailing or business address;

(ii) one recent color photograph of passport quality which contains the licensee's name written on the back of the photograph, unless the licensee submitted a photo which meets these requirements to the bureau within the previous three years;

(iii) a photocopy of a driver license or identification card issued by the state of Utah; and

(iv) a non-refundable processing fee in the form of cash, check, money order, or credit card in the amount required by Section 53-9-111.

(3) If the licensee has an agency license, the licensee must also provide evidence that the licensee has a valid certificate of:

(a) liability insurance for the licensee in an amount of not less than \$500,000 as described in Subsection 53-9-109(3); and

(b) workers' compensation insurance, if applicable.

(4) If the licensee has a registrant or an apprentice license, the licensee must provide evidence that the licensee has a valid surety bond for the licensee in an amount of not less than \$10,000 as described in Subsection 53-9-110(3).

(5) A licensee whose license has been expired for more than 90 days, shall reapply and meet all requirements found in R722-330-4.

(6) If the licensee meets the qualifications for renewal the bureau shall renew the license.

(7)(a) If the bureau determines that the licensee does not meet the qualifications for renewal the bureau shall deny the renewal.

(b) The bureau's written denial shall state the reasons why the renewal was denied and indicate that the licensee may request a hearing before the board by filing a written request within 30 calendar days from the date the bureau's written denial was issued.

(8)(a) If the licensee requests review by the board, the board shall conduct an informal hearing during which the licensee may present evidence and testimony in response to evidence and testimony presented by the bureau.

(b) The board shall issue a written decision, within ten business days of the hearing, which states the reason for the decision, and indicates that the decision may be reviewed by the commissioner if the licensee files a written request for review with the commissioner within 30 calendar days.

(9)(a) If the licensee requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the licensee, and the findings of the board.

(b) The commissioner shall issue a written decision, within 30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the licensee may appeal to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-8. Suspension and Revocation of a License.

(1) The bureau shall conduct an investigation, as provided in Section 53-9-117, if the bureau is made aware of an allegation that a licensee has engaged in conduct in violation of Section 53-9-118.

(2) The bureau shall notify a licensee who is the subject of an investigation of the date and time of the board meeting where the board will consider the bureau's investigative findings.

(3) The board shall conduct an informal hearing during which the licensee may present evidence and testimony in response to the bureau's investigative findings and recommendations.

(4) The board shall issue a written decision, within ten business days after the hearing, which states the reasons for the board's decision, and indicates that the licensee may appeal to the commissioner by filing a written request within 15 calendar days from the date that the board's written decision was issued.

(5)(a) If the licensee requests review of the board's decision, the commissioner or his designee shall review the materials in the bureau's file, any materials submitted by the licensee, and the findings of the board.

(b) The commissioner shall issue a written decision, within 30 calendar days from the date of the request for review, which states the reasons for the decision and indicates that the licensee may appeal to the district court by complying with the requirements found in Section 63G-4-402.

R722-330-9. Records Access.

~~[(1)(a) Information other than name and mailing or business address supplied to the division by an applicant or licensee, including a completed application or renewal form, shall be considered "private" information in accordance with Subsection 63G-2-302(2)(d).~~

~~[(b) The names of licensees and their mailing or business address shall be considered public information.~~

[(2)1(a) Information gathered by the division in the course of investigating an application or complaint shall be considered "protected" information in accordance with Subsection 63G-2-305(10)(9)].

(b) If such information is used as the basis for the denial, suspension, or revocation of a license, the applicant or licensee shall be entitled to access the information.

KEY: private investigators, license

Date of Enactment or Last Substantive Amendment: [January 7,] 2015

Notice of Continuation: January 7, 2015

Authorizing, and Implemented or Interpreted Law: 53-9-101 through 53-9-119

**Public Safety, Criminal Investigations
and Technical Services, Criminal
Identification
R722-380
Firearm Background Check Information**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39411

FILED: 05/27/2015

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide guidelines for acceptable forms of identification (driver licenses and identification cards). Acceptable forms of identification must be issued by state government and they must be verifiable.

SUMMARY OF THE RULE OR CHANGE: The rule is being amended to provide guidelines for acceptable forms of identification (driver licenses and identification cards). Acceptable forms of identification must be issued by state government and they must be verifiable.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 76-10-526

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No aggregate anticipated cost or savings to the state budget. The amendment is providing guidelines for acceptable forms of identification. This rule will not affect the state budget nor are there any anticipated costs or savings.
- ◆ **LOCAL GOVERNMENTS:** No aggregate anticipated cost or savings to local government. The amendment is providing guidelines for acceptable forms of identification. This rule will not affect local government nor are there any anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** No aggregate anticipated cost or savings to small businesses. The amendment is providing guidelines for acceptable forms of identification. This rule will not affect small businesses nor are there any anticipated costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendment is providing guidelines for acceptable forms of identification. This rule will not affect persons other than small businesses, businesses, or local government entities nor are there any anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this provides guidelines for acceptable forms of identification.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This should not have any particular effect on businesses as this addresses guidelines for acceptable forms of identification.

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

PUBLIC SAFETY
CRIMINAL INVESTIGATIONS AND TECHNICAL
SERVICES,
CRIMINAL IDENTIFICATION
3888 W 5400 S
TAYLORSVILLE, UT 84118
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Alice Moffat by phone at 801-965-4939, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2015

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2015

AUTHORIZED BY: Alice Moffat, Bureau Chief

R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.

R722-380. Firearm Background Check Information.

R722-380-1. Authority.

This rule is authorized by Subsection 76-10-526(11).

R722-380-2. Definitions.

(1) "Bureau" means the Utah Bureau of Criminal Identification within the Department of Public Safety established by Section 53-10-201.

(2) "Firearm dealer" means any firearm dealer who is licensed as defined in Utah Code Ann. Subsection 76-10-501(7).

(3) "NFA firearm" means a National Firearms Act firearm defined in Title 26 Section 5845 of the United States Code.

R722-380-3. Verification of Identification.

(1) For purposes of a criminal history background check as established in Section 76-10-526, the only form of photo identification the bureau shall accept is a driver license or identification card that may be accessed through the issuing state's database and verified as a valid form of identification.

R722-380-4[3]. Inquiring Into Denial of Firearm Purchase.

(1)(a) An individual who has been denied the purchase of a firearm by the bureau may inquire why he or she was denied such a purchase by submitting a completed Request for Denial/Research Information form.

(b) The individual may have such denial information released to a third party by submitting a completed Third Party Release Form with a completed Request for Denial/Research Information form.

(2)(a) Within a reasonable time after receiving the completed request form, the Bureau shall release denial information regarding why the individual has been denied the purchase of a firearm, which shall be mailed, e-mailed, or faxed to the individual at the address, e-mail address, or fax number indicated on the request form.

R722-380-5[4]. Law Enforcement Evidence Release.

(1)(a) A law enforcement agency seeking to obtain background clearance information from the bureau prior to releasing a firearm from custody must submit a completed Law Enforcement Evidence Release Form by mail or fax.

(b) Upon receipt of a completed Law Enforcement Evidence Release Form, the bureau shall conduct a thorough background investigation to determine whether the individual, to whom the firearm will be released, meets the requirements to possess a firearm established under Utah Code Ann. Section 76-10-503 and Title 18 Section 922 of the United State Code.

(c) Upon completion of the background investigation, the bureau shall notify the law enforcement agency by fax or telephone, at the number indicated on the release form, whether the individual, to whom the firearm will be released, may possess a firearm.

R722-380-6[5]. Procedures on Background Checks for NFA Firearms.

(1)(a) An applicant seeking to transfer or register an NFA firearm according to Title 26 Chapter 53 of the United States Code must complete the Bureau of Alcohol, Tobacco, Firearms, and Explosives Application for Tax Paid Transfer and Registration of Firearm form and submit to a background check by the bureau as provided in Utah Code Ann. Section 76-10-526.

(b) Upon receipt of a request from a firearm dealer to perform the background check, the bureau shall conduct a thorough background investigation as provided in Utah Code Ann. Section 76-10-526.

(c) Once the background check is complete, the Bureau shall provide a transaction number to the firearm dealer.

(2)(a) After the transaction number has been provided by the bureau, the applicant must submit the Application for Tax Paid Transfer and Registration of Firearm to the Chief Law Enforcement Officer within 20 days in order to verify that a background check has been completed by the bureau.

(b) If the Application for Tax Paid Transfer and Registration of Firearm is not submitted to the Chief Law Enforcement Officer within 20 days after the transaction number has been provided, the individual must re-submit to a background check as provided in Section 76-10-503 to obtain a new transaction number from the bureau.

KEY: firearm purchases, firearm releases, firearm denials, firearm background check information

Date of Enactment or Last Substantive Amendment: [March 24,] 2015

Authorizing, and Implemented or Interpreted Law: 53-10-201; 76-10-526[~~(H)~~]; 76-10-526; 76-10-503; 76-10-501

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-12** Quarantine Pertaining to Mint Wilt

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39408
FILED: 05/21/2015

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 4-2-2(i)(k)(ii) allows the department to establish and enforce quarantines to protect agricultural crops from crop disease, insects, and noxious weeds. This quarantine is established under this section for the protection of the mint producers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received comments that the quarantine continues to be necessary for the protection of mint production.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Mint wilt continues to have an effect on the mint producers and negatively affects the crop, as such the quarantine continues to be necessary for the protection of the crop. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
PLANT INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
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
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 05/21/2015

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Commerce

Occupational and Professional Licensing
No. 39233 (AMD): R156-28-304. Continuing Professional Education
Published: 04/15/2015
Effective: 05/27/2015

No. 39238 (AMD): R156-47b-302a. Qualifications for Licensure - Equivalent Education and Training
Published: 04/15/2015
Effective: 05/28/2015

No. 39177 (AMD): R156-70a-302. Qualification for Licensure - Examination Requirements
Published: 04/01/2015
Effective: 05/27/2015

Environmental Quality

Radiation Control
No. 39017 (AMD): R313-35. Requirements for X-ray Equipment Used for Non-Medical Applications
Published: 01/15/2015
Effective: 05/22/2015

No. 39017 (CPR): R313-35. Requirements for X-Ray Equipment Used for Non-Medical Applications
Published: 04/15/2015
Effective: 05/22/2015

Health

Health Care Financing, Coverage and Reimbursement Policy
No. 39248 (AMD): R414-1-5. Incorporations by Reference
Published: 04/15/2015
Effective: 06/01/2015

Judicial Performance Evaluation Commission

Administration
No. 39244 (AMD): R597-3-2. Survey
Published: 04/15/2015
Effective: 05/27/2015

No. 39243 (AMD): R597-3-3. Courtroom Observation
Published: 04/15/2015
Effective: 05/27/2015

Public Safety

Driver License
No. 39236 (AMD): R708-14. Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs
Published: 04/15/2015
Effective: 05/26/2015

Public Service Commission

Administration
No. 39234 (AMD): R746-100-3. Pleadings
Published: 04/15/2015
Effective: 05/27/2015

No. 39235 (AMD): R746-100-11. Decisions and Orders
Published: 04/15/2015
Effective: 05/27/2015

NOTICES OF RULE EFFECTIVE DATES

No. 39246 (AMD): R746-200-7. Termination of Service
Published: 04/15/2015
Effective: 05/27/2015

Regents (Board of)

University of Utah, Commuter Services

No. 39224 (AMD): R810-1. University of Utah Parking
Regulations

Published: 04/01/2015

Effective: 05/19/2015

No. 39225 (AMD): R810-2. Parking Meters

Published: 04/01/2015

Effective: 05/19/2015

No. 39226 (AMD): R810-5. Permit Types, Eligibility and
Designated Parking Areas

Published: 04/01/2015

Effective: 05/19/2015

No. 39227 (AMD): R810-6. Permit Prices and Refunds
Published: 04/01/2015
Effective: 05/19/2015

No. 39228 (AMD): R810-8. Vendor Regulations

Published: 04/01/2015

Effective: 05/19/2015

No. 39229 (AMD): R810-9. Contractors and Their
Employees

Published: 04/01/2015

Effective: 05/19/2015

No. 39230 (AMD): R810-10. Enforcement System

Published: 04/01/2015

Effective: 05/19/2015

No. 39231 (AMD): R810-11. Appeals System

Published: 04/01/2015

Effective: 05/19/2015

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, 2015 through June 01, 2015. 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 the Division of Administrative Rules (801-538-3764).

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 (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
<u>Finance</u>					
R25-25-7	Travel-Related Reimbursements for State Employees	39160	AMD	04/21/2015	2015-6/10
<u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
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R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
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R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
<u>Plant Industry</u>					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39237	5YR	03/24/2015	2015-8/33
R68-12	Quarantine Pertaining to Mint Wilt	39408	5YR	05/21/2015	Not Printed
R68-22	Industrial Hemp Research	39148	NEW	04/22/2015	2015-6/14
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39223	5YR	03/16/2015	2015-7/57
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R81-3-5	Special Orders of Liquor by Public	39155	AMD	04/28/2015	2015-6/23
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)
 CPR = Change in Proposed Rule
 EMR = 120-Day (Emergency) Rule
 EXD = Expired Rule
 EXP = Expedited Rule
 EXT = Five-Year Review Extension
 GEX = Governor's Extension

LNR = Legislative Nonreauthorization
 NEW = New Rule (Proposed Rule)
 NSC = Nonsubstantive Rule Change
 R&R = Repeal and Reenact (Proposed Rule)
 REP = Repeal (Proposed Rule)
 5YR = Five-Year Notice of Review and Statement of Continuation

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abrasive blasting</u>					
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	39119	R307-306	5YR	02/05/2015	2015-5/107
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	39349	R307-302	5YR	05/06/2015	2015-11/185
	39118	R307-305	5YR	02/05/2015	2015-5/107
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	39125	R430-100	REP	05/01/2015	2015-5/76	
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Commerce, Occupational and Professional Licensing	39092	R156-24b-302b	AMD	03/24/2015	2015-4/9	
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Commerce, Occupational and Professional Licensing	39177	R156-70a-302	AMD	05/27/2015	2015-7/3	
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School and Institutional Trust Lands, Administration	39256	R850-27	5YR	04/01/2015	2015-8/40	

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Agriculture and Food, Plant Industry	39408	R68-12	5YR	05/21/2015	Not Printed	
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	39116	R307-206	5YR	02/05/2015	2015-5/105	
	39118	R307-305	5YR	02/05/2015	2015-5/107	
	39119	R307-306	5YR	02/05/2015	2015-5/107	
	39122	R307-310	5YR	02/05/2015	2015-5/109	
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	39058	R722-330	5YR	01/07/2015	2015-3/74	
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	38947	R722-330	AMD	01/07/2015	2014-23/40	
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Administrative Services, Facilities Construction and Management	39033	R23-1	R&R	03/03/2015	2015-2/4	
	39061	R23-2	REP	03/16/2015	2015-3/4	
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Administrative Services, Purchasing and General Services	39042	R33-26-202	AMD	03/31/2015	2015-2/33	
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	39219	R277-504	AMD	05/08/2015	2015-7/8	
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Administrative Services, Facilities Construction and Management	39033	R23-1	R&R	03/03/2015	2015-2/4	
Capitol Preservation Board (State), Administration	39025	R131-2	AMD	02/24/2015	2015-2/41	
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	39348	R628-15	EMR	05/06/2015	2015-11/180	
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	39235	R746-100-11	AMD	05/27/2015	2015-8/21	
	39246	R746-200-7	AMD	05/27/2015	2015-8/22	
	39311	R746-312	5YR	04/29/2015	2015-10/107	
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Environmental Quality, Radiation Control	39047	R313-34	AMD	05/05/2015	2015-2/87	
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	39083	R313-38-3	AMD	03/17/2015	2015-3/22	
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	38971	R162-2e-401	AMD	01/28/2015	2014-24/26
	39292	R162-57a	5YR	04/21/2015	2015-10/103
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	38842	R307-302	CPR	02/04/2015	2015-1/48	
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